

RULES FOR MINIMUM CONTINUING LEGAL EDUCATION

1986 Recompilation

Article

ARTICLE 1 EDUCATION COMMITTEES

Rule

18-101. Purpose and title.

A. **Purpose.** It is of primary importance to the members of the New Mexico State Bar and to the public that attorneys continue their legal education throughout the period of their active practice of law. These rules establish the requirements for minimum continuing legal education.

B. **Title.** These rules shall be known as the Rules for Minimum Continuing Legal Education.

18-102. Minimum continuing legal education board.

A. Board established.

(1) There is hereby established a minimum continuing legal education board to be appointed by the supreme court, consisting of nine members. The executive director of the State Bar of New Mexico shall be an ex-officio, non-voting member.

(2) Each member of the board shall be a licensed active member of the State Bar of New Mexico who practices in this state and maintains such member's principal office in this state. The members shall be appointed for staggered three (3) year terms pursuant to Rule 23-106.

(3) The chairperson of the board shall be appointed by the court and shall serve at the pleasure of the court.

B. Powers and duties of the board.

(1) The board shall have general supervisory authority over implementing and supervising the minimum continuing legal education requirements for members of the State Bar of New Mexico. The board shall provide the procedure for assuring

compliance and enforcement of the requirements set by the board in furtherance of these duties.

(2) The board shall have specific duties and responsibilities, as follows:

(a) to implement practice and procedures for the effective administration of these rules;

(b) to accredit institutions that will provide courses and to approve programs which will satisfy the educational requirements of these rules;

(c) to report annually on the activities and operations of the board to the Board of Bar Commissioners of the State Bar of New Mexico and the supreme court.

C. Finances.

(1) The board may establish reasonable fees, and such other requirements as may be necessary to carry out the program, subject to approval by the court.

(2) Members of the board shall serve without compensation, but shall be paid mileage and per diem consistent with the guidelines approved by the court for the judicial branch of government. The mileage and per diem shall be paid out of the funds collected by the board.

(3) The board may establish such requirements as may be necessary to implement and carry out this program, including imposition of reasonable certification and filing fees, all subject to prior approval by the supreme court.

[As amended, effective September 15, 1987; January 1, 1990; November 1, 1991.]

ANNOTATIONS

The 1991 amendment, effective November 1, 1991, in Paragraph C, deleted "a" preceding "reasonable certification" and substituted "certification and filing fees" for "certification fee to provider" in Subparagraph (3).

18-103. Judicial continuing education committee.

A. Committee established.

(1) There is hereby established a judicial continuing education committee to be appointed by the supreme court, consisting of three members.

(2) One member of the committee shall be an appellate court judge, the other two members shall be district court judges.

(3) The chairperson of the committee shall be appointed by the court and shall serve at the pleasure of the supreme court.

B. Powers and duties of the committee. The committee shall provide continuing education programs for district and appellate court judges of the State of New Mexico.

(As amended, effective January 1, 1990.)

ARTICLE 2

CONTINUING EDUCATION REQUIREMENTS

Rule

18-201. Minimum educational requirements.

A. Hours required. Every active licensed member of the state bar shall complete fifteen (15) hours of continuing legal education during each year as provided by these rules.

B. Legal ethics. At least one (1) hour of the fifteen (15) hours shall be devoted to legal ethics or code of professional responsibility subjects.

C. Judges. Judges and retired judges who are active licensed members of the state bar shall be required to complete the same number of hours of continuing legal education as other active licensed bar members but may satisfy such requirement by attending judicial education programs:

(1) provided by the Judicial Continuing Education Committee in addition to programs approved by the Minimum Continuing Legal Education Board; or

(2) approved by the Administrative Office of the Courts pursuant to the Rules Governing Judicial Education.

D. Carry-over. Any member may carry up to fifteen (15) hours of credits earned in one (1) compliance year over to the next. However, not more than fifteen (15) hours shall be carried over from the prior year. Self study credit hours cannot be carried over.

E. Initial compliance year. For members admitted on or after January 1, 1990 the initial compliance year shall be the first full compliance year following the date of admission.

F. Compliance year. For all active members not mentioned in Paragraph E of this rule, the compliance year shall end December 31 of each year.

[As amended, effective January 1, 1990; November 1, 1991; February 1, 1992.]

ANNOTATIONS

The 1991 amendment, effective November 1, 1991, deleted former Paragraph D, relating to practice skills; redesignated former Paragraphs E and F as Paragraphs D and E, rewriting new Paragraph E; and added Paragraph F.

The 1992 amendment, effective February 1, 1992, added the last sentence in Paragraph D.

Compiler's note. - The term "effective date of these rules" referred to in Paragraph D means January 1, 1987, the effective date of the Rules for Minimum Continuing Legal Education.

18-202. Exemptions and waivers.

A. **Inactive members.** An inactive member of the state bar shall be exempt from continuing legal education and reporting requirements of these rules.

B. **Waivers.** Upon petition, the board, with approval by the supreme court, may exempt an active licensed member from continuing legal education, but not the reporting requirements of these rules, upon a finding by the board of special circumstances constituting undue hardship.

(As amended, effective January 1, 1990.)

18-203. Accreditation; course approval.

A. **Accreditation.** The board shall:

(1) accredit institutions that have a history of providing quality continuing legal education;

(2) approve individual programs of continuing legal education. The content of the instruction provided may include, but not be limited to, live seminars, audiotapes and videotapes; and

(3) periodically review accredited institutions.

B. **Accredited institutions and program provider requirements.** Accredited institutions and program providers shall:

(1) assure that each program addresses the ethical or code of professional responsibility implications where appropriate; provided, however, that only those portions of a program specifically approved or specified as granting ethics credit shall be used to fulfill the attorneys' ethics requirements;

(2) assure that the course has significant intellectual or practical content and that its primary objective is to increase the participant's professional competence as an attorney;

(3) assure that the curriculum offered relates to legal subjects or subjects which relate to the individual attorney's practice of law, including professional conduct, legal ethics, or law office management;

(4) assure that presenters for all programs are qualified by practical or academic experience to teach the subject to be covered. Legal subjects should normally be taught by attorneys; and

(5) assure that thorough, high quality, current, readable, carefully prepared written materials are distributed to all participants at or before the time the course is offered.

C. Announcement of approval. Providers shall announce, as to a program that has been given approval, that: "This course has been approved by the New Mexico Minimum Continuing Legal Education Board for _____ hours of credit".

D. Self-study credit. Self-study credit may be given for viewing videotapes or listening to audiotapes, provided:

(1) board approval is received prior to viewing or listening;

(2) the video or audio tapes are from an accredited provider; or

(3) the video or audio tapes are from an approved program.

No more than five (5) hours of credit may be given during one compliance year for self-study activities.

E. Live program credit. Live program credit can also be attained for time spent viewing videotapes at an organized open enrollment program provided there is a moderator assigned to supervise the program and foster discussion among participants and provided this live program is approved as provided for in these rules.

F. Speakers. Speakers who participate at an accredited providers' program or an approved program may receive credit for preparation time and presentation time, including credit for repeated presentations.

G. Publications. Credit may be earned of one hour for each fifty (50) minutes spent preparing an article which is actually published in a legal periodical or journal which is approved by the administrator or the board.

H. **Hours earned.** Credit for approved programs shall be based on one hour of credit for each fifty (50) minutes of actual instruction time, which may include lecture, panel discussion, question-and-answer periods and video or film presentation.

I. **Provider attendance lists.** Pursuant to practices and procedures to be adopted by the board, all continuing legal education providers must, as a condition of accreditation or program approval, agree to provide the board a list of all New Mexico attorneys and judges who attended the continuing legal education program and the number of hours claimed by each participant. Such list shall be provided within thirty (30) days of the program being held.

J. **Other reporting procedures.** An attorney wishing to obtain approval for a program, for which the provider has not sought accreditation or has not properly reported attendees, shall comply with the practices and procedures established by the board.

[As amended, effective January 1, 1990; November 1, 1991.]

ANNOTATIONS

The 1991 amendment, effective November 1, 1991, in Paragraph D, substituted "video or audio tapes" for "materials" in Subparagraphs (2) and (3) and "one compliance year" for "any reporting year" in the last sentence of that paragraph; in Paragraph E, substituted "this live program" for "the original course or program" and deleted the former last sentence, which read "These programs are not subject to the self-study limitations"; and, in the first sentence in Paragraph I, substituted "board" for "committee" and "attorneys" for "lawyers".

ARTICLE 3 REPORTING

Rule

18-301. Compliance.

A. **Reporting.** The board shall prepare an annual report statement for each licensed active member of the state bar for the previous compliance year which shall be mailed to each member no later than January 31 of each year. This report shall include reference to hours earned during the compliance year which have been reported by the providers and carryover hours.

B. **Verification of statement by member.** Prior to March 1 of each year, each licensed active member of the state bar shall verify the annual report statement as received, or shall amend the report if incomplete. Each member shall return a verified or amended annual report statement to the MCLE board.

C. Notification of deficiency. The board shall annually compile and certify to the supreme court a list of those members of the state bar who prior to March 31 have:

(1) failed to file a verified or amended annual report statement for the prior calendar year;

(2) filed a verified or amended annual report statement indicating they have not complied with the requirements of these rules; or

(3) failed to pay any necessary filing fees prescribed by the board.

Whenever the board shall certify to the supreme court that any member of the state bar has failed or refused to comply with the provisions of these rules, the clerk of the supreme court shall issue a citation to such member requiring the member to show cause before the court, within fifteen (15) days after service of such citation, why the member should not be suspended from the right to practice in the courts of this state. Service of such citation may be personal or by registered or certified mail. Compliance with the provision of these rules on or before the return day of such citation shall be deemed sufficient showing of cause and shall serve to discharge the citation.

[As amended, effective January 1, 1990; November 1, 1991.]

ANNOTATIONS

The 1991 amendment, effective November 1, 1991, rewrote Paragraph A; in Paragraph B, substituted "March 1" for "January 1" in the first sentence and "MCLE board" for "state bar with the member's annual registration statement" in the second sentence; and, in Paragraph C, substituted "March 31" for "March 1" in the introductory language and "any necessary filing fees" for "the annual administrative fee" in Subparagraph (3).

18-302. Review and appeal.

A. Hearing. An attorney may petition the board for a hearing in regard to a failure to comply with the provisions of these rules.

B. Decision. The board shall review the petition upon its receipt and shall notify the petitioner of its decision.

C. Appeal. An attorney may petition the supreme court for modification or reversal of action of the board.

(As amended, effective January 1, 1990.)

18-303. Reinstatement.

If an attorney whose license to practice law has been suspended pursuant to these rules thereafter files a report with the board showing compliance with the requirements of Rule 18-301, the board shall promptly notify the clerk of the supreme court, and recommend reinstatement.

(As amended, effective January 1, 1990.)

ANNOTATIONS

APPENDIX A

REGULATIONS IMPLEMENTING CONTINUING EDUCATION REQUIREMENTS FOR STATE DISTRICT AND APPELLATE COURT JUDGES

Pursuant to SCRA 1986, 18-103, the Judicial Continuing Education Committee hereby adopts the following regulations implementing the continuing legal education requirement for state district and appellate judges:

1. **Required Course Work.** Commencing January 1, 1987, and continuing each calendar year thereafter, each state district and appellate court judge shall be required annually to complete fifteen (15) hours of minimum continuing legal education of subject matter course work which has been approved by the Judicial Continuing Education Committee. At least one (1) hour of the fifteen (15) annual requirement hours shall include attendance of a program devoted to legal ethics and Rules of Professional Conduct subjects, and judicial standards every other year. For purposes of these regulations, credit for one (1) hour may be earned for each fifty (50) minutes spent attending or participating in an approved judicial continuing education program.

2. **Number of Hours to be Credited.** The Judicial Continuing Education Committee shall designate the number of hours to be credited for participation by a judge in any continuing judicial education activity. Credit will be given only for hours earned in compliance with these rules.

3. **Announcement of Approval.**

(a) Any provider may announce, as to a course that has been given approval by the Continuing Legal Education Committee, that: "This course has been approved by the New Mexico Continuing Legal Education Committee for _____ hours of credit."

(b) Any provider may announce, as to a course that has been given approval by the Judicial Continuing Education Committee, that: "This course has been approved by the

New Mexico Judicial Continuing Education Committee for _____ hours of credit."*

*(The number of hours approved by the Judicial Continuing Education Committee will be inserted).

4. Earning of Credits in Lieu of Live Program Attendance. A judge may earn up to a total of five (5) hours continuing education credit per year by complying with the requirements of one or more of the following alternatives:

(a) Speakers at approved programs may receive credit computed as one hour for each fifty (50) minutes of preparation and presentation time.

(b) Credit of one (1) hour may be earned for each fifty (50) minutes spent preparing an article which is actually published in a legal periodical or journal which is approved by the administrator or the Continuing Legal Education Committee.

(c) Credit of one (1) hour may be earned for each fifty (50) minutes spent studying accredited video tapes, audio tapes or written material as self-study.

(d) An attorney shall receive credit for attending any course approved by the Continuing Legal Education Committee while serving as a judge.

(e) A judge during the reporting year shall receive credit for any approved course attended, while a lawyer, before being appointed or elected judge.

5. Credits. A judge who earns in excess of fifteen (15) hours of approved judicial continuing education credits may apply any excess hourly credits to the requirements of the next ensuing year or years (not to exceed two (2) years). Provided, however, a maximum of five (5) hourly credits received for preparation and presentation as a program speaker may be carried forward for any ensuing reporting year or years.

6. Compliance. Every judge shall submit his or her certificate of attendance from an accredited course or program to the Judicial Continuing Education Committee, within thirty (30) days of earning the credits.

7. Compliance Reporting Year.

(a) All district court and appellate judges who are required to file reports with the clerk of the supreme court on or before April 15 of each year, pursuant to Canon 21-600 of the

Code of Judicial Conduct, shall at the same time certify their compliance with the supreme court continuing education requirements for the preceding calendar year. The compliance statement will list all of the accredited courses and programs attended during the prior year.

(b) The reporting year for each judge shall be:

(1) the first full reporting year following January 1, 1987; or

(2) the first full reporting year following a judge taking judicial office.

8. Undue Hardship. Upon petition, the Judicial Continuing Education Committee, with the approval of the supreme court, may exempt a judge from the obligation of minimum continuing judicial education, but not the reporting requirements of the supreme court rules, upon a finding by the committee of the existence of special circumstances constituting undue hardship. Any petition for exemption shall be accompanied with a specific plan for making up the deficiency. The deficiency must be made up within three (3) months unless a longer period is approved by the committee for a good cause.

9. Review and Appeal.

(a) If a state judge covered by these rules requests an extension of time for complying with these rules, he or she may file a written petition with the Judicial Continuing Education Committee, requesting an extension and setting out the reasons for noncompliance. The petition must be received sixty (60) days prior to the judge's compliance reporting date. The committee may grant an extension of time not to exceed three (3) months.

(b) "Good cause" for noncompliance or for failure to file a report and consequently for an extension shall exist when a judge is unable to comply with this rule because of illness, extraordinary hardship or extenuating circumstances which were not willful and which were beyond his or her control.

(c) The committee shall review the petition within thirty (30) days after receiving it and shall notify the judge of its decision. If the committee finds that good cause has not been established for noncompliance, the judge shall be allowed fifteen (15) days within which to file with the committee a specific plan for correcting the noncompliance within thirty (30) days. Such plan shall be accepted by the committee unless within fifteen (15) days after its receipt the committee notifies the petitioner of the contrary and sets forth specific modifications to the makeup plan.

10. Noncompliance. The committee shall submit to the Supreme Court of New Mexico a list of any persons who are shown not to have complied with the judicial mandatory continuing education requirements, and who have not been exempted or excused from compliance thereunder.

11. **Fees.** Every appellate or district judge shall submit an annual fee of fifteen dollars (\$15.00) at the same time he or she files the annual compliance statement as provided in Canon 21-600 of the Code of Judicial Conduct, and Paragraph D of Rule 18-301.

[As amended, effective December 30, 1987.]

Compiler's note. - Pursuant to a court order dated August 12, 1987, these regulations shall govern continuing legal education requirements for state district and appellate judges commencing with calendar year January 1, 1987.