

Commentary

Requirements for Issuing Supreme Court Press Credentials.

Requirements for Obtaining Full-Time Press Credentials (Hard Passes).

Full-Time Journalist.

For purposes of our requirements, a “full-time journalist” is an individual whose primary occupation is the regular gathering of original news and reporting it to the public. We require the applicant to be a “full-time journalist” because such journalists are more likely to devote sustained attention to the Court’s work and make use of the Court’s media resources. We expect that an applicant will normally be able to satisfy the “full-time journalist” requirement through the affirmation of the applicant’s employer or supervisor. To determine whether this requirement has been satisfied, we may also ask applicants if they hold active press credentials from another government entity, such as the Congressional or White House press galleries.

Operates or Is Employed by a Media Organization.

For purposes of our requirements, a “media organization” is an entity that has as its principal business the regular gathering and reporting of original news for the public, that disseminates its reporting through publicly accessible media, and that has operated continuously for the two years preceding the application for credentials. A media organization can distribute information in any medium (print, television, radio, electronic, or otherwise) and can exist as any form of business or other entity. We require the applicant to operate or to be employed by a media organization because individuals so engaged are more likely to regularly and broadly disseminate information about the Court to the public. We expect that an applicant will normally be able to satisfy this requirement through readily available documentation or a record of publications. To ascertain whether this requirement is satisfied, we may also ask applicants whether they hold active press credentials from another government entity, such as the Congressional or White House press galleries.

To ensure that an individual’s coverage will be disseminated through a qualifying media organization, we require that an applicant’s primary professional work must be for the media organization for which the applicant seeks a credential. We intend to limit hard passes to one journalist per media organization, although rare exceptions may be made upon a demonstrated need. Correspondingly, a hard pass may not be shared or transferred among representatives of a media organization.

Substantial and Original Coverage of the Court.

We require that an applicant or the applicant’s media organization have a record of “substantial and original news coverage of the work of the Court” to ensure that hard passes are allocated to those who have greatest need for the privileges they confer.

Journalists and organizations with records of substantial and original coverage of the Court are more likely to disseminate information about the Court’s work to the public. This requirement may be satisfied by documentation of past reporting. For journalists who have not previously covered the Court, the requirement may be satisfied if the applicant’s media organization — rather than the applicant — has regularly published substantial and original reporting about the Court.

Regular Presence at the Court for Reporting Purposes.

The Court has increasingly made records, briefs, opinions, and transcripts readily available on its Website, enabling journalists to report on the Court’s work from remote locations. Consequently, some journalists may cover the Court effectively without a regular presence in the building. Nevertheless, access to the Courtroom press section and pressroom remains important to other journalists. We accordingly allocate press credentials to those journalists who will actually use them. We expect that applicants will normally satisfy the requirement of a regular presence by showing a past record of frequent attendance at Court sessions.

Independence from Individuals and Legal Organizations that Practice Law before the Court.

Lawyers have increasingly entered the domain of journalism, appearing in the media to comment and report on pending cases and legal developments. Many lawyers do so to bring expertise to the reporting, but they may also do so to cultivate and promote their legal practices and affect public perceptions about how the courts should rule. The mixing of professional roles raises ethical concerns. A court’s issuance of a press credential to an attorney who practices before it can create, at the least, an appearance of an unfair advantage over other attorneys through the use of the journalistic privileges that the credential confers. That consideration takes on special significance in the Supreme Court, which adjudicates some of the Nation’s most important, sensitive, and newsworthy legal issues.

We accordingly provide that an applicant for a hard pass may not practice law before the Court. Similar ethical issues may arise if lawyers establish employment relationships with journalists, or if lawyers own or control media organizations. We therefore require that an applicant must also be independent of individuals and organizations that practice law before the Supreme Court. Because of the difficulties of assessing or monitoring the effectiveness of a media organization’s internal safeguards or “firewalls,” we require that an applicant may not be employed or supervised by a lawyer, law firm, or other legal organization that practices before the Court. Similarly, an applicant may not be employed by a media organization owned or controlled by a lawyer, law firm, or legal organization that practices before the Court.

For purposes of our requirements, and to provide a clear rule, we will consider an individual to “practice law before the Court” if the individual has participated as a lawyer in a Supreme Court case during the two years preceding the application for a hard pass. Similarly, a law firm or other legal organization “practice[s] law before the Court” if any

individual at that firm or organization has appeared as a lawyer in a Supreme Court case in the two years preceding the application for a hard pass. Supreme Court Bar membership alone does not trigger these prohibitions.

Not Employed by the Court within Last Two Years.

As an additional ethical safeguard, we require that an applicant must not have been employed by the Court during the two years preceding the application for a hard pass. This requirement ensures that there is no perception that an applicant receives preferential treatment or advantage based on prior employment with the Court. This requirement is consistent with the Court's familiar rule that former Court employees may not practice before the Court during the two years that follow separation from employment. *See* Sup. Ct. R. 7.

Requirements for Obtaining Day Passes.

Journalist or Writer.

Journalists affiliated with a media organization and writers who are not affiliated with a media organization (such as freelance journalists, newsletter writers, or authors) may request day passes. Because of space and resource constraints, the PIO will distribute day passes first to journalists affiliated with media organizations. Applicants may be asked if they hold active press credentials from another government entity, such as the Congressional or White House press galleries, to determine whether this requirement has been satisfied. The PIO will then distribute day passes to other writers not affiliated with media organizations, if space allows.

Demonstrated Need to Report on or to Observe a Court Session.

All applicants for day passes must demonstrate a need to report from the Court on, or to observe, a particular session. Applicants may satisfy this requirement by furnishing a letter from the applicant's editor, bureau chief, or other appropriate person stating that the applicant will report on a particular event taking place at the Court. Applicants may also satisfy this requirement by providing a copy of or website link to the publication or news coverage showing prior writing on the case, event, or issue.

Seating in the press section of the Courtroom is limited and is distributed on an as-available basis. Cases of extremely high press interest require advance reservations and assigned seating in the press section of the Courtroom. The requirement to obtain reservations in advance will be noted on the Court's website about two weeks before the Court session. Seats will be distributed first to holders of hard passes, and then to day pass applicants, all on a first-come, first-served basis.

Exceptions.

Because the needs and circumstances of applicants may vary, we may make exceptions, at our own initiative or in response to requests, to address new or unanticipated situations, prevent undue hardship, and ensure fairness in the application of these requirements. An applicant requesting an exception must provide a written explanation of the need for a departure from the current requirements.

Procedures for Issuing Press Credentials.

These requirements and procedures and the form application will be maintained on the Court's website, on the Press Credentials page (<http://www.supremecourt.gov/publicinfo/press/presscredentials.aspx>). The page will also list current holders of hard passes.

We require that applicants for hard passes contact the PIO by phone at (202) 479-3211 before submitting their applications. Individuals occasionally seek a hard pass even though day passes would meet the individuals' needs to cover sessions at the Court. A discussion between applicants and PIO staff about the Court's media resources and the applicants' interests in covering the Court's work may result in some applicants seeking only day passes, reducing unnecessary burdens on both applicants and the PIO. Individuals should also contact the PIO by phone in order to obtain day passes. Applicants bear the burden of showing that they satisfy all requirements for obtaining a hard pass or day pass.

Please direct all suggestions relating to these procedures to:
http://www.supremecourt.gov/contact/contact_pio.aspx.