

TEXAS BOARD OF LEGAL SPECIALIZATION
STANDARDS FOR ATTORNEY CERTIFICATION

PART II
SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XIII
ADMINISTRATIVE LAW

(Area ID: AD / Year Started: 1989)

- A. **DEFINITION.** Administrative law is the practice of law dealing with the regulatory, licensing, enforcement, and adjudicative powers of local, state and federal governmental agencies. Applicant must demonstrate substantial involvement and special competence in the practice of Texas administrative law, including, without limitation, representing clients before administrative agencies, practicing law within those agencies, and handling judicial proceedings involving those agencies.
- B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in Texas administrative law practice by providing such information as may be required by TBLS.
1. **Certification.**
- a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas administrative law during each year of the 3 years immediately preceding application as defined in Section XIII, A of the Specific Area Requirements for Administrative Law.
- b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas administrative law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
- (1) Applicant must show that he or she has had primary responsibility (as a hearings examiner, party representative, or agency representative) in 1 of the following 4 categories within their entire practice:
- (a) A total of 10 contested case hearings before administrative agencies. Five (5) shall have been resolved after hearings on the merits and final orders were issued by the agencies. Five (5) may have been contested cases before administrative agencies that were resolved by formal alternative dispute resolution proceedings (mediations or arbitrations), or following active case development (including discovery, pre-hearing motions practice, etc.) and settlement conferences that involved case preparation and presentation to an internal agency forum, or some combination of these two alternatives to formal contested case hearings on the merits;

- (b) A minimum of 60 days in contested case hearings before administrative agencies, of which 15 days may be in ADR proceedings (mediations, arbitrations), or equivalent formal agency settlement procedures, involving contested cases before administrative agencies;
 - (c) Ten (10) proceedings involving the judicial review of agency orders under the Administrative Procedure and Texas Register Act and/or under the Federal Administrative Procedure Act; or
 - (d) A combination of contested case hearings and judicial review proceedings totaling 10 matters.
- (2) In addition to the cases listed in Section XIII, B,1,b(1) above, applicant must meet 3 of the following 5 categories within his or her entire practice:
- (a) Substantial involvement in a major rule-making proceeding before a state or federal agency. Such involvement may include petitioning for rules or drafting rules;
 - (b) Primary responsibility for a party in 3 original judicial actions in state or federal court involving agency activities. Examples of such actions include the prosecution or defense of suits for injunction, declaratory judgment, mandamus, enforcement, and suits challenging agency rules;
 - (c) Primary responsibility as a hearings examiner, agency counsel or private practitioner in 12 non-contested proceedings;
 - (d) Primary responsibility for client counseling as agency counsel (either with an agency or in the attorney general's office) or as a private practitioner in 5 substantial matters dealing with, for example, the necessity of obtaining permits, the interpretation of agency requirements or statutory authority, compliance with Open Meetings or Open Records Acts; or
 - (e) Primary responsibility (as a hearings examiner, party representative, or agency representative) in an additional 5 contested case hearings before administrative agencies or an additional 5 proceedings involving the judicial review of agency orders under the Administrative Procedure and Texas Register Act and/or under the Federal Administrative Procedure Act. A combination of contested case hearings and judicial review proceedings totaling 5 additional matters may also be used to fulfill this requirement.
2. **Recertification.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas administrative law during each year of the 5 year period of certification as defined in Section XIII, A of the Specific Area Requirements for Administrative Law except as provided for in Part I—General Requirements, Section VI, C,1(b).

C. REFERENCE REQUIREMENTS. Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in administrative law. These persons must be substantially involved in administrative law, and be familiar with applicant's administrative law practice.

- 1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving administrative law matters within the 3 years immediately preceding application.
- 2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving administrative law matters since certification or the most recent recertification.

3. **Reference Types.** Applicant must submit the following types of references:
 - a. Three Texas attorneys who are substantially involved in administrative law. Applicant shall have tried an administrative law matter with or against one of these attorneys.
 - b. Two of the following (present or former) before whom applicant has appeared as an advocate in an administrative law matter:
 - (1) A judge of any court of record in Texas, Texas Courts of Appeal, or the Texas Supreme Court.
 - (2) A hearing officer or hearing examiner of an administrative agency with jurisdiction in Texas.