

## Proposed Amendments to Supreme Court Rules 208 and 808

The Kansas Supreme Court is accepting comment on proposed changes to Supreme Court Rules 208 and 808 relating to Attorney Registration.

Comment may be submitted by email to [rulenotice@kscourts.org](mailto:rulenotice@kscourts.org) until 5:00 p.m. Wednesday, April 3, 2019. The subject line must read "Rules 208 and 808."

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### Rule 208

#### ATTORNEY REGISTRATION

- (a) **Definitions.**
- (1) **"Licensing Period"** means the period of one year beginning July 1 and ending June 30.
  - (2) **"Registration Fee"** means the amount of fee established by Supreme Court order for a status listed in subsection (b)(1).
- (b) **Annual Registration.** In the year an attorney is admitted to the practice of law by the Supreme Court, the attorney must register with the clerk of the appellate courts on a form provided by the clerk no later than 30 days after taking the oath of admission under Rule 720. Each year thereafter, an attorney admitted to the Kansas bar, including a justice or a judge, must register with the clerk as provided in this rule.
- (1) **Status.** An attorney may register as active, inactive, retired, or disabled due to mental or physical disability.
  - (2) **Practice of Law.** Except as otherwise provided in paragraph (3), only an attorney registered as active may practice law in Kansas.
  - (3) **Pro Bono Exception.** An attorney registered as retired or inactive may practice on a pro bono basis through a not-for-profit provider of civil legal services approved by the Supreme Court for this purpose or an accredited law school clinic approved by the Supreme Court for this purpose if the attorney obtains a statement from the disciplinary administrator that the attorney is in good standing and has no pending docketed complaints.
  - (4) **Fee.** An attorney must pay an annual registration fee in an amount established by Supreme Court order. The attorney must pay the registration fee based on the attorney's status shown in the records of the clerk as of July 1. No registration fee will be charged to:

- (A) an attorney newly admitted to the practice of law in Kansas until the first regular registration date following admission;
  - (B) an attorney who has retired from the practice of law, has reached the age of 66 or more on or before July 1, and has requested a change to retired status; or
  - (C) an attorney who is on disabled status due to physical or mental disability.
- (5) **Exemptions.** The following attorneys are exempt from annual registration:
- (A) an attorney appearing pro hac vice in any action or proceeding in this state solely in accordance with Supreme Court Rules 1.10 or 116;
  - (B) an attorney who has registered as retired or as disabled due to mental or physical disability; and
  - (C) an attorney who has been transferred to disabled status by the Supreme Court under Rule 220.
- (6) **Continuing Legal Education (CLE) Fee.** Payment of the annual CLE fee and any applicable late fee under Rule 808 of the Rules Relating to Continuing Legal Education is required for an active attorney.
- (c) **Registration Form; Statement of Registration Fee.** By June 1 of each year, the clerk of the appellate courts will mail to each registered attorney, at the attorney's preferred address on record in the clerk's office, a registration form that states the amount of the registration fee that must be paid by June 30 of the year in which the Licensing Period begins. As a substitute for mailing under this subsection, the clerk may email to each registered attorney instructions for completing an online annual registration.
- (d) **Registration Deadline.** The registration form and fee under subsection (c) must be received by the clerk of the appellate courts, or online registration must be completed, by June 30 prior to the start of the next Licensing Period that begins July 1. Failure of an attorney to receive a statement of the registration fee from the clerk or instructions for online registration from the clerk does not excuse payment of the fee.
- (e) **Late Fee.** A registration form and fee received by the clerk of the appellate courts after June 30 must be accompanied by a \$100 late fee. Completion of online registration after June 30 will cause a \$100 late fee to be assessed

automatically.

- (f) **Failure to Complete Annual Registration.** An attorney required to register annually whose registration form and fee are not received by the clerk of the appellate courts by June 30 or who has not completed online registration by June 30 or who fails to pay any late fee may be administratively suspended from the practice of law under the following procedure.
- (1) **Notice.** The clerk will mail a notice to an attorney who has failed to register, pay the registration fee, or pay any late fee, stating that the attorney's right to practice law is subject to being summarily suspended after 30 days from the mailing of the notice if the registration form and any applicable fees are not received by the clerk within that time. The clerk will mail the notice to the attorney's preferred address on record in the clerk's office. K.S.A. 60-303(c) controls service of any papers or notices, except as otherwise provided in these rules.
  - (2) **Certification.** The clerk will certify to the Supreme Court the name of an attorney who fails to register or pay the applicable fees under (f)(1) before the expiration of the period of time specified in the notice.
  - (3) **Administrative Suspension.** The Supreme Court will issue an order suspending from the practice of law an attorney whose name the clerk certifies under (f)(2). The clerk will provide a list of suspended active attorneys to the clerk of the district court and the chief judge of each judicial district.
- (g) **Change of Status from Inactive to Active.** An attorney may apply for a change of status from inactive to active as follows.
- (1) **Inactive Less than Two Years.** An attorney who is registered as inactive for less than two years may change status to active by:
    - (A) submitting a request for change of status to active;
    - (B) complying with any condition imposed by the Supreme Court;
    - (C) completing any requirement imposed by the Kansas Continuing Legal Education Commission; and
    - (D) paying any fees imposed by the Supreme Court, including a \$25 fee for change in status.

- (2) **Inactive For at Least Two but Less than Ten Years.** An attorney who has been registered as inactive for at least two years but less than ten years may change status to active by:
  - (A) submitting an Application for Change of Registration Status Form and
  - (B) complying with the requirements in (g)(1)(B)-(D).
- (3) **Inactive Ten Years or More.** An attorney who has been registered as inactive for ten years or more may change status to active by:
  - (A) complying with the requirements in (g)(2) and
  - (B) if required by the Supreme Court after it reviews the application, completing a bar review course approved by the Supreme Court.
- (4) **Effective Date of Change of Status.** A change of an attorney's registered status from inactive to active is not effective until approved by the Supreme Court.
  - (A) A request for change in status to active effective prior to July 1 requires payment of the change of status fee and the difference between the active fee and the inactive fee for the current Licensing Period. The attorney will then be responsible for paying the active fee for the next Licensing Period when it becomes due.
  - (B) A request for change in status to active effective July 1 requires payment of the change of status fee and the active fee by June 30.
- (h) **Change of Status from Retired to Active.** An attorney may apply for a change of status from retired to active by submitting to the Supreme Court an Application for Change of Registration Status Form. The Supreme Court may:
  - (1) order the disciplinary administrator to conduct an investigation of the applicant;
  - (2) order the attorney to appear before a hearing panel of the Kansas Board for Discipline of Attorneys to consider the application; and
  - (3) impose appropriate conditions, costs, and registration fees before or upon granting the change of status.
- (i) **Change of Status from Active to Inactive or from Active to Retired.** An attorney who is registered as active may change status to inactive or retired. To

be eligible for retired status, an attorney must have retired from the practice of law and have reached the age of 66. A change of registration status under this subsection must be received by June 30 to be effective for the next Licensing Period. An attorney may change to inactive or retired status by:

- (1) submitting a signed, written request to the clerk of the appellate courts for change of status to either inactive or retired and
  - (2) completing any requirement imposed by the Kansas Continuing Legal Education Commission.
- (j) **Reinstatement After Administrative Suspension.** An attorney who has been suspended under subsection (f)(3) or Rule 808 may seek an order of the Supreme Court to be reinstated to active or inactive status by:
- (1) submitting an Application for Reinstatement Form;
  - (2) paying all delinquent registration fees and a \$100 reinstatement fee, unless the Supreme Court for good cause waives any portion of payment;
  - (3) paying any additional amount ordered and complying with any additional condition imposed by the Supreme Court; and
  - (4) completing any requirement imposed by the Kansas Continuing Legal Education Commission.
- (k) **Service Fee.** The clerk of the appellate courts will charge a \$30 service fee for a check that is returned unpaid. An attorney whose check is returned unpaid must pay the service fee before a change of status can be approved, annual registration can be considered complete, or reinstatement can be granted.
- (l) **Registration Card.** The clerk of the appellate courts will issue an annual registration card in a form approved by the Supreme Court to each attorney registered as active.
- (m) **Bar Disciplinary Fee Fund.** The clerk of the appellate courts will deposit all registration fees in the bar disciplinary fee fund. Compensation and expenses of the Office of the Disciplinary Administrator and the Kansas Board for Discipline of Attorneys will be paid by disbursements from the fund. Disbursements from the fund will be made only on receipt of a voucher signed by a Supreme Court Justice or the court's designee. Any unused balance in the fund may be applied to an appropriate use determined by the Supreme Court.

- (n) **Change of Address and Contact Information.** A registered attorney must notify the clerk of the appellate courts no later than 30 days after a change of legal name, residential address, business address, email address, business telephone number, residence/personal telephone number, liability insurer, or trust account information.
  
- (o) **Online Registration.** Participation in online registration will be voluntary in 2019 and 2020. Online registration will be mandatory in 2021 and each year thereafter.

## Rule 208

### Reformatted and Reorganized ATTORNEY REGISTRATION

## REVISIONS TABLE For New Rule 208 (Amended 1-12-19)

<u>NEW RULE PROVISION</u>	<u>DESCRIPTION</u>	<u>SOURCE FOR NEW PROVISION IN CURRENT 208</u>
(a)	Definitions	
(b)(1)	List of Status Classifications	(a)
(b)(2)	Only Active Attorneys can practice law	(a)
(b)(3)	Retired and inactive Pro bono attorneys	(a)
(b)(4)	Annual fee	(a), except new as to fee as of status on July 1
(b)(4)(A)	No fee for new attorneys	(b)
(b)(4)(B)	No fee for retired attorneys	(b)
(b)(4)(C)	No fee for attorney on disabled status	(b)
(b)(5)(A)	Exemption for annual registration for pro hac vice	(j)
(b)(5)(B)	Exemption for annual registration for retired or disabled status	(g)(1)

(b)(5)(C)	Exemption for annual registration for disabled attorney under Rule 220	(g)(1)
(b)(6)	CLE completion required to complete registration	(k)
(c)	Clerk mail annual registration forms	(c), but allow for email of forms
(d)	Registration deadline is June 30	(d)
(e)	Late fee is applied on registration received after June 30	(d), NO GRACE PERIOD ANY MORE
(f)	Failure to complete annual registration	(e)
(f)(1)	Notice of failure to pay registration fee or late fee	(f)
(f)(2)	Clerk certify names to Supreme Court	(f)
(f)(3)	Supreme Court will suspend attorneys	(f)
(g)	Change of status to active for next licensing period	New
(g)(1)	Inactive less than 2 years	(2)
(g)(1)(A)	Inactive less than 2 years – submit request	New
(g)(1)(B)	Inactive less than 2 years – comply with any conditions	(g)(2)
(g)(1)(C)	Inactive less than 2 years – Complete any CLE	(g)(2)
(g)(1)(D)	Inactive less than 2 years – pay fee	(g)(2)
(g)(2)	Inactive Two but less than 10 years	(g)(2)
(g)(2)(A)	Inactive Two but less than 10 years – Application	(g)(2)

(g)(2)(B)	Inactive Two but less than 10 years – comply with any conditions	(g)(2)
(g)(2)(C)	Inactive Two but less than 10 years – Complete any CLE	(g)(2)
(g)(2)(D)	Inactive Two but less than 10 years – pay fee	(g)(2)
(g)(3)	Inactive 10 years or more	New, may require bar review course
(g)(3)(A)	Inactive 10 years or more – comply with (f)(3)	New
(g)(3)(B)	Inactive 10 years or more – may require bar review course	New
(g)(4)	Effective date of change of status from inactive to active	New
(g)(4)(A)	Change of status to active immediately	New
(g)(4)(B)	Change of status to active next licensing period	New
(h)(1)	Change status from retired to active – Disciplinary Administrator may conduct investigation	New
(h)(2)	Change status from retired to active – may have hearing	New
(h)(3)	Change status from retired to active – comply with an conditions	New
(i)	Change status from Active to Inactive or Retired	New
(i)(1)	Change status from Active to Inactive or Retired – submit written request	New

(i)(2)	Change status to Inactive or Retired – complete any CLE	New
(j)	Reinstatement after Administrative Suspension	(g)(3)
(j)(1)	Reinstatement after Administrative Suspension – submit form	(g)(3)
(j)(2)	Reinstatement after Administrative Suspension - \$100 fee	(g)(3)
(j)(3)	Reinstatement after Administrative Suspension – comply with any conditions	(g)(3)
(j)(4)	Reinstatement after Administrative Suspension – complete CLE	(g)(3)
(k)	Service Fee	(g)(3)
(l)	Registration Card	(h)
(m)	Bar Disciplinary Fee Fund	(i)
(n)	Change information within 30 days	(c)
(o)	Effective dates for online registration	New

**RULE 808**  
**FEEES**

(a) **Annual CLE Fee.** An active attorney must pay an annual CLE fee to fund administration of these rules. The Commission determines the amount of the annual fee, with approval by the Supreme Court.

(b) **Notice of Fee.** By June 1 of each year, the Commission will mail to each attorney's last known address a statement showing the annual CLE fee due for the next compliance period.

(c) **Failure to Receive Notice.** Failure of an attorney to receive a statement under subsection (b) does not excuse the attorney from paying the required fee.

(d) **Due Date and CLE Late Fee.** The annual CLE fee is due ~~on July 1 and is delinquent if not paid before August 1.~~ by June 30 of the year in which the fee is due prior to the start of the next Attorney Registration Licensing Period under which begins July 1 as defined in Rule 208(a)(1). A fee postmarked on or after ~~August~~ July 1 ~~of the year in which the fee is due~~ must be accompanied by a \$50 late fee.

(e) **Attorney Returning to Practice.** An attorney who is reinstated to active status after a period of disbarment or suspension and an attorney who is returning to active status after a period of time on inactive status must pay the annual CLE fee required by subsection (a) for the current compliance period, together with any other fee required for reinstatement, prior to the attorney's return to active status.

(f) **Active Status with Attorney Registration and CLE.** Payment of the annual CLE fee and any applicable late fee is a prerequisite to completing registration as an active attorney under Supreme Court Rule 208.

(g) **Returned Check.** A service fee of the maximum amount allowed by law will be assessed for a check returned unpaid to the CLE Commission.