



# International Municipal Lawyers Association Local Government Fellows Program

## **RULE 1-1. CERTIFICATION POLICIES**

### **RULE 1-1.1 Administration**

- A. The purpose of these standards is to identify those lawyers who practice Local Government Law and have special knowledge, skills, and proficiency to be properly identified to the public as certified local government lawyers. The International Municipal Lawyers Association (IMLA) Board of Directors bears ultimate responsibility in the certification of applicants. Its involvement, however, should be no more extensive than necessary to ensure, at a minimum, that the standards of the program are met and the Committee is performing its duties in a fair, equitable and non-discriminatory manner.
  
- B. The IMLA Fellows Certification Committee ("Committee") and its Chair shall be appointed by the IMLA President. The duties of the Committee shall include, but not be limited to:
  - 1. reviewing applications and references;
  - 2. establishing examination procedures;
  - 3. preparing, overseeing, administering, and grading the examination;
  - 4. recommending the issuance, renewal, and/or denial of certificates;
  - 5. attending all Committee meetings and conference calls; and
  - 6. performing other duties as deemed appropriate and consistent with the mission of the Committee.
  
- C. The Committee may act as a whole or create subcommittees to accomplish its duties. The Chair shall determine subcommittee composition and appoint members of the subcommittees and their chairs. To further the work of the Committee, there may be three (3) or more subcommittees consisting of an Examination Subcommittee, a Certifications Subcommittee and a Rules Subcommittee. The Chair may eliminate or add additional subcommittees as necessary to accomplish the goals of the program as may be needed in any particular year. The IMLA Executive Director, or designee approved by the IMLA President, shall provide support to the Committee and its subcommittees.

### **RULE 1-1.2 Area of Certification**

The area of certification shall be the field of Local Government Law as defined in Rule 1-1.3.

### **RULE 1-1.3 Definitions**

#### **A. Local Government Law.**

“Local Government Law” is the practice of law dealing with legal issues of county, regional, municipal or other local governments, such as, but not limited to, special districts, agencies and authorities, including litigation in the federal and state/provincial courts and before administrative agencies/tribunals; the preparation of laws, ordinances, bylaws, and regulations; and the preparation of legal instruments for, or on behalf of local governments.

#### **B. Practice of Law.**

The “Practice of Law” for this area is defined as set out in subsection (A); however, for purposes of certification as an IMLA Local Government Law Fellow, it excludes legal work done primarily for a purpose other than providing legal counsel or representation (including, but not limited to, work related to the administration of local government or representing local government as an elected official or as a lobbyist at the state/provincial level).

### **RULE 1-1.4 Minimum Standards**

#### **A. Minimum Period of Practice**

The applicant shall have: (1) been engaged in the Practice of Law in the United States or Canada, or engaged in the practice of United States or Canadian law while in a foreign country for a minimum of five (5) years; and (2) been a member in good standing of the bar of any state of the United States, province of Canada, or the District of Columbia for a period of five (5) years as of the date of filing an application.

Notwithstanding the definition of Practice of Law in Rule 1-1.3 receipt of an LL.M. degree in urban affairs (or such other related field approved by the Committee from a recognized law school shall be deemed to constitute up to one (1) year of the Practice of Law for purposes of the 5-year practice requirement (but not the 5-year bar membership requirement) under this subsection.

#### **B. Substantial Involvement.**

The applicant must demonstrate substantial involvement in the practice of Local Government Law during the three (3) years immediately preceding the date of application. Substantial involvement means the applicant has devoted forty percent (40%) or more of the applicant’s practice to matters in which issues of Local Government Law are significant factors and in which the applicant has had substantial and direct participation in those issues. An applicant must furnish information concerning the frequency of the applicant’s Local Government Law work and the nature of the issues involved. For the purpose of this subsection, the Practice of Law” may also include time devoted to lecturing and /or authoring books or articles on Local Government Law if the applicant was otherwise engaged in the Practice of Law during such period. Demonstration of compliance with this requirement shall be made initially by completion of the application requirements; however, written or oral supplementation may be required.

C. Peer Review.

The applicant shall submit five (5) references that attest to the applicant's qualifications to meet the standards of an IMLA Local Government Law Fellow.

D. Education.

The applicant must demonstrate a commitment to continuing legal education and meet the requirements of these standards.

The Committee shall, by rule or regulation, establish minimum educational standards including, but not limited to, the method of establishment of the number of hours allocable to an applicant's educational achievements. Such rule or regulations shall provide that hours shall be allocable to each separate but substantially different educational pursuit.

E. Examination.

The applicant must pass a written examination, uniformly administered to all applicants, designed to demonstrate sufficient knowledge, skills, and proficiency in the field of Local Government Law to justify the representation of special competence to the legal profession and the public.

The examination shall be comprised of two parts. The first part requires the applicant to provide written responses to a predetermined number of hypothetical fact-patterns prepared by members of the Examination Subcommittee. The grading of this part of the examination shall be conducted anonymously.

The second part requires the applicant to prepare and submit an original article for consideration for publication suitable for publication in the Municipal Lawyer magazine or a substantive paper suitable for presentation at an IMLA seminar or conference.

The Committee shall establish the deadline for completion of the examinations each year that will include establishing a date for submitting the required paper or article. The Committee may extend the date for completion of either part of the examination for good cause.

**RULE 1-1.5 Applications for Certification**

A lawyer who is in good standing of the bar of any state of the United States, the District of Columbia, or a province of Canada, and who meets the standards prescribed below, may apply to be certified as an IMLA Local Government Law Fellow, certified in Local Government Law.

- A. Form and Content. Applications shall be submitted on forms approved by the Committee. Each question shall be answered or shown as "not applicable." All applications and required information contained therein shall be sworn to by the applicant as being true and complete.

- B. Completion of Requirements. An applicant shall complete all required continuing legal education and verify the lawyer's substantial involvement in local government law prior to filing an application; provided however:
1. certain continuing legal education requirements may be completed after application filing, if satisfactory proof of completion of the educational program is furnished to the Committee prior to designation as a Fellow; and
  2. the 5-year practice of law requirement must be completed no later than six (6) months after the filing of the application and before the applicant can be designated an IMLA Local Government Law Fellow.
- C. Supplemental Information. To ascertain eligibility for certification, the Committee may require an applicant to provide information in addition to that required on the application, including attendance at a personal or telephonic interview before the Committee, any of its individual members, or any authorized representative.
- D. Timeliness of Filing. The application deadline shall be determined by the Committee. Unless an extension is granted by the Committee, all applications must be postmarked by midnight of the last day of the application filing period to be considered for that annual class.
- E. Annual Cycle. The IMLA Certification process occurs annually. The cycle begins at the conclusion of the IMLA Annual Meeting each year and ends with the designation of Fellows at the IMLA Annual Meeting the following year. An applicant must complete all components for certification within the annual cycle unless otherwise provided in these Policies or by the Committee.
- F. Preparation and Administration of Exam. The examination shall be prepared and administered on a voluntary basis by Committee members who are experienced IMLA members.
- G. Record of Professional Ethics and Competence.
1. Each applicant shall be required to submit information concerning bar discipline or discipline under applicable government ethics laws or regulations as follows:
    - a. all instances of discipline regarding ethical violations in which the sanction imposed was a public reprimand or greater; and
    - b. all disciplinary or other ethics complaints currently pending.
  2. The Committee or a designee shall conduct a preliminary review of each applicant's disciplinary record. All unresolved disciplinary complaints shall be reviewed by the Committee.
  3. Committee members shall review and investigate all instances of discipline in which the sanction imposed was a public reprimand or greater as well as any unresolved complaints. Available files shall be reviewed and a hearing before the Committee may be scheduled if necessary.

4. The Applicant must have a record of competence and adherence to the highest ethical conduct to be qualified as a Fellow, as determined by the Committee.
- H. Malpractice. An applicant shall be required to submit information concerning any malpractice claims made against the applicant (or against the applicant's employer or firm that relate to the applicant's negligence) which resulted in a lawsuit being filed, settlement paid, or appointment of an attorney by the malpractice carrier to defend the applicant or the applicant's firm. Evidence of adverse malpractice rulings will preclude the applicant from qualifying as a Fellow.
- I. Peer Review. Each applicant shall submit as references the names and addresses of five (5) persons who can attest to the applicant's competence in the practice of law. The applicant must submit as references at least three (3) lawyers who are familiar with the applicant's practice and who can attest to the applicant's reputation for special competence and substantial involvement in the field of Local Government Law. If the applicant is a chief legal officer, at least three (3) of the references should be from chief legal officers of local governmental entities, or practicing local government lawyers devoting 40% or more of their practice to matters in which issues of local government law are significant factors, or a judge of general trial or appellate jurisdiction, or a state league counsel, or an IMLA State/ Provincial Chair, or an IMLA Regional Vice President. If the applicant is not a chief legal officer, the applicant must have the applicant's chief legal officer provide a reference. In addition to the requirement of at least three (3) lawyer references, the applicant may submit a letter of reference from a local elected official or a city or county manager or administrator or department head for whom the applicant has provided legal services. Committee members may not be used as references, nor may family members. Other than the chief legal officer, lawyers in the same office may not be used as references. The Committee may make such additional inquiries as they deem appropriate to complete peer review, as provided elsewhere in these rules.
1. The Committee may solicit additional information from other persons in its discretion.
  2. Statements of reference concerning applicants shall be submitted on forms or in a format designated by the Committee.
- J. Processing. The Committee or its designee shall conduct a preliminary review of each application. An applicant with an incomplete or deficient application will be notified in writing and the application will be returned subject to a right to appeal as described in these standards.
- K. Application Retention. Applications will be retained for a period of one (1) year from the date of disqualification, certification or recertification, at which time they will be disposed of in a confidential manner; unless the Committee determines that it must retain an application.

#### **RULE 1-1.6 Certification Fees**

- A. Filing Fee. A fee of \$250 must accompany each application submitted. Rejection or withdrawal of an application will not entitle an applicant to a refund of the fee or any part thereof.

- B. Examination Fee. A fee of \$100 shall be due and payable after an applicant has been notified of exam eligibility. The payment of such fee is a prerequisite to the taking of an examination.

#### **RULE 1-1.7 Approved Continuing Legal Education (CLE)**

- A. Criteria for Approval. The applicant must demonstrate that during the two (2) year period immediately preceding the date of application, the applicant has completed twelve (12) hours of continuing legal education in the area of Local Government Law (for U.S. Applicants, six (6) hours on national issues such as telecommunications and Section 1983, and six (6) hours in the state of the applicant). Credit for attendance at continuing legal education seminars shall be given only for programs that are directly related to Local Government Law. The preceding education requirement may be satisfied by one (1) or more of the following:
  - a. attendance at continuing legal education seminars meeting the requirements set forth above;
  - b. lecturing at such continuing legal education seminars;
  - c. authoring articles or books related to local government issues published in professional periodicals or other professional publications;
  - d. teaching courses in Local Government Law at an approved law school or other graduate level program presented by a recognized professional education association; or
  - e. such other methods as may be approved by the Committee.
- B. The applicant must also have physically attended not less than (2) IMLA in person programs such as the IMLA Seminar, Annual Conference or other in-person IMLA program during the five (5) year period preceding the taking of the written exam. The applicant may substitute 10 hours of IMLA webinar/teleconference hours for one IMLA in-person program.
- C. The Committee may establish standards applicable to this Rule, including, but not limited to, the method of establishing the number of hours allocable to any of the above listed paragraphs. Such rule or regulations shall provide that hours shall be allocable to each separate but substantially different lecture, article, or other activity described above.
- D. The Committee may establish additional criteria for approval of CLE courses.
- E. Proof of Completion. Applicants shall certify attendance and completion of all programs which they list toward meeting the continuing legal education requirements on the application.

#### **RULE 1-1.8 Examinations**

- A. Location. Examinations shall be conducted at least annually at such location or by electronic means as shall be designated by the Committee.

- B. Examinee Identification. If requested by the Committee, persons taking the exam may be required to verify their identity by demonstrating photographic identification upon receipt of the exam materials.
- C. Eligibility. Only applicants approved by the Committee are eligible for examination.
1. An applicant may have up to two (2) opportunities to attain a passing grade on the examination. The first opportunity shall be during the annual cycle in which the application was filed. If the applicant does not attain a passing grade on this examination, then the applicant can submit an abbreviated application for the next application cycle, accompanied by payment of a re-application fee of \$100.
  2. An applicant who does not attain a passing score on the exam after two (2) consecutive attempts is ineligible to re-apply for at least two (2) consecutive years following the second failure.
  3. The Committee Chair may permit an "unapproved" applicant to sit for an exam in instances which:
    - a. the Committee requires additional time to investigate the applicant's qualifications; or
    - b. a disciplinary case against the applicant is pending.
  4. If an "unapproved" applicant is granted permission to take an exam:
    - a. the exam fee must be paid in advance and may not be refunded if the applicant's status is not later modified to "approved";
    - b. the exam results may be released to the applicant but may not be used as a basis to justify eligibility unless the applicant's status is unequivocally updated during the application period to "approved" status by the Committee; and
    - c. the applicant must acknowledge, in written form, understanding of, and agreement with, the above conditions prior to taking the exam.
- D. Grading. The Committee shall oversee the grading of all examinations. Automatic re-grading of all failing papers shall be conducted by two separate members of the Committee within the time period established by the Committee before the results are announced.
1. Approved applicants who are successful on the exam shall be certified as an "IMLA Local Government Law Fellow" but shall not be entitled to see their grades or to review their exams.
  2. "Approved" applicants who are unsuccessful may:
    - a. review their grades upon written request;

- b. proceed with an initial exam review in preparation for a petition for grade review.

E. Initial Exam Review.

1. The request for an initial exam review shall occur in writing within ten (10) days of notification of failure. The review shall take place at a location to be determined by the Committee within thirty (30) days following request or at such other date and time agreed upon by the applicant and Committee.
2. At the initial exam review, the examinee shall be required to sign and submit an acknowledgment of non-disclosure and confidentiality. The applicant shall be permitted to inspect the following materials: a copy of the examination; the model answers, if any; and the applicant's answer/test paper(s). None of the above referenced materials may be copied or retained by the applicant unless a petition for grade review is properly filed as set forth under 1-1.8(F).
3. Within three (3) days of the initial exam review, the applicant may file a notice of intent to petition for grade review with the Chair of the Committee or Executive Director. The petitioning applicant (hereinafter petitioner) shall be furnished with a copy of the questions, model answers, if any, and petitioner's answers, for the purpose of preparing the petition. These documents shall be identified as the "record" for the review. Upon completion of the petition for grade review process, the petitioner must return the record and acknowledge that no copies have been retained or published in any manner.

F. Petition for Grade Review Process.

1. Within twenty (20) days of receipt of the record, the petitioner shall submit an original and three (3) copies of a written petition detailing the claimed grading error(s) to the Committee Chair or Executive Director.
2. The petition shall state in detail the areas which, in the opinion of the petitioner, have been incorrectly graded and why. The petitioner may provide any additional supporting authority deemed appropriate to substantiate the claim of incorrect grading.
3. Within ninety (90) days of notification of exam results, a grade review panel shall convene and issue a written opinion on each petition filed. The panel shall consist of three (3) Committee members appointed by the Committee Chair.
4. The panel shall review the substantive basis for each petition filed. All information submitted to the panel shall be in "blind form," so as to delete all information that would identify the petitioner.
5. Panel decisions shall be final and shall close the grade review process.

- G. Ex Parte Contacts. The grade review process shall occur in an atmosphere free of bias or pressure and ex parte contacts by anyone with members of the grade review panel, the Committee, or the IMLA Board of Directors are prohibited.



- H. Exam Retention. Examination papers/material may be retained for a period of one (1) year from the date of certification, or completion of the grade review process, at which time they may be disposed of in a confidential manner.

#### **RULE 1-1.9 Review Process for Applicant Disqualification**

- A. Explanation of Disqualification. If the Committee delegates the review of certification to subcommittees, and the subcommittee recommends denial of exam eligibility on the basis of peer review or insufficient substantial involvement, the subcommittee must notify the applicant and within ten (10) days of the notice, the applicant may submit the matter to the whole Committee, requesting review of the denial. Failure to file a timely request for review will constitute an acceptance of the decision without further right of appeal. The Committee may require the applicant to provide additional supporting material in support of the request for review. The Committee may approve the applicant's eligibility, deny it or remand the matter to its subcommittee for additional investigation. The Committee's decision shall be final.
- B. Notice of Disqualification. If the Committee affirms the recommendation of disqualification, the applicant shall be notified in writing of the nature and substance of the information upon which the decision is based.
- C. Ex Parte Contacts. The review process shall occur in an atmosphere free of bias or pressure and ex parte contacts by anyone with members of the review panel, the Committee, or the IMLA Board of Directors are prohibited.

#### **RULE 1-1.10 Notice of Certification**

Applicants obtaining a passing grade on the examination, and meeting all of the other necessary criteria, will receive a certificate designating the lawyer as an IMLA Local Government Law Fellow and conferring upon the lawyer all of the rights, benefits, privileges, and obligations consistent with this designation.

#### **RULE 1-1.11 Annual Audit**

- A. The Committee may require each certified lawyer to file an annual audit on a form designed by the Committee.
- B. The form is intended to update the original application by verifying: continuous substantial involvement; and an unblemished professional ethics record.
- C. Fee: The processing fee for any audit is \$25.

#### **RULE 1-1.12 Recertification**

Except as set forth in Rule 1-1.13, Certification shall be for a period of five (5) years after which time recertification shall be required according to the following standards:

- A. Substantial Involvement for Recertification.

A satisfactory showing, as determined by the Committee, of continuous and substantial involvement in the field of Local Government Law throughout the period since the last

date of certification (recertification). The Committee may accept an affidavit from the applicant attesting to the applicant's compliance with the substantial involvement requirement as proof of meeting that requirement. As part of meeting the substantial involvement criteria, the person designated as an IMLA Local Government Law Fellow will be expected to submit presentations to the IMLA program planning committee, articles for publication in the Municipal Lawyer and actively participate in the IMLA Fellows Research Committee to develop model ordinances, regulations or forms for members' use. Failure to participate may be a basis to deny recertification.

B. Education.

Completion of at least thirty (30) hours of continuing legal education since the last date of certification (recertification) in addition to attending at least two (2) IMLA in-person programs. Ten (10) hours of IMLA teleconference/webinar programming may be substituted for one IMLA in-person program. The continuing legal education must logically be expected to enhance the proficiency of lawyers in the area of local government law to be acceptable.

C. References.

The applicant shall submit one (1) reference, on the Committee approved form or format, from a person who is familiar with the applicant's practice and who can attest to the applicant's reputation for special competence and substantial involvement in the field of local government law. The reference may be from a lawyer familiar with the applicant's practice, from a local elected official or a city or county manager or administrator, or where the applicant is not the chief legal officer, the chief legal officer in the applicant's office. Committee members may not be used as references nor may family members, or lawyers in the applicant's same office except the chief legal officer. The Committee may make such additional inquiries as they deem appropriate to complete peer review, as provided elsewhere in these rules. All references shall be submitted in the format required by the committee.

D. Examination.

If, after reviewing the material submitted by an applicant for recertification, the Committee determines that the applicant may not meet the standards in local government law established under these standards, the Committee may require, as a condition of recertification, that the applicant pass the written examination.

E. Fee.

The fee for a Recertification Application is \$150.

**RULE 1-1.13 Revocation of Certification**

A. The Board of Directors may revoke a Fellow's certification in instances of:

1. disciplinary suspension; or
2. disciplinary reprimand.

**RULE 1-1.14 Emeritus**

A designated IMLA Local Government Law Fellow who has retired from the practice of law, may apply for recertification as an IMLA Local Government Law Fellow Emeritus based upon the following criteria:

- A. The applicant has retired from the practice of law;
- B. The applicant has retained membership in IMLA as a retired member; and
- C. The applicant remains substantially involved in the IMLA Fellows Research Committee.

For purposes of this provision “retire” or “retired” means to have either gone on inactive status with the applicant’s bar, or engages in the practice of law less than 100 hours a year.

Adopted July 11, 2019.