

§ 1240.16 Reinstatement of Disbarred or Suspended Attorneys

- (a) Upon motion by a respondent who has been disbarred or suspended, with notice to the Committee and the Lawyers' Fund for Client Protection, and following such other notice and proceedings as the Court may direct, the Court may issue an order reinstating such respondent upon a showing, by clear and convincing evidence, that: the respondent has complied with the order of disbarment, suspension or the order removing the respondent from the roll of attorneys; the respondent has complied with the rules of the court; the respondent has the requisite character and fitness to practice law; and it would be in the public interest to reinstate the respondent to the practice of law. Within thirty days of the date on which the application was served upon the Committee, or within such longer time as the Court may allow, the Committee may file an affidavit in relation thereto.
- (b) Necessary papers. Papers on an application for reinstatement of a respondent who has been disbarred or suspended for more than six months shall include a copy of the order of disbarment or suspension, and any related decision; an affidavit in the form in Appendix C to these Rules; and proof that the respondent has, no more than one year prior to the date the application is filed, successfully completed the Multistate Professional Responsibility Examination described in section 520.9 of this Title. After the application has been filed, the Court may deny the application with leave to renew upon the submission of proof that the respondent has successfully completed the New York State Bar Examination described in section 520.8 of this Title, or a specified requirement of continuing legal education, or both. A respondent who has been suspended for a period of six months or less shall not be required to submit proof that the respondent has successfully completed the Multistate Professional Responsibility Examination, unless otherwise directed by the Court.
- (c) Time of application
- (1) A respondent disbarred by order of the Court for misconduct may apply for reinstatement to practice after the expiration of seven years from the entry of the order of disbarment.
- (2) A suspended respondent may apply for reinstatement after the expiration of the period of suspension or as otherwise directed by the Court.
- (d) Respondents suspended for a fixed term of six months or less. A respondent who has been suspended for six months or less pursuant to disciplinary proceedings may file an application for reinstatement with the Court no more than thirty days prior to the expiration of the term of suspension, in the form prescribed at Appendix D to these Rules, together with proof of service of a copy of same upon the appropriate Committee and the Lawyers' Fund for Client Protection. Within twenty days of the date on which the application was served upon the Committee and Lawyers' Fund, or within such longer time as the Court may allow, the Committee and Lawyers' Fund may file a response thereto. After the Committee and Lawyers' Fund have had an opportunity to be heard, the Court may issue an order reinstating the respondent upon a showing, by

clear and convincing evidence, that the respondent has otherwise satisfied the requirements of section 1240.16 (a) of these Rules.

- (e) The Court may establish an alternative expedited procedure for reinstatement of attorneys suspended for violation of the registration requirements set forth in Judiciary Law §468-a.