

NOTICE OF COMMENT PERIOD

The Nebraska Commission on the Unauthorized Practice of Law has submitted to the Nebraska Supreme Court proposed amendments to Neb. Ct. R. § 3-1004(C)(2) and (3) to further clarify conditions under which a nonlawyer may represent others in an administrative proceeding. The Court invites interested persons to comment on these proposed rule amendments. Anyone desiring to comment should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, NE 68509-8910, or via e-mail to lanet.asmussen@nebraska.gov, no later than December 1, 2011.

The full text of the proposed amendments is available below or a hard copy may be obtained from the Office of the Clerk of the Supreme Court and Court of Appeals upon request.

§ 3-1004. Exceptions and exclusions.

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(C) Nonlawyers appearing in a representative capacity before an administrative tribunal or agency, subject to the following:

(1) A nonlawyer may appear in a representative capacity before a federal administrative tribunal or agency to the extent permitted by such tribunal or agency.

(2) Except as provided in § 3-1004(E) below, A a nonlawyer who is an employee, member, or officer of an entity or organization may represent such entity or organization before an administrative tribunal or agency of the State of Nebraska, or a political subdivision of the State of Nebraska, if all of the following conditions are met:

(a) The tribunal, agency, or political subdivision permits representation of parties by nonlawyers;

(b) The nonlawyer employee, member, or officer is specifically authorized by the entity or organization to appear before the tribunal, agency, or political subdivision on its behalf;

(c) Such representation is not the primary duty of the nonlawyer employee, member, or officer to the entity or organization, but is secondary to other duties relating to the management or operation of the entity or organization;

(d) The nonlawyer employee, member, or officer does not receive separate or additional compensation (other than reimbursement for costs) for such representation;

(e) The representation does not involve a claim that the tribunal, agency, or political subdivision's action or the action of another person is illegal as a matter of law or unconstitutional; and

(f) The Nebraska Evidence Rules as applicable in the district courts do not apply to the administrative proceeding.

(g) Any review of the agency's decision is not de novo on the record.

(3) Except as provided in § 3-1004(E) below. A nonlawyer may represent an unrelated party before an administrative agency or tribunal of the State of Nebraska if all of the following conditions are met:

(a) The agency or tribunal permits representation of parties by nonlawyers;

(b) The party knows that the representative is a nonlawyer and authorizes such person to appear on behalf of the party in a particular proceeding;

(c) The representation does not involve a claim that the agency action or action of another person is illegal as a matter of law or unconstitutional;

(d) The representation does not require the knowledge, judgment, or skill of a lawyer or the preparation of legal briefs; and

(e) The Nebraska Evidence Rules, as applicable in the district courts, do not apply to the administrative proceeding.

(f) Any review of the agency's decision is not de novo on the record.

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