

Key Considerations for Special Admission for Out-of-State U.S. Attorneys

This document was developed in response to the recommendation from the Committee of Bar Examiners, and has not yet been shared with CBE, but is in general alignment with the discussion and action taken on May 5, 2025.

Creation of a special admissions program for Out-of-State U.S. licensed attorneys who withdrew from, or were not successful on the February 2025 bar exam would require a new California Rule of Court and new Rules of the State Bar under Division 3 (Non-Licensee Attorneys), Chapter 1 (Multijurisdiction Practice).

The program, based on the Registered Military Spouse Attorney (RMSA) program, potentially titled the Registered Out-of-State U.S. Attorney Program, would require that the out-of-state attorney:

- Be an active licensee in good standing in any U.S. jurisdiction;
- Be registered as an attorney applicant with the Office of Admissions;
- Took and did not pass the February 2025 California Bar Exam;
- Possess a valid positive moral character determination or have a pending Application for Determination of Moral Character;
- Obtain a Supervising Attorney; and
- Acknowledge that they will be subject to the disciplinary authority of the Supreme Court of California and the State Bar, and will not practice law in California other than as permitted by the program under the supervision of their Supervising Attorney.

If the new program mirrors the RMSA rules, the Supervising Attorney must:

- Be a licensee in good standing of the State Bar of California;
- Have practiced law for at least four years in any U.S. jurisdiction, and have practiced law in California for at least two years immediately preceding the start of their supervision of the attorney applicant;
- Assume professional responsibility for any work performed by the attorney applicant under the program;
- Assume representation of clients in the event the attorney applicant becomes ineligible to practice under the program or is otherwise unable to continue the representation; and
- Attest that, to the best of their knowledge after reasonable inquiry, the attorney applicant has good moral character and qualifies for the program.

Mirroring the RMSA Program will allow the Out-of-State Attorney applicant to practice law in California without the restrictions imposed by the Registered In-House Counsel (RIHC) and Registered Legal Aid Attorney (RLAA) Programs. In those programs, attorney applicants can only provide legal advice through their Qualifying Institution or an eligible Legal Aid Organization.

If the Committee of Bar Examiners (CBE) and the Board of Trustees choose to recommend the new program, there would need to be additional discussion to decide whether to limit participation to those who currently reside in California, as the RMSA and RIHC rules currently do. Of note, proposed rule

revisions, which the CBE previously approved to request to circulate for public comment, remove the residency provision.