

MEMORANDUM

To: Advisory Committee on Rules
From: Carolyn Koegler
Re: # 2019-003. Pro Hac Vice Fees
Date: March 13, 2019

The New Hampshire Access to Justice Commission has requested that the New Hampshire Supreme Court increase the fees charged to out of state counsel who seek to appear *pro hac vice* from \$250.00 to \$350.00. The Supreme Court refers this matter to the Advisory Committee on Rules for its recommendation.

Fees collected from *pro hac vice* payors are distributed to those annual grantees who provide authoritative legal information to the public. In an order dated October 28, 2009 (attached), the New Hampshire Supreme Court established guidelines and procedures for how to use the funds generated by motions to appear *pro hac vice*. The funds are made available to applicants through a grant screening process led by the New Hampshire law librarian. The New Hampshire law library currently distributes about \$50,000 to grantees each year.

The fee increase would allow grantees to provide more legal information to the public and especially to self-represented litigants. According to the Access to Justice Commission, legal aid and pro bono providers are unable to represent or provide information to the overwhelming number of self-represented parties at their current funding levels.

The proposed increase in fees would place what New Hampshire charges at about the same level as its neighboring states. According to the Access to Justice Commission, the current fees charged by the other New England states are:

- Connecticut: \$600
- Maine: \$600
- Massachusetts: \$355 (Superior Court)
- Vermont: \$250

Therefore, the New Hampshire Access to Justice Commission suggests that the Court amend Supreme Court Rule 33(5), as set forth in Appendix A, Superior Court Rule 19(e), as set forth in Appendix B, Circuit Court – District Division Rule 3.3(B), as set forth in Appendix C, Circuit Court-Probate Division Rule 169(IV), as set forth in Appendix D and Circuit Court-Family Division Rule 1.3(M), as set forth in Appendix E.

APPENDIX A

Amend Supreme Court Rule 33(5) (“Nonmember of the New Hampshire Bar”)

(additions are in **[bold and in brackets]**; deletions are in strikethrough) as follows:

(5) An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of ~~\$250.00~~ **[\$350.00]**; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and further provided that the requirement of an application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court.

APPENDIX B

Amend Superior Court Rule 19(e) (“Out of State Counsel (“Admission *Pro Hac Vice*”) (additions are in **[bold and in brackets]**; deletions are in ~~striketrough~~) as follows:

(e) An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of \$250.00 **[\$350.00]**; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and further provided that the requirement of an application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court.

APPENDIX C

Amend Circuit Court-District Division Rule 3.3(B)(“Court Fees – Fees - General and Miscellaneous”) (additions are in **[bold and in brackets]**; deletions are in ~~strikethrough~~) as follows:

(B) General and Miscellaneous

Motion for Periodic Payments	\$ 25.00
Petition to annul criminal record	\$ 125.00
Original writ	\$ 1.00
Writ of Execution	\$ 40.00
Petition for Ex Parte Attachment, or Writ of Trustee Process	\$ 40.00
Reissued Orders of Notice	\$ 25.00
Application to Appear Pro Hac Vice	\$ 250.00 [\$ 350.00]

APPENDIX D

Amend Circuit Court-Probate Division Rule 169(IV) ("Fees - Other")

(additions are in **[bold and in brackets]**; deletions are in ~~striketrough~~) as follows:

(IV) OTHER:

Defaults (RSA 545:26-a)	\$ 25.00/each occurrence
Citations/show cause (RSA 545:26-a and 550:2)	\$ 50.00/each occurrence
Duplicate Audio	\$ 25.00/each CD or download
Application to Appear Pro Hac Vice	\$ 250.00 [\$ 350.00]
Ex Parte Petition for Attachment, Ex Parte	
Petition for Writ of Trustee Process	\$ 40.00
Motion for Periodic Payments	\$ 25.00
Reissued Orders of Notice	\$ 25.00
Writ of Execution	\$ 40.00

APPENDIX E

Amend Circuit Court-Family Division Rule 1.3(M) (“Fees – Other fees”)

(additions are in **[bold and in brackets]**; deletions are in ~~striketrough~~) as follows:

M. OTHER FEES:

(1) Defaults in Minor Guardianship Actions	\$25.00/each occurrence
(2) Citations in Minor Guardianship Actions	\$50.00/each occurrence
(3) Duplicate Audio	\$25.00/each CD or download
(4) Application to Appear Pro Hac Vice	\$250.00 [\$350.00]

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

O R D E R

The Supreme Court adopts the following policy concerning use of *pro hac vice funds* paid into the New Hampshire Law Library's revolving fund.

Policy for Use of Pro Hac Vice Funds

Purpose

1. The purpose of this policy is to establish guidelines and procedures for the use of funds generated by motions to appear *pro hac vice*. The policy establishes a review committee to advise the law librarian of the New Hampshire Law Library on appropriate uses for *pro hac vice* funds, describes funding priorities, and sets up a procedure to document and review requests for funds.

Background

2. Chapter 92, Laws of 2008 (*see also*, Ch. 302, Laws of 2009) provided that all proceeds from fees for motions to appear *pro hac vice* shall be paid into the New Hampshire Law Library's revolving fund.
3. The law library revolving fund was established by RSA 490:25. The revolving fund is a continuing fund and does not lapse. In addition to *pro hac vice* fees, donations and income from fees, fines, and grants are also deposited in the revolving fund. *Pro hac vice* funds are accounted for separately from other monies. All payments made from the revolving fund must be approved by the law librarian and the law library's administrative authority.
4. The John W. King New Hampshire Law Library is New Hampshire's only public law library. Under the authority of the judicial branch, the law library serves the people of New Hampshire by providing legal information and related services to the judicial, legislative, and executive branches of government, the legal communities of New Hampshire, and directly to the people. Its mission reflects the belief that the effective administration of justice requires that the public have access to reliable and authoritative legal information.

Pro Hac Vice Projects

5. Projects may be developed solely by the law library, or by the law library in partnership with another entity or with another part of the judicial branch.

6. Project proposals will be received by the law librarian who will then convene a review committee, the purpose of which is to assist in reviewing and recommending *pro hac vice* projects that comply with judicial branch and law library policies and procedures and the *Policy for Use of Pro Hac Vice Funds*.
7. The review committee will also advise the law librarian on reviewing and funding procedures so as to ensure that *pro hac vice* funds are being spent in a fiscally prudent and productive manner.
8. Membership of the review committee:
 - 8.1. general counsel to the New Hampshire Supreme Court;
 - 8.2. the New Hampshire Law Library's administrative authority;
 - 8.3. the director of the Administrative Office of the Courts; and
 - 8.4. the law librarian of the New Hampshire Law Library.
9. *Pro hac vice* funds will be used for projects whose goals reflect the mission, vision and values of the law library and the judicial branch. The review committee is looking for projects that:
 - 9.1. provide access to reliable, authoritative New Hampshire legal information;
 - 9.2. reduce the barriers to the public's access to legal information;
 - 9.3. improve the public's knowledge of New Hampshire law and legal procedures;
 - 9.4. improve the public's knowledge of legal research techniques for New Hampshire law;
 - 9.5. provide support for New Hampshire court-based and community-based programs supporting the public's access to legal information;
 - 9.6. help New Hampshire *pro se* litigants who may require greater access to legal material so as to advance their own cases; and
 - 9.7. improve access to the law for those falling under federal poverty guidelines.
10. Preference will be given to projects that:
 - 10.1. do not duplicate existing efforts in the community and the court system;
 - 10.2. demonstrate a lasting or sustainable change that can be measured;
 - 10.3. use programs and practices that have shown consistent, positive outcomes in other communities;
 - 10.4. demonstrate an innovative use of technology to reach their audiences; and
 - 10.5. use a variety of physical formats to accommodate different learning styles and user needs.

11. Funds shall not be used for:
 - 11.1. for-profit entities;
 - 11.2. general operating support;
 - 11.3. annual appeals or membership drives;
 - 11.4. financial support for political candidates;
 - 11.5. lobbying efforts;
 - 11.6. direct legal services to litigants;
 - 11.7. scholarships;
 - 11.8. individuals;
 - 11.9. organizations that might conflict with the goals or programs of the law library or judicial branch; and
 - 11.10. organizations that discriminate against, denigrate or show hostility or aversion toward an individual because of the individual's sex, race, color, national origin, religious creed, age, sexual orientation, physical or mental disability, pregnancy, marital status, veteran status, or any other legally-protected status.
12. Advocacy groups are welcome to submit proposals; however, in reviewing proposals from and making grants to advocacy groups, the review committee will endeavor to ensure that their advocacy perspective does not interfere with the judicial branch goal of neutrality.

Procedures

13. *Pro hac vice* funds will be dispersed only upon completion of the procedures described below.
 - 13.1. Project proposals must be in writing and will be submitted to the law librarian.
 - 13.2. The law librarian will determine if the proposal is complete, then distribute the proposal to the review committee for comment.
 - 13.3. The law librarian may work with the project personnel to negotiate the terms and scope of the proposed project which may include revision of the proposal.
 - 13.4. The law librarian will communicate the following to the proposal contact:
 - 13.4.1. receipt of the proposal
 - 13.4.2. status of the proposal
 - 13.4.3. recommendation of the committee
 - 13.5. The review committee will recommend:
 - 13.5.1. acceptance of the proposal;
 - 13.5.2. rejection of the proposal; or

13.5.3. further study/suggestions which may include revision of the proposal.

14. All project proposals must include a cover letter, project description and plan and attachments as needed. Progress reports may be required and a final report assessing the success/effect of the project will be submitted and kept on file.

14.1. The *cover letter* is for quick reference, to make sure we have the necessary contact information, etc. If the request is from the Law Library, dispense with this.

14.2. The *project description* is a narrative description of the organization developing the project and should include an in-depth description of the need to be met,

14.3. The *project plan* is an outline of the steps involved and who will be responsible for them,

14.4. *Attachments* are background information on outside organizations such as board membership and sources of funding that will allow the review committee to ensure that the goals and missions of the outside organization, the law library, and judicial branch are not in conflict.

Once a proposal is accepted, recipients of *pro hac vice* funds will be required to sign a contract specifying deliverables and describing how the recipient and the court will measure success for each project.

October 28, 2009

ATTEST: _____
Eileen, Fox, Clerk
Supreme Court of New Hampshire