



ATTORNEY SEARCH

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## “Waive” Goodbye to Taking Another Bar Exam: Typical Requirements and Tips to Effectively Manage the Waive-In Process

There are many considerations that come into play when an attorney decides to move to another geographic region. Any attorney moving geographically will be faced with practicing in a new jurisdiction. Most attorneys will tell you that with any move comes the dread of potentially having to take another bar exam.

Of course, the most fortunate attorneys are those who have practiced long enough to waive in (or gain admission on motion – i.e., admission without additional testing) and avoid taking another bar exam. This article includes a brief summary of the typical requirements for waiving in, all of which are outlined in great detail in the [NCBE Comprehensive Guide to Bar Admission Requirements 2007](#), and some tips which may help you more effectively manage the process.

### What Are Some of the Typical Requirements for Waiving In?

Requirements for waiving in to a particular jurisdiction are state specific and can vary widely from state to state. If you are contemplating waiving in to another jurisdiction, it is very important that you carefully research the requirements of the state to which you are moving as they relate to the jurisdiction(s) you will be leaving. Specific state requirements are far too extensive to cover in this article, but typical requirements include:

1. **A state’s rules must provide for admission on motion.** Some states do not provide for admission on motion. Most of the states that do provide for admission on motion have clearly defined requirements, and these requirements are readily available by contacting the state’s applicable state bar admission agency.<sup>1</sup>
2. **Reciprocity.** Reciprocity refers to whether admission on motion in a particular state or jurisdiction is “limited to candidates from some or all jurisdictions offering admission on motion.”<sup>2</sup>
3. **Years of practice.** Typically, in order to be admitted on motion, there is a minimum number of years you will have had to practice in a reciprocal jurisdiction. Although some states do not have this requirement, most states that do typically require that three of the past five years or five of the past seven years of practice immediately preceding the application be in a reciprocal jurisdiction.<sup>3</sup>

There are a number of issues that may arise with regard to both reciprocity and years of practice. If you are an attorney with the total number of years required for admission on motion spread over two or more jurisdictions, some of which have reciprocity and some of which don’t, you may want to call and speak with someone directly to ascertain whether you meet the requirements. Also, if you are or

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have served as in-house counsel, a government attorney, a JAG attorney, or even a law professor, the definition of “practice” as it relates to these requirements may differ from state to state.<sup>4</sup>

4. **ABA-approved law school.** Most states require that applicants for admission on motion be graduates of an ABA-approved law school. Other states require an ABA-approved law school or its equivalent, and still others indicate that the applicant must have graduated from “a reputable and qualified law school” or a school “approved by the state’s “bar examining committee.”<sup>5</sup>
5. **Character and fitness determination/report.** A character and fitness determination/report is a typical requirement of many states for admission on motion. In some cases a separate agency is used to evaluate character and fitness. Candidates need to keep in mind that, depending on the jurisdiction, such things as previous felony convictions, substance abuse, mental disability, debt, and criminal history may be evaluated as part of the character and fitness report.<sup>6</sup>

#### **Can Foreign Law School Graduates Apply for Admission in a U.S. Jurisdiction?**

Foreign law school graduates have an entirely separate list of admission requirements and should consult the special requirements for foreign law school graduates. Candidates should first check to see whether foreign law school graduates are eligible to take the bar examination under the specific rules of the jurisdiction to which they are applying and whether there are any additional requirements to do so.<sup>7</sup>

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#### **Are There Special Licensures and Registrations Available Outside of the Regular Examination or Motion Process?**

It should also be noted that a number of states have special licensures, registrations, and/or certifications for particular categories of attorneys (e.g., foreign legal consultants, corporate counsel not admitted in-state, legal service lawyers, and pro bono lawyers) outside of the normal examination or motion process which may allow them to practice in certain jurisdictions under very specific guidelines.<sup>8</sup>

#### **How Can You More Effectively Manage the Admission on Motion Process?**

1. **“Get your ducks in a row” – don’t procrastinate!** Making a move geographically is very stressful, particularly if you are moving a home, spouse, and children. Coupled with this is the added stress of practicing at a new firm in a new jurisdiction. Because the waive-in process can typically take anywhere between three and nine months, it makes sense for anyone seeking to waive in to anticipate what’s ahead and complete as much information as possible before actually starting at a new firm.
2. **Line up your references.** Most applications for admission on motion require applicants to supply references from current and/or prior jurisdictions in which they are currently or have previously practiced. Compiling this information ahead of time and giving your references the “heads-up” is a good idea to keep the process moving smoothly ahead.
3. **Save files from prior bar applications.** Because applications for admission on motion can require information that is very similar to the bar application information you originally submitted for admission to your current jurisdiction and often ask for historical employment information, etc., going back many years, if you have copies of your prior bar applications on hand, this can reduce the amount of time you will have to allocate to gather the information and complete the application. Additionally, keep in mind that some bar associations only retain records for a limited number of years, so it is always best to keep your own copies handy.
4. **Tax returns.** Some applications may ask for evidence that you have filed your federal and state tax returns for a period of time (e.g., the previous three years). Keeping these records readily accessible can only help in supplying the information requested. Additionally, keep in mind that some jurisdictions ask for a summary account transcript from the IRS, which may include information on your taxes and, if you are married and filing jointly, your spouse’s taxes.

5. **Don't be afraid to call the bar/jurisdiction in which you are requesting admission on motion.** In every admission process, questions and issues arise. If you cannot meet any requests on the application for admission on motion or at any stage in the process, you should not hesitate to call the relevant state bar admission agency and explain your circumstances. Some state bar admission agencies are more stringent – others are more reasonable/lenient. Generally, they are very happy to assist you in completing the process in a timely and efficient manner.
6. **Your current employer may be contacted.** If an application asks for your current employer information, be aware that a call may be made to your current employer to verify your employment/status, etc. This may or may not affect the timing of when you decide to submit your application for admission on motion.

Gaining admission on motion is a great alternative to having to take another bar exam. The key is to investigate the process early so that it does not become the additional thorn in your side as you seek to take care of all of the other concerns associated with moving. The NCBE site is an excellent source of information and provides a comprehensive guide to those seeking admission to U.S. jurisdictions nationwide. To get started, be sure to consult with the applicable state bar admission agency, a listing of which can also be found in the NCBE guide.<sup>9</sup>

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<sup>1</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart VIII: Admission on Motion Chart, pp. 25-27.

<sup>2</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart IX: Reciprocity, Comity, and Attorneys Exam, pp. 28-29.

<sup>3</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart VIII: Admission on Motion Chart, pp. 25-27.

<sup>4</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart VIII: Admission on Motion Chart, pp. 25-27.

<sup>5</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart VIII: Admission on Motion Chart, pp. 25-27.

<sup>6</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart II: Character and Fitness Determinations, pp. 6-9.

<sup>7</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart X: Foreign Law School Graduates, pp. 30-34.

<sup>8</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Chart XII: Other Licenses and Registrations, pp. 36-37.

<sup>9</sup>See NCBE Comprehensive Guide to Bar Admission Requirements 2007, Directory of State Bar Admission Agencies, pp. 43-46.