

1       **Rule 11-591. Reinstatement following a suspension of more than six**  
2       **months; relicensure.**

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4       (a) **Generally.** A Respondent suspended for more than six months or a delicensed  
5       Respondent may be reinstated or relicensed only upon the district court's order. No  
6       Respondent may petition for reinstatement until three months before the period for  
7       suspension has expired. No Respondent may petition for reinstatement until five years  
8       after the effective date of delicensure. A Respondent who has been placed on interim  
9       suspension and is then delicensed for the same misconduct that was the ground for the  
10      interim suspension may petition for reinstatement or relicensure at the expiration of  
11      five years from the effective date of the interim suspension.

12      (b) **Petition.** A petition for reinstatement or relicensure must be verified, filed with the  
13      district court, and must specify with particularity the manner in which the Respondent  
14      meets each of the criteria specified in paragraph (e) or, if not, why there is otherwise  
15      good and sufficient reason for reinstatement or relicensure. With specific reference to  
16      paragraph (e)(4), before filing a petition for ~~reinstatement or~~ relicensure, the  
17      Respondent must receive a report and recommendation from the Bar's Character and  
18      Fitness Committee. In addition to receiving the report and recommendation from the  
19      Character and Fitness Committee, the Respondent must satisfy all other requirements  
20      as set forth in Chapter 14, Article 7. Before or as part of the Respondent's petition, the  
21      Respondent may request to modify or abate conditions of discipline, reinstatement  
22      or relicensure.

23      (c) **Serving the petition.** The Respondent must serve the OPC with a copy of the  
24      petition.

25      (d) **Publishing notice of petition.** When a Respondent files a petition for reinstatement  
26      or relicensure, the OPC must:

27              (1) publish a notice of the petition in the Utah Bar Journal, which:

28                      (A) informs Bar members of the application for reinstatement  
29                      or relicensure, and

30                      (B) requests that any individuals file notice of their opposition or  
31                      concurrence with the district court within 28 days of the date of  
32                      publication; and

33              (2) send a notice to the Complainant's last known address according to OPC  
34      records, to each Complainant in the disciplinary proceeding that led to the  
35      Respondent's suspension or delicensure informing such Complainant that:

36                      (A) the Respondent is applying for reinstatement or relicensure, and

(B) the Complainant has 28 days from the mailing date to object to or support the Respondent's petition.

(e) **Criteria for reinstatement and relicensure.** A Respondent may be reinstated or relicensed only if the Respondent meets each of the following criteria, or, if not, presents good and sufficient reason why the Respondent should nevertheless be reinstated or relicensed.

(1) The Respondent has fully complied with the terms and conditions of all prior disciplinary orders except to the extent such orders are abated by the district court.

(2) The Respondent has not engaged nor attempted to engage in the unauthorized practice of law during the period of suspension or delicensure.

(3) If the Respondent was suffering from a physical or mental disability or impairment which was a causative factor of the Respondent's misconduct, including substance abuse, the disability or impairment has been removed. Where substance abuse was a causative factor in the Respondent's misconduct, the Respondent may not be reinstated or relicensed unless the Respondent:

(A) has recovered from the substance abuse as demonstrated by a meaningful and sustained period of successful rehabilitation;

(B) has abstained from the use of the abused substance and the unlawful use of controlled substances for the preceding six months; and

(C) is likely to continue to abstain from the substance abused and the unlawful use of controlled substances.

(4) Notwithstanding the conduct for which the Respondent was disciplined, the Respondent has the requisite honesty, integrity, and fitness to practice law. In relicensure cases, the Respondent must appear before the Bar's Character and Fitness Committee and cooperate in its investigation of the Respondent. A copy of the Character and Fitness Committee's report and recommendation will be provided to the OPC and forwarded to the district court assigned to the petition after the Respondent files a petition.

(A) **Factors considered in determining honesty, integrity, and fitness for reinstatement or relicensure.** The court must determine whether the Lawyer seeking reinstatement or relicensure has demonstrated the requisite honesty, integrity, and fitness to practice law. The court may consider the Respondent's actions taken during the suspension or delicensure including:

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- 74 (i) lack of candor;
- 75 (ii) unlawful conduct;
- 76 (iii) false or misleading statements or omissions;
- 77 (iv) acts involving dishonesty, fraud, deceit, or misrepresentation;
- 78 (v) abuse of the legal process;
- 79 (vi) neglecting financial responsibilities;
- 80 (vii) violating court order;
- 81 (viii) evidence of mental or emotional instability; and
- 82 (ix) evidence of drug or alcohol dependency;

83 (B) **Assigning weight and significance to conduct.** In determining  
84 honesty, integrity, and fitness to practice law, the court may use the  
85 following factors to assign weight and significance to prior conduct:

- 86 (i) how recent the conduct occurred;
- 87 (ii) seriousness of the conduct;
- 88 (iii) cumulative effect of the conduct;
- 89 (iv) evidence of rehabilitation; and
- 90 (v) positive social contributions while suspended.

91 (5) The Respondent has kept informed about recent developments in the law by  
92 engaging in legal education and is competent to practice.

93 (6) In cases of suspensions for one year or more, a Respondent lawyer will be  
94 required to retake and pass the Multistate Professional Responsibility  
95 Examination, and Respondent licensed paralegal practitioners must pass the  
96 Licensed Paralegal Practitioner Professional Responsibility Exam.

97 (7) In all cases of delicensure, a Respondent lawyer will be required to pass the  
98 student applicant Bar Examination and the Multistate Professional Responsibility  
99 Examination, and Respondent licensed paralegal practitioners must pass the  
100 student applicant Licensed Paralegal Practitioner Licensing Exam.

101 (8) The Respondent has fully reimbursed the Bar's Lawyers' Fund for Client  
102 Protection or Licensed Paralegal Practitioners' Fund for Client Protection for any  
103 amounts paid on account of the Respondent's conduct.

104 (f) **Review of petition.** Within 60 days of receiving a Respondent's petition for  
105 reinstatement or relicensure, the OPC must either:

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107 (1) advise the Respondent and district court that the OPC will not  
108 object to the Respondent's reinstatement or relicensure; or

109 (2) object in writing to the petition.

110 (g) **Hearing; report.** If the OPC objects, the district court, as soon as reasonably  
111 practicable and within a target date of 90 days of the filing of the petition, will  
112 conduct a hearing at which the Respondent will have the burden of  
113 demonstrating by a preponderance of the evidence that the Respondent has met  
114 each of the criteria in paragraph (e) or, if not, that there is good and sufficient  
115 reason why the Respondent should nevertheless be reinstated or relicensed. The  
116 district court will enter its findings and order. If the OPC does not object, the  
117 district court will review the petition without a hearing and enter its findings  
118 and order.

119 (h) **Successive petitions.** Unless the district court orders otherwise, no  
120 Respondent may apply for reinstatement or relicensure within one year  
121 following an adverse judgment upon a petition for reinstatement or relicensure.

122 (i) **Conditions of reinstatement or relicensure.** The district court may impose  
123 conditions on a Respondent's reinstatement or relicensure if the Respondent  
124 has met the burden of proof justifying reinstatement or relicensure, but the  
125 district court reasonably believes that further precautions should be taken to  
126 ensure that the public will be protected when the Respondent returns to  
127 practice.

128 (j) **Reciprocal reinstatement or relicensure.** If a Respondent has been  
129 suspended or delicensed solely because of discipline imposed by another court,  
130 another jurisdiction, or a regulatory body having disciplinary jurisdiction, and if  
131 the Respondent is later reinstated or relicensed by that court, jurisdiction or  
132 regulatory body, the Respondent may petition for reciprocal reinstatement or  
133 relicensure in Utah. The Respondent must file with the district court and serve  
134 the OPC with a petition for reciprocal reinstatement or relicensure. The petition  
135 must include a certified or otherwise authenticated copy of the order of  
136 reinstatement or relicensure from the other court, jurisdiction, or regulatory  
137 body. Within 21 days of receiving the petition, the OPC may object based solely  
138 on substantial procedural irregularities. If the OPC objects, the district court will  
139 hold a hearing and enter its findings and order. If no objection is filed, the  
140 district court will enter its order based on the petition.

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