

RE: **Proposed New Rule 1.16 of the Rules of the Supreme
Court of the State of Hawai'i**

The Supreme Court of Hawai'i seeks public comment regarding a proposal to adopt new Rule 1.16 to the Rules of the Supreme Court of the State of Hawai'i. The proposal would allow for limited admission of attorneys employed by non-profit organizations that provide civil legal services to economically disadvantaged persons. The proposed new rule, including an explanatory memo, are attached hereto.

Comments about the proposed rule should be submitted, in writing, **no later than Monday, August 23, 2010**, to the Judiciary Public Affairs Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary's website at www.courts.state.hi.us.

Attachment

**Proposed new Rule 1.16 submitted by the Access to
Justice Commission regarding attorneys employed
by non-profit civil legal service providers.**

A. Term. The attached proposed rule allows limited admission of attorneys employed by non-profit civil legal service providers for a period of two years, with a possible extension of an additional two years, for a maximum of four years.

Other Hawai'i Supreme Court Rules, i.e., Rule 1.7 and Rule 1.8, already permit attorneys in different circumstances (military attorneys and law school faculty members) to apply for limited admission for an initial period of up to four years and three years, respectively, and to apply for an extension of the initial limited admission term. The Commission believes similar rules should apply to attorneys who are employed by non-profit civil legal service providers.

To ensure that the limited admission is only for the purposes underlying the rule, the proposed rule also provides that the limited admission to the Bar will be terminated at the end of the term or extended term, when the attorney leaves employment with the legal service provider, or if the provider should cease to be eligible to receive funds from the Indigent Legal Assistance Fund (ILAF) (see below), whichever occurs earliest.

B. Definition of eligible employers. The Commission recommends defining eligible employers as 501(c)(3) non-profit civil legal service providers that are eligible to receive funds from the ILAF. The burden would be on the applicant to demonstrate employment by an eligible employer. The Commission assumes that the list of eligible employers may change from time to time. Presumably, eligible employers would communicate to attorney applicants the applicability of the limited admission rule to their organizations. Similarly, attorneys wishing to work for Hawai'i non-profit civil legal service providers can determine if they would be eligible for limited admission under this rule.

C. Discipline/Dues. The Commission believes that an attorney admitted under this rule should be subject to disciplinary action and fees of admission to the same extent as other attorneys admitted to the Bar. In addition, the Commission believes that an attorney admitted under this rule, as a paid employee of the legal service provider, should not demand or receive any fees from clients of the legal service provider.

**PROPOSED AMENDMENT TO
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI'I**
(New material is underlined)

Rule 1. ADMISSION TO THE BAR.

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1.16. Limited Admission of Attorneys Employed by Non-profit Organizations Providing Civil Legal Services to Economically Disadvantaged Persons.

(a) Employees. An attorney employed by a civil legal service provider recognized by the Internal Revenue Service as a 501(c)(3) non-profit organization (“Legal Service Provider”) that is eligible to receive funds from the Indigent Legal Assistance Fund, who has been admitted to practice by the highest court of another state, the District of Columbia, or a territory of the United States, and whose license to practice in that jurisdiction is active, inactive or has been terminated or surrendered while the attorney was in good standing and who is a graduate of a law school approved by the American Bar Association Council on Legal Education and Admissions to the Bar may apply for limited admission and be accorded limited admission without examination. In all other respects the application shall be made, adjudged, and conditioned as provided by Rules 1.3(a), (b), (c), (d), (e), 1.4 and 1.5 of this Rule 1.

(b) Term Limitation; Extensions. The term of admission under this rule shall be limited to a period of 2 years. The term may be extended one time for a period of 2 years at the request of the Executive Director or highest executive of the Legal Service Provider, provided the attorney has not been disciplined under Rule 2 of these rules. The license shall expire at the end of the term or any extension thereof, when the attorney admitted under this Rule 1.16 ends employment with the Legal Service Provider, or if the Legal Service Provider should cease to be eligible to receive funds from the Indigent Legal Assistance Fund, whichever occurs earliest. The license admitting such employee shall be in the form provided by Rule 1.6. If an attorney admitted under this rule separates from his or her employment with the Legal Service Provider, or if the status of the Legal Service Provider changes so that it is not eligible to receive funds from the Indigent Legal Assistance Fund, then both the attorney and the Legal Service Provider shall immediately notify the Clerk of the Supreme Court and the attorney shall immediately cease and desist from the practice of law in the State of Hawai'i.

(c) Client and Compensation Limitation. Attorneys admitted pursuant to this Rule 1.16 may represent only clients of the Legal Service Provider. Attorneys admitted pursuant to this Rule 1.16 may not demand or receive any compensation from clients in addition to their compensation received from the Legal Service Provider.

(d) Discipline; Dues. Attorneys admitted pursuant to this Rule 1.16 shall be subject to discipline under Rule 2, and shall in all other respects be required to pay dues and fees lawfully imposed on attorneys licensed to practice law in the State of Hawai'i. The fees for application and certificate of admission shall be assessed and paid on application for admission under this Rule 1.16. The fees determined under Rule 17(d)(3) shall be assessed and paid from and after admission to the bar without limitation of time.