

Admission to the Bar in New York

Admission to the Bar in New York is administered by the Appellate Divisions of the Supreme Court for each of the four Departments in the State according to the Rules of the Court of Appeals, the highest court in the State. Here is a link to the relevant Rules of the Court of Appeals relating to the admission of foreign attorneys: <http://www.courts.state.ny.us/ctapps/52orules10.htm>. There are three possibilities that generally apply:

1. One could consider using his Indian law degree as a basis for taking the Bar Examination relying on § 520.6, Study of Law in Foreign Country; Required Legal Education, as Indian law degrees are generally regarded as a substantial equivalent of the legal education provided by an American Bar Association approved law school in the United States.

§ 520.6 Study of Law in Foreign Country; Required Legal Education

(a) General. An applicant who has studied in a foreign country may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof of the legal education required by this section.

(b) Legal education. The applicant must satisfy the educational requirements of either paragraph (1) or (2) of this subdivision.

(1) The applicant shall show fulfillment of the educational requirements for admission to the practice of law in a country other than the United States by successful completion of a period of law study in a law school or schools each of which, throughout the period of the applicant's study therein, was approved by the government or an authorized accrediting body in such country, or of a political subdivision thereof, to award a first degree in law, and satisfaction of the following requirements:

(i)(a) Durational requirements. The program and course of law study successfully completed by the applicant was substantially equivalent in duration to the legal education provided by an American Bar Association approved law school in the United States, and in substantial compliance with the instructional and academic calendar requirements of section 520.3(c)(1)(i) and (ii) and (d)(2) of this Part; and

(b) Substantive requirements. Such other country is one whose jurisprudence is based upon the principles of English Common Law, and that the program and course of law study successfully completed by the applicant were the substantial equivalent of the legal education provided by an American Bar Association approved law school in the United States.

(ii) Cure provision. An applicant who does not meet the requirements of subparagraph (i)(a) or (i)(b) may cure either the durational or substantive deficiency, but not both, under the following circumstances:

(a) Durational deficiency. If the applicant does not meet the durational requirements of subparagraph (i)(a), the applicant may cure the deficiency by providing satisfactory proof that the applicant has at least two years of foreign legal education that meets the substantive requirements of subparagraph (i)(b) and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.

(b) Substantive deficiency. If the applicant does not meet the substantive requirements of subparagraph (i)(b), the applicant may cure the deficiency by providing satisfactory proof that the applicant meets the durational requirements of subparagraph (i)(a) and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.

(2) The applicant shall show admission to practice law in a country other than the United States whose jurisprudence is based upon principles of English Common Law, where admission was based upon a program of study in a law school and/or law office approved by the government or an authorized accrediting body in such country, or of a political subdivision thereof, and which satisfies the durational requirements of subparagraph (1)(i)(a) but does not satisfy the substantive requirements of subparagraph (1)(i)(b) of this subdivision, and that such applicant has successfully completed an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.

(3) An LL.M. degree shall be satisfactory to qualify an applicant otherwise meeting the requirements of subsections (b)(1)(ii) or (b)(2) to take the New York State bar examination provided the following requirements are met:

(i) the program shall consist of a minimum of 24 credit hours (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills;

(ii) a minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one credit hour;

(iii) the program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of four credit hours may be earned in courses completed during summer semesters;

(iv) the program shall be completed within 24 months of matriculation;

(v) all coursework for the program shall be completed at the campus of an American Bar Association approved law school in the United States, except as otherwise expressly permitted by subdivision (b)(3)(vii);

(vi) the program completed by the applicant shall include:

- (a) a minimum of two credit hours in a course or courses in professional responsibility;
 - (b) a minimum of two credit hours in legal research, writing and analysis, which may not be satisfied by a research and writing requirement in a substantive law course;
 - (c) a minimum of two credit hours in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of United States law, which may be satisfied by a course in United States constitutional law or United States or state civil procedure; credit earned in such course in excess of the required two credit hours may be applied in satisfaction of the requirement of subdivision (b)(3)(vi)(d); and
 - (d) a minimum of six credit hours in other courses in subjects tested on the New York State bar examination, where a principal focus of the courses includes material contained in the Content Outline for the New York State bar examination published by the State Board of Law Examiners.
- (vii) The program completed by the applicant may include:
- (a) a maximum of four credit hours in clinical courses, provided (1) the clinical course includes a classroom instructional component in order to ensure contemporaneous discussion, review and evaluation of the clinical experience; (2) the clinical work is done under the direct supervision of a member of the law school faculty; and (3) the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and
 - (b) a maximum of six credit hours in other courses related to legal training taught by members of the faculty of the law school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.
- (viii) No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.
- (c) Proof required. The applicant shall submit to the State Board of Law Examiners such proof of compliance with the provisions of this section as the Board may require.
- (d) Effective date for implementation. Except for the requirements of subdivisions (b)(3)(iii), (v) and (viii), which are effective May 18, 2011, the provisions of Rule 520.6(b)(3) shall first apply to LL.M. programs commencing during the 2012-13 academic year and to applicants applying to take the July 2013 bar examination, subject to the saving clause of Rule 520.1(b).

2. One could also seek admission on motion relying on § 520.10, Admission Without Examination, if he qualifies. For your information, Ram Jethmalani made use of this provision when he was in New York many years ago.

520.10 Admission without Examination

(a) General. In its discretion, the Appellate Division may admit to practice without examination an applicant who:

(1) (i) has been admitted to practice in the highest law court in any other state or territory of the United States or in the District of Columbia; or

(ii) has been admitted to practice as an attorney and counselor-at-law or the equivalent in the highest court in another country whose jurisprudence is based upon the principles of the English Common Law; and

(iii) is currently admitted to the bar in such other jurisdiction or jurisdictions, that at least one such jurisdiction in which the attorney is so admitted would similarly admit an attorney or counselor-at-law admitted to practice in New York State to its bar without examination; and

(2) (i) while admitted to practice as specified in paragraph (1) of this subdivision, has actually practiced therein, for at least five of the seven years immediately preceding the application:

(a) in its highest law court or highest court of original jurisdiction in the state or territory of the United States, in the District of Columbia or in the common law country where admitted; or

(b) in Federal military or civilian legal service in a position which requires admission to the bar for the appointment thereto or for the performance of the duties thereof, even if the government service, civilian or military, was not in a jurisdiction in which the applicant was admitted to practice; or

(c) in legal service as counsel or assistant counsel to a corporation in the state or territory of the United States where admitted, or in the District of Columbia if admitted therein; or in the common law country where admitted; or

(ii) has been employed in any other state or territory of the United States or in the District of Columbia as a judge, magistrate, referee or similar official for the local, state or federal government in a tribunal of record, or as a law clerk to such judicial official, provided that such employment requires admission to the bar for the appointment thereto or for the performance of the duties thereof, for at least five of the seven years immediately preceding the application; or

(iii) has been employed in this State or in any other state or territory of the United States or in the District of Columbia as a full-time member of the law faculty teaching in a law school or schools on the approved list of the American Bar Association and has attained the rank of professor or associate professor for at least five of the seven years immediately preceding the application; or

(iv) has actually practiced as provided in subparagraph (i) of this paragraph, or been employed as a judicial official as provided in subparagraph (ii) of this paragraph, or has been teaching at a law school as provided in subparagraph (iii) of this paragraph, or has actually practiced while admitted pursuant to Rule 520.11(a)(2) of this Part, for a period of up to 18 months, in a combination or cumulation of service among the categories of practice, judicial or legal service or teaching where the Appellate Division determines that such five years of

combined or cumulative service is the equivalent of the practice required in clause (a) of subparagraph (i); and

(3) has received a first degree from an approved law school in the United States at the time of applicant's admission to practice in such other state, territory, district or common law country, or at the time of application for admission under this section; and

(4) is over 26 years of age.

(b) Proof Required. An applicant for admission under this section shall file with the Clerk of the Appellate Division of the department in which, as shown by the papers filed by the applicant with the department, the applicant resides or, if not a resident of the state in which such papers show that the applicant is employed full-time or, if such papers do not show that the applicant resides or is employed full-time in the State, the Appellate Division of the Third Department:

(1) a certificate from the clerk of the highest court of the state, territory, district or foreign country in which applicant has been admitted to practice as an attorney and counselor-at-law or the equivalent, certifying to applicant's admission to practice and the date thereof; and

(2) in the case of an applicant seeking admission relying upon teaching, a certificate from the dean of the law school which employs or employed the applicant, certifying to the nature and extent of applicant's employment and the rank attained; and

(3) a certificate from the New York State Board of Law Examiners certifying that the applicant has received a first degree in law from an approved law school as defined in section 520.3(b) of this Part; and

(4) any such other satisfactory evidence of character and qualifications as the Appellate Division may require, which may include a report of the National Conference of Bar Examiners.

(c) Proof to be Submitted and Fee to be paid to New York State Board of Law Examiners. The applicant shall submit to the New York State Board of Law Examiners such proof of compliance with the provisions of paragraph (3) of subdivision (a) of this section as the board may require and shall at the same time pay the board the fee prescribed by section 465 of the Judiciary Law by certified check or money order payable to the order of the board.

(d) Discretion of Appellate Division. The Appellate Division may in its discretion impose as a condition to admission such other tests of character and fitness as it may deem proper.

One may also seek admission on a case by case basis relying on § 520.11, Admission Pro Hac Vice. If using this Rule, Mr. Dev would need to associate with a member of the New York Bar who would move his admission for the case in question. Such motions are routinely granted.

§ 520.11 Admission Pro Hac Vice

(a) General. An attorney and counselor-at-law or the equivalent, who is a member in good standing of the bar of another state, territory, district or foreign country may be admitted pro hac vice:

(1) in the discretion of any court of record, to participate in any matter in which the attorney is employed;

(2) in the discretion of the Appellate Division, provided applicant is a graduate of an approved law school, to advise and represent clients and participate in any matter during the continuance of the applicant's employment or association with an organization described in subdivision 7 of section 495 of the Judiciary Law or during employment with a District Attorney, Corporation Counsel or the Attorney General, but in no event for longer than 18 months.

(b) New York Law Students. A graduate student or graduate assistant at an approved law school in New York State may be admitted pro hac vice in the discretion of the Appellate Division, to advise and represent clients or participate in any matter during the continuance of applicant's enrollment in an approved law school in New York State as a graduate student or graduate assistant, or during applicant's employment as a law school teacher in an approved law school in New York State, if applicant is in good standing as an attorney and counselor-at-law or the equivalent of the bar of another state, territory, district or foreign country and is engaged to advise or represent the client through participation in an organization described in subdivision 7 of section 495 of the Judiciary Law or during employment with a District Attorney, Corporation Counsel or the Attorney General, but in no event for longer than 18 months.

(c) Association of New York Counsel. No attorney may be admitted pro hac vice pursuant to paragraph (1) of subdivision (a) to participate in pre-trial or trial proceedings unless he or she is associated with an attorney who is a member in good standing of the New York bar, who shall be the attorney of record in the matter.

(d) Provision of Legal Services Following Determination of Major Disaster.

(1) Determination of existence of major disaster. Upon the declaration of a state of disaster or emergency by the governor of New York or of another jurisdiction, for purposes of this subdivision, this Court shall determine whether an emergency exists affecting the justice system.

(2) Temporary pro bono practice following the determination of a major disaster. Following a determination by this Court that persons residing in New York are (i) affected by a state of disaster or emergency in the entirety or a part of New York or (ii) displaced by a declared state of disaster or emergency in another jurisdiction, and such persons are in need of pro bono services and the assistance of attorneys from outside of New York is required to help provide such services, an attorney authorized to practice law in another United States jurisdiction may provide legal services in New York on a temporary basis. Such legal services must be provided on a pro bono basis without compensation from the client, or expectation of compensation or other direct or indirect pecuniary gain to the attorney from the client. Such legal services shall

be assigned and supervised through an established not-for-profit bar association in New York or an organization described in subdivision 7 of section 495 of the Judiciary Law.

(3) Other temporary practice following the determination of a major disaster. Following the determination of a major disaster in another United States jurisdiction - after such a declaration of a state of disaster or emergency and its geographical scope have been made by the governor and a determination of the highest court of that jurisdiction that an emergency exists affecting the justice system - an attorney who has been authorized to practice law and is in good standing in that jurisdiction and who principally practices in that affected jurisdiction may provide legal services in New York on a temporary basis in association with an attorney admitted and in good standing in New York. The authority to engage in the temporary practice of law in New York pursuant to this paragraph shall extend only to attorneys who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services. Those legal services shall be limited to:

(i) representing clients with respect to matters that the attorney was handling prior to the disaster, and

(ii) new matters in the area affected by the disaster that the attorney could have handled but is unable to do so because

(a) the attorney's ability to practice in the jurisdiction affected by the disaster has been limited by the disaster, and/or

(b) the client has temporarily relocated from the disaster area to another jurisdiction because of the disaster.

(4) Duration of authority for temporary practice. The authority to practice law in New York granted by paragraph (2) of this subdivision shall end when this Court determines that the conditions caused by the major disaster in New York have ended except that an attorney then representing clients in New York pursuant to paragraph (2) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the attorney shall not thereafter accept new clients. The authority to practice law in New York granted by paragraph (3) of this subdivision shall end 60 days after either the governor or this Court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

(5) Court appearances. The authority granted by this subdivision does not include appearances in court except pursuant to subdivision (a) of this section.

(6) Admission and Registration requirement. An attorney may be admitted pro hac vice in the discretion of the Appellate Division, provided the applicant is a graduate of an approved law school and is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, to provide legal services in New York pursuant to paragraphs (2) or (3) of this subdivision. Such applicant must file a registration statement with the Office of Court Administration before the commencement of the provision of legal services. The application shall be in a form prescribed by the Appellate Division and the registration statement shall be in a form prescribed by the Office of Court Administration.

(7) Notification to clients. Attorneys authorized to practice law in another United States jurisdiction who provide legal services pursuant to this subdivision shall inform clients in New York of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and the limitations on their authorization to practice law in New York as permitted by this subdivision. They shall not state or imply to any person that they are otherwise authorized to practice law in New York.

(e) Professional Responsibility Requirements.

An attorney admitted pro hac vice pursuant to this section:

(1) shall be familiar with and shall comply with the standards of professional conduct imposed upon members of the New York bar, including the rules of court governing the conduct of attorneys and the Rules of Professional Conduct; and

(2) shall be subject to the jurisdiction of the courts of this State with respect to any acts occurring during the course of the attorney's participation in the matter.

Author
Mr. James P Duffy III
Attorney—at—Law, New York