



# NEW JERSEY STATE BAR ASSOCIATION

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Hon. Glenn A. Grant  
Acting Administrative Director of the Courts  
Administrative Office of the Courts  
78 Hughes Justice Complex  
25 W. Market St.  
P.O. Box 037  
Trenton, NJ 08625-0037

Re: Implementation of Rule 1:21-11

Dear Judge Grant:

On behalf of the New Jersey State Bar Association, I want to thank you and your staff for creating an online portal through which approved pro bono organizations may renew the annual certifications under Rule 1:21-11. The certification process has already helped to clarify which organizations are qualified to offer *Madden* exemptions; supervise the pro bono work of out-of-state volunteers, lawyers with limited licenses, recent law graduates, and law students; and ensure fee waivers for low-income clients, among other benefits. The new portal promises to provide a quick and convenient way for pro bono organizations to complete the recertification process each year, and the NJSBA is grateful to the AOC for the work that went into it.

As with any new initiative, during the course of the recertification process, some questions have arisen, as follows:

1. It seems that any user can open the renewal form of an approved organization and submit it. We are concerned that this could lead to confusion or mistake. While there may be workable security measures that might ultimately be added to the system, for the interim, we suggest two checks on possible mistakes:
  - a. Adding warning language so that any person who opens a form is prompted to check that he or she is looking at the one for the correct organization.
  - b. Sending a confirming e-mail to the organization when a form is submitted as proof of submission or an alert in case the submission did not originate from that organization.

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The NJSBA understands that, once a form is submitted on behalf of an organization, the name of that organization will disappear from the list of those that need to file a renewal certification. This will provide yet an additional check, as individuals who go to the portal to complete the form but do not see the name of their organization can then contact the AOC to provide notification that a submission was made in error.

2. The renewal certification asks for a list of all volunteer attorneys with their attorney identification (ID) numbers. The NJSBA has several concerns about this practice.
  - a. It is not clear why the Court is requesting attorney ID numbers. If the Court needs this information for a specific purpose, perhaps there may be workable alternatives to collect the information that can be considered.
  - b. The online ID lookup will not always yield accurate results. For example, some lawyers share first and last names with others; some volunteers use practice names that differ from their registration names. Moreover, out-of-state volunteers, who are authorized to do pro bono work in conjunction with an approved organization under Rule 1:21-3(c), will not have ID numbers in New Jersey.
  - c. While pro bono organizations might increase the accuracy of their reporting if they requested that volunteers supply their ID numbers, they had no notice of the need to do so up to this point. If ID numbers are determined to be necessary, postponing the request for them to next year would give the organizations an opportunity to ask volunteers for their ID numbers going forward.
  - d. The instructions on the renewal certification ask organizations to “upload” their lists of volunteers and provide a link to an Excel spreadsheet to create this list, but there appears to be no way to upload the list to the website and link it to the certification.
  - e. The Excel spreadsheet for the list of attorneys includes these fields:

S.No	Attorney ID	Attorney Last name	Attorney [sic] First Name
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It is unclear what information is supposed to go in the column labeled “S.No.”

- f. It is unclear whether the lists of attorneys’ names and ID numbers will be made public. On the one hand, we expect that attorneys might have concerns about appearing by name as pro bono volunteers, in that clients might attempt to contact them directly. On the other hand, we anticipate that attorneys might have concerns about being excluded from a list of pro bono volunteers, with the implication that

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they have not volunteered their time. Such an implication would be unfair, as some attorneys do pro bono work other than through an approved organization, including by way of *Madden* assignments from the Court. Still others volunteer their time through Legal Services of New Jersey and its regional programs, which are exempt from filing certifications under Rule 1:21-11(b)(1), such that their volunteers will not appear on the lists. Given these issues, perhaps the Court might consider incorporating confidentiality protection for the lists into the system.

3. The renewal certification asks for information to establish an organization's qualification to assure fee waivers for its clients. Specifically, the certification provides an organization with two choices, as follows:
  - The above-referenced organization or program continues to screen its clients to establish their low incomes.
  - The above-referenced organization or program no longer screens clients to establish their low incomes.

Are organizations supposed to leave this section blank if they do not screen, and never have screened, clients to establish their low incomes? Or should this section contain a third alternative, such as, "The above-referenced organization or program does not screen clients to establish their low incomes"?

The NJSBA would be happy to work through these issues with the AOC. Please feel free to contact me with questions, responses, or concerns.

Thank you again for your efforts. We look forward to a continuing collaboration.

Very truly yours,



Miles S. Winder III, Esq.  
President

cc: Thomas H. Prol, Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director  
Cathy Keenan, Esq., Chair, NJSBA Pro Bono Committee