

Supplemental Note Regarding Prior SJC Order Implementing SJC Rule 3:03

Certain provisions in the proposed amendments to SJC Rule 3:03 reflect provisions in the Supreme Judicial Court's Order Implementing SJC Rule 3:03, copied below, which was first adopted in 1980 and subsequently amended in 1985 and 1986. These include the following:

SJC Order Implementing SJC Rule 3:03	Proposed Amended SJC Rule 3:03
Paragraph 2	See Section 5.2
Paragraph 3	See Section 4.8
Paragraph 4	See Sections 5.1 and 5.2
Paragraph 6	See Section 1
Paragraph 7	See Section 2

Order Implementing Supreme Judicial Court Rule 3:03

As a result of the order of this court dated June 26, 1980, previous orders implementing former Supreme Judicial Court Rule 3:11 must be revised. Therefore, effective January 1, 1981, it is hereby ordered that the January 17, 1975 order, as amended by order dated July 18, 1979, implementing former Supreme Judicial Court Rule 3:11 is repealed and replaced by the following order:

1. That part of Rule 3:03(1)(a) allowing a senior student to appear on behalf of the Commonwealth in criminal proceedings in specified courts, provided the conduct of the case is under the general supervision of a regular or special assistant district attorney or a regular or special assistant attorney general, shall be construed to permit such a student to appear on behalf of a municipality under the general supervision of the latter's corporation counsel, city solicitor or town counsel, or an assistant municipal counsel or assistant solicitor.

2. Before a senior student shall act or appear for any person (client) under Rule 3:03, he shall: (a) disclose to the client his status as a law student, (b) obtain from the client a signed document in which the client acknowledges that he has been informed of the student's status and authorizing the named student to appear for and represent him in the litigation or proceedings identified in the document, (c) have the document approved by the supervising attorney, and (d) file the document and the written appearance of the supervising attorney with the court or administrative agency in which the litigation or proceedings are pending.

3. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by any student acting under the provisions of Rule 3:03.

4. A student acting under Rule 3:03 shall comply with the standards of professional conduct set out in S.J.C. Rules 3:07 and 3:08. Failure of an attorney supervising students to provide proper training or supervision may be ground for disciplinary action or revocation or restriction of the attorney's authority to supervise students.

5. The appearance of law school students in behalf of clients in cases or proceedings pending before administrative agencies or in any court of the Commonwealth shall be governed by *S.J.C. Rule 3:03* and any orders from time to time issued by this court in implementation of that rule, notwithstanding any opinion or dictum contained in Opinion of the Justices, 289 Mass. 607, 615 (1935).

6. S.J.C. Rule 3:03 does not require that a law student shall be approved by the dean of a law school or be a senior student in order to participate in litigation lawfully conducted by another, when the participation consists of such activities as interviewing parties or witnesses, investigating facts or law, or writing briefs or memoranda. The name of a student so participating may appear on a brief or memorandum submitted in such litigation.

7. The expression "without compensation" used in paragraphs (1), (4), (5), (6) and (7) of Rule 3:03 shall not be construed to prohibit the receipt of a fixed compensation paid regularly by a governmental agency or legal assistance program acting as the employer of a law student. It shall, however, be construed to prohibit the receipt of a fee by a law student from a client for work on a particular case.

8. [Deleted.]

Adopted June 26, 1980, effective Jan 1, 1981; amended June 7, 1985, effective July 1, 1985; May 29, 1986, effective July 1, 1986.