

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**IN RE: PETITION OF VANDERBILT UNIVERSITY LAW SCHOOL, THE  
UNIVERSITY OF TENNESSEE COLLEGE OF LAW, THE UNIVERSITY  
OF MEMPHIS-CECIL C. HUMPHREYS SCHOOL OF LAW, AND THE  
NASHVILLE SCHOOL OF LAW TO AMEND SUPREME COURT  
RULE 7, SECTION 10.03**

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**No. M2005-02920-SC-BLE-RL - Filed March 7, 2006**

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**ORDER**

The Vanderbilt University Law School, the University of Tennessee College of Law, the University of Memphis-Cecil C. Humphreys School of Law, and the Nashville School of Law have petitioned this Court to amend Rule 7, Section 10.03 of the Tennessee Supreme Court Rules. The proposed amendments are attached hereto as Exhibit A and Exhibit B.

In the interest of providing prompt and fair consideration of the important public policy issues raised by the petition, the Court hereby solicits written responses from the bench, bar and public. Comments should be addressed to:

Michael W. Catalano, Clerk  
Re: Rule 7, Section 10.03 Comments  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

The deadline for written comments is April 10, 2006.

The Clerk shall provide a copy of this order and the petition to the media and to the petitioners. In addition, this order and the proposed amendments to Rule 7, Section 10.03, shall be posted on the Tennessee Supreme Court's website.

It is so ORDERED.

For the Court:

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William M. Barker, Chief Justice

**EXHIBIT A**

**“Clean Copy”**

**Supreme Court Rule 7**  
**Section 10.03**

**Law Student Practice**

(a) Any law student who has successfully completed one-half of the legal studies required for graduation in an approved law school in the State of Tennessee may, with the written approval of the Supreme Court of Tennessee, provide legal services to, and/or may appear in any municipal, county or state court on behalf of, any person or entity financially unable to afford counsel or on behalf of the state of Tennessee or of any municipal or county government; provided, however, that the law student is participating in a law school clinical program, furnishing assistance through a legal aid program, or serving as an assistant to a District Attorney General, Public Defender, the state's Attorney General, the general counsel of any state agency, or a county or municipal legal director's office; and that the law student is under the immediate and personal supervision of a member of the law school's faculty, a licensed legal aid attorney, a District Attorney General or designated Assistant District Attorney General, a District Public Defender or designated Assistant District Public Defender, the Attorney General of Tennessee or any assistant in his or her office, the general counsel of any state agency or any staff attorney in his or her office, or the director of a county or municipal legal office or designated staff attorney.

(b) Before any student shall be eligible to provide legal services and/or appear in court under this rule, the dean of the approved law school or the director of the law school clinical program shall file with the Supreme Court of Tennessee for its approval a list of students who are eligible for certification under this Rule and certify to the Supreme Court that such students meet the requirements of this Rule. Upon written approval by the Supreme Court of Tennessee of such students so selected and certified, such approved students shall be and are thereby authorized to

provide legal services and/or appear in any municipal, county or state court on behalf of any person or entity financially unable to afford counsel, the state of Tennessee, or any municipality or county in the State of Tennessee in a manner consistent with the requirements of this rule.

(c) The Board shall approve a law school's clinical program and shall certify such approval to the Supreme Court of the State of Tennessee as a prerequisite for the approval of law students who are practicing under this Rule in a clinical setting. The criteria for approval shall be:

(i) that the law school itself is approved under the foregoing sections of this Rule;

(ii) that if the law school has an in-house legal clinic which directly represents clients, that the program has a full-time faculty member as director, who is an attorney licensed to practice law in Tennessee; and

(iii) that the law school clinical program is otherwise operated in a manner consistent with the requirements of this rule.

Certification of approval of such law school clinical program may be withdrawn by the Board if the same ceases to meet this criterion.

(d) In the case of students working in a legal aid office, a Public Defender's Office, District Attorney's office, the office of the Attorney General of Tennessee, the office of the general counsel of any state agency, or the office of a municipal or county legal director, it shall be the responsibility of the director of clinical education or the dean of the law school to transmit to the legal aid office, Public Defender's Office, District Attorney's office, office of the Attorney General of Tennessee, office of the general counsel of any state agency, or the office of the municipal or county legal director the names of the students who are certified under this Rule.

(e) The written approval of such students by the Supreme Court of Tennessee shall be and remain in force and effect until the student graduates from law school or ceases to be enrolled in the law school.

## **COMMENTS**

(1) The purpose of this Rule is educational; consequently, its focus is on providing opportunities for students to further their legal studies through properly supervised experiential education. Interpretation of this Rule should be in accordance with its educational goal.

(2) The term “approved law school” refers to any law school in the state of Tennessee that has been accredited by the ABA or any law school in the state of Tennessee approved under Rule 7 § 2.03 of this Court.

(3) In order to provide consistency between three and four year law school programs, the Rule allows for certification of a student who has completed at least half of his or her law school studies. At a four year law school, a student is eligible for certification under this Rule after successful completion of two years of law school, while at a three year law school, a student is eligible after successful completion of three semesters.

(4) The term “provide legal services” is to be construed broadly, so as to allow a law student who is admitted under this Rule to provide any and all services that could be provided by a licensed attorney. Students admitted under this Rule may also appear in capacities such as guardian ad litem where the person whose interests are represented would qualify for appointed counsel.

(5) Students shall be personally and directly supervised by a clinical faculty member or legal aid lawyer, public defender, district attorney, assistant Attorney General, staff attorney for a state agency or staff attorney at a metropolitan legal office when appearing in court or tribunal; however, it is not necessary that the licensed attorney be personally present when the student engages in other activities such as interviewing, investigation and negotiation. It is, however, the responsibility of the licensed attorney to ensure that the student is properly supervised and instructed, including compliance with Rule of Professional Conduct 5.3.

(6) “Person or entity financially unable to afford counsel” includes all persons who would be termed “indigent” by a legal aid provider, all persons whom any court deems eligible for the appointment of counsel, as well as persons and organizations who have unsuccessfully attempted to secure legal counsel or who can otherwise demonstrate to the satisfaction of the clinic director that they cannot reasonably afford counsel . The term also encompasses any organization which is composed of a majority of persons who meet the federal definition of “indigency” as well as any not-for profit organization the purpose of which is to assist “indigent” persons.

(7) When the dean or director of clinical education certifies to the court that a student has met the conditions for admission under this Rule, the dean or director is certifying that the student is in good standing and has successfully completed sufficient credit hours to satisfy the minimum requirements for the second half of law school. A student will be deemed to have successfully completed the requisite amount of credits when he or she has been deemed to have passed (rather than simply have completed) sufficient courses.

(8) A law school clinical program includes a live-client clinic within the law school, an externship program operated by the law school - regardless whether it is a part of the legal clinic- or any other law school credit-bearing activity that involves the representation of clients.

(9) A student may be certified under this Rule and represent clients under the provisions of this Rule when working at a legal aid office, district attorney's office, public defender's office, office of the Attorney General of Tennessee, office of the general counsel of any state agency or the office of the director of a municipal or county law department whether or not the student is receiving law school credit for that work. It is the responsibility of the dean or clinic director at the school at which the student is enrolled to ensure that the supervision provided by the legal aid office, public defender, district attorney, Attorney General, general counsel of a state agency or Metropolitan Legal office is adequate under the Rule.

(10) The terms director of a municipal or county law office or director of a municipal or county law department presume an office within the county or municipality which represents the county or municipality. For such an office to be recognized under this Rule, there must be at least one attorney in that office whose full-time employment is as the attorney for the municipality or county.

**EXHIBIT B**

**“Compare” Copy**

**Supreme Court Rule 7**  
**Section 10.03**

**Law Student Practice Senior-Law Students—Clinical and Legal Aid Programs**

(a) Any ~~senior~~ law student **who has successfully completed one-half of the legal studies required for graduation in an approved** law school in the State of Tennessee ~~approved by the Board~~ may, with the written approval of the Supreme Court of Tennessee, **provide legal services to, and/or may** appear in any municipal, **county** or state court on behalf of, any ~~indigent~~ **person or entity financially unable to afford counsel or on behalf of the state of Tennessee or of any municipal or county government; accused of crime or who is a litigant in any civil proceeding** ~~provided,~~ **however, that the law student is participating in a law school clinical program, furnishing assistance through a legal aid program, or serving as an assistant to a District Attorney General, Public Defender, the state's Attorney General, the general counsel of any state agency, or a county or municipal legal director's office; or as an assistant to the Attorney General, if such appearance has the approval of the District Attorney General and the trial judge involved; provided, ~~however,~~ and that the case in which the law student participates is under the immediate and personal supervision of a **member of the law school's faculty licensed attorney selected by the faculty director of the legal aid clinic , a licensed legal aid attorney, a District Attorney General or designated Assistant District Attorney General, a District Public Defender or designated Assistant District Public Defender, the Attorney General of Tennessee or any assistant in his or her office, the general counsel of any state agency or any staff attorney in his or her office, or the director of a county or municipal legal office or designated staff attorney** ~~a public defender or legal aid attorney in the employment of a duly organized Bar Association sponsored legal aid society or Attorney General.~~**



(b) Before any student shall be eligible to **provide legal services and/or** appear in court ~~for or on behalf of any indigent person,~~ **under this rule**, the dean of the approved law school ~~and or~~ the director of the **law school clinical** ~~legal clinic program or director of the Bar Association~~ sponsored legal aid program society shall file with the Supreme Court **of Tennessee for its approval** a list of students **who are eligible for certification under this Rule** ~~are to participate in such program and~~ certify **to the Supreme Court that such students meet the requirements of this Rule** ~~such students to the Supreme Court of Tennessee for their approval.~~ Upon written approval by the Supreme Court of Tennessee of such students so selected and certified ~~and the filing of such approval or a certified copy thereof with the Clerk of the Circuit Court in the country wherein the law school is located,~~ such approved students shall be and are thereby authorized to **provide legal services and/or** appear in any municipal, **county** or state court on behalf of any **person or entity financially unable to afford counsel, the state of Tennessee, or any municipality or county in the State of Tennessee in a manner consistent with the requirements of this rule.** ~~such indigent person accused of crime or who shall be a litigant in any legal proceeding, or as an assistant to the Attorney General, when under the immediate supervision of the faculty director of the legal aid clinic or director of the Bar Association sponsored legal aid society and/or a licensed attorney selected by the said director.~~

(c) The Board shall approve a **law school's clinical program** ~~legal clinic program or Bar Association sponsored legal aid society~~ and shall certify ~~the legal clinic program or Bar Association sponsored legal aid society and shall certify~~ such approval to the Supreme Court of the State of Tennessee as a prerequisite for the approval of law students **who are practicing under this Rule in a clinical setting.** The criteria for approval shall be:

(i) that the law school itself is approved ~~by the Board~~ under the foregoing sections of this Rule;

(ii) that **if the law school has an in-house legal clinic which directly represents clients, that the legal clinic program has a full-time faculty member as director or the Bar Association sponsored legal aid society has a full-time director**, who is an attorney licensed to practice law in Tennessee; and

(iii) that the **law school clinical program** ~~legal clinic or Bar Association sponsored legal aid society~~ is otherwise operated in **a manner consistent with the requirements of this rule** ~~accordance with the directive set forth herein.~~

Certification of approval of such **law school clinical program** ~~legal program or Bar Association sponsored or legal aid society~~ may be withdrawn by the Board if the same ceases to meet this criterion.

**(d) In the case of students working in a legal aid office, a Public Defender's Office, District Attorney's office, the office of the Attorney General of Tennessee, the office of the general counsel of any state agency, or the office of a municipal or county legal director, it shall be the responsibility of the director of clinical education or the dean of the law school to transmit to the legal aid office, Public Defender's Office, District Attorney's office, office of the Attorney General of Tennessee, office of the general counsel of any state agency, or the office of the municipal or county legal director the names of the students who are certified under this Rule.**

**(d)(e)** The written approval of such students by the Supreme Court of Tennessee shall be and remain in force and effect for a period of 12 months from the date of filing ~~unless withdrawn earlier~~ **until the student graduates from law school or ceases to be enrolled in the law school.**

## COMMENTS

(1) The purpose of this Rule is educational; consequently, its focus is on providing opportunities for students to further their legal studies through properly supervised experiential education. Interpretation of this Rule should be in accordance with its educational goal.

(2) The term “approved law school” refers to any law school in the state of Tennessee that has been accredited by the ABA or any law school in the state of Tennessee approved under Rule 7 § 2.03 of this Court.

(3) In order to provide consistency between three and four year law school programs, the Rule allows for certification of a student who has completed at least half of his or her law school studies. At a four year law school, a student is eligible for certification under this Rule after successful completion of two years of law school, while at a three year law school, a student is eligible after successful completion of three semesters.

(4) The term “provide legal services” is to be construed broadly, so as to allow a law student who is admitted under this Rule to provide any and all services that could be provided by a licensed attorney. Students admitted under this Rule may also appear in capacities such as guardian ad litem where the person whose interests are represented would qualify for appointed counsel.

(5) Students shall be personally and directly supervised by a clinical faculty member or legal aid lawyer, public defender, district attorney, assistant Attorney General, staff attorney for a state agency or staff attorney at a metropolitan legal office when appearing in court or tribunal; however, it is not necessary that the licensed attorney be personally present when the student engages in other activities such as interviewing, investigation and negotiation. It is, however, the responsibility of the licensed attorney to ensure that the student is properly supervised and instructed, including compliance with Rule of Professional Conduct 5.3.

(6) “Person or entity financially unable to afford counsel” includes all persons who would be termed “indigent” by a legal aid provider, all persons whom any court deems eligible for the appointment of counsel, as well as persons and organizations who have unsuccessfully attempted to secure legal counsel or who can otherwise demonstrate to the satisfaction of the clinic director that they cannot reasonably afford counsel. The term also encompasses any organization which is composed of a majority of persons who meet the federal definition of “indigency” as well as any not-for profit organization the purpose of which is to assist “indigent” persons.

(7) When the dean or director of clinical education certifies to the court that a student has met the conditions for admission under this Rule, the dean or director is certifying that the student is in good standing and has successfully completed sufficient credit hours to satisfy the minimum requirements for the second half of law school. A student will be deemed to have successfully completed the requisite amount of credits when he or she has been deemed to have passed (rather than simply have completed) sufficient courses.

(8) A law school clinical program includes a live-client clinic within the law school, an externship program operated by the law school - regardless whether it is a part of the legal clinic- or any other law school credit-bearing activity that involves the representation of clients.

(9) A student may be certified under this Rule and represent clients under the provisions of this Rule when working at a legal aid office, district attorney's office, public defender's office, office of the Attorney General of Tennessee, office of the general counsel of any state agency or the office of the director of a municipal or county law department whether or not the student is receiving law school credit for that work. It is the responsibility of the dean or clinic director at the school at which the student is enrolled to ensure that the supervision provided by the legal aid office, public defender, district attorney, Attorney General, general counsel of a state agency or Metropolitan Legal office is adequate under the Rule.

(10) The terms director of a municipal or county law office or director of a municipal or county law department presume an office within the county or municipality which represents the county or municipality. For such an office to be recognized under this Rule, there must be at least one attorney in that office whose full-time employment is as the attorney for the municipality or county.