

# Rules for Minimum Continuing Legal Education

## ARTICLE 1 Education Committees

### 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.

The Board of Bar Commissioners of the State Bar of New Mexico shall act as the minimum continuing legal education board for purposes of these rules or may appoint active attorneys licensed in New Mexico from among its membership to serve in that capacity.

#### 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; and

(c) to report annually on the activities and operations of the board to 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. However, sanctions collected under Rule 18-301 NMRA not necessary to carry out the program may be transferred by the Court on an annual basis for administration of other Court regulated programs.

(2) Members of the board shall serve without compensation, but shall be paid mileage and per diem consistent with the guidelines approved by the Supreme 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.

**D. Board expenses.** Subject to the approval of the Supreme Court, the board may appoint or contract for such services, equipment, facilities, and staff as may be needed for the efficient administration of the board's work and shall promulgate policies for the orderly and efficient conduct of its duties. The annual salaries and other expenses incurred under this rule shall be paid by the board out of the funds collected under Paragraph C of this rule.

[As amended, effective September 15, 1987; January 1, 1990; November 1, 1991; as amended by Supreme Court Order No. 06-8300-033, effective January 1, 2007; as amended by Supreme Court Order No. 18-8300-019, effective November 1, 2018.]

## ANNOTATIONS

**The 2018 amendment**, approved by Supreme Court Order No. 18-8300-019, effective November 1, 2018, named the Board of Bar Commissioners of the State Bar of New Mexico as the minimum continuing legal education board and provided this board with the authority to appoint attorneys to serve in that capacity, removed certain board member qualifications and term requirements, and revised the reporting requirements regarding the activities and operations of the board; in Paragraph A, deleted subparagraph designation "(1)", deleted "There is hereby established a", and added "The Board of Bar Commissioners of the State Bar of New Mexico shall act as the", and after "legal education board", deleted "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.", and added "for purposes of these rules or may appoint active attorneys licensed in New Mexico from among its membership to serve in that capacity"; and deleted former Subparagraphs (2) and (3), which related to the qualifications of board members; in Subparagraph B(2)(c), after "operations of the board to", deleted "the Board of Bar Commissioners of the State Bar of New Mexico and"; in Paragraph D, after "the board's work", deleted "Subject to the approval of the Supreme Court, the board shall fix the compensation of the staff appointed or contracted with pursuant to this rule".

**The 2006 amendment**, approved by Supreme Court Order No. 06-8300-033, effective January 1, 2007, added Paragraph D relating to board expenses.

**The 2005 amendment**, approved by Supreme Court Order No. 05-8300-024 effective December 13, 2005, amended Subparagraph (2) of Paragraph C to add the second sentence relating to sanctions collected pursuant to Rule 18-301 NMRA.

**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).

**Cross references.** — For the Per Diem and Mileage Act see 10-8-1 NMSA 1978.

## **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 nine members.

(2) One member of the committee shall be an appellate court judge, six members shall be district court judges and two members shall be metropolitan court judges. As much as feasible, the members shall be appointed with staggered terms. The Supreme Court may also appoint a justice to serve as the Court's liaison to the committee. The director of the Judicial Education Center shall provide staff support for the committee in the performance of its duties.

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

### **B. Powers and duties of the committee.**

The committee shall:

(1) adopt continuing judicial education requirements for state appellate, district and metropolitan court judges;

(2) approve judicial continuing legal education courses;

(3) recommend to the Judicial Education Center and to continuing legal education providers appropriate judicial continuing legal education programs, including the agenda for the annual judicial conclave;

(4) subject to Supreme Court approval, adopt regulations to implement the effective administration of the committee's duties; and

(5) monitor continuing judicial legal education compliance by judges subject to these rules.

[As amended, effective January 1, 1990; January 22, 1997; June 13, 2000.]

## ANNOTATIONS

**The 2000 amendment**, effective June 13, 2000, in Subsection A(1), changed the number of committee members from five to nine; in Subsection A(2), changed the district court judge committee members from two to six judges, and from one to two for the committee members for the metropolitan court judges and added the last three sentences; and in Subsection B(3), inserted "including the agenda for the annual judicial conclave" at the end.

**The 1997 amendment**, effective January 22, 1997, substituted "five (5) members" for "three (3) members" in Subparagraph A(1), deleted "the other" preceding "two members" and added the language beginning "one member shall" in Subparagraph A(2), deleted "the Court" following "appointed by" in Subparagraph A(3), and rewrote Paragraph B by rewriting the existing language to form Subparagraph (1) and adding Subparagraphs (2) to (5).

## ARTICLE 2

### Continuing Education Requirements

#### 18-201. Minimum educational requirements.

A. **Hours required.** Every active licensed member of the state bar shall complete twelve (12) hours of continuing legal education during each year as provided by these rules. One hour of continuing legal education is equivalent to sixty (60) minutes of instruction. This rule sets forth the requisite hours and categories of continuing legal education. Rule 18-204 NMRA sets forth the means by which the hours may be acquired.

B. **Legal substantive credits.** Ten (10) of the required twelve (12) hours may include legal subjects or subjects which relate to the individual attorney's practice of law. The hours shall be defined as general credits.

C. **Legal ethics and professionalism credits.** At least two (2) hours of the twelve (12) hours shall be devoted to board approved subjects dealing with legal ethics or professionalism. Excess ethics and professionalism credits shall be applied as follows:

first, to any deficit in general credits in the current compliance year;

second, to the next compliance year as carry-over ethics and professionalism credits; and

third, to the next compliance year as carry-over general credits, subject to the limitations set forth in Paragraph D of this rule.

**D. Carry-over.** Any member may carry up to twelve (12) hours of excess credits earned in one (1) compliance year over to the next compliance year only. Only two (2) hours of ethics and professionalism credit may be carried over as part of the twelve (12) hours of credits. Excess ethics and professionalism credits can be converted to be used toward the substantive (general) requirement. Self-study credit hours cannot be carried over. No credit may be carried over for more than one (1) compliance year.

**E. Judges.** Judges, retired judges who are active licensed members of the state bar, domestic violence special commissioners and domestic relations hearing officers shall be required to complete the same number of hours of continuing legal education as other active licensed bar members. The means by which these individuals may satisfy their continuing legal education requirements are set forth in Rule 18-204 NMRA.

[As amended, effective January 1, 1990; November 1, 1991; February 1, 1992; March 23, 1998; January 1, 2001; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007; by Supreme Court Order No. 11-8300-020, effective May 1, 2011 for compliance year ending December 31, 2011, and subsequent compliance years.]

## ANNOTATIONS

**The 2011 amendment**, approved by Supreme Court Order No. 11-8300-020, effective May 1, 2011, eliminated the requirement that one hour of continuing education be devoted to professionalism; required that at least two hours be devoted to legal ethics or professionalism; provided for the application of excess professionalism credits to deficits in the current year and as carry-over credits in subsequent years; permitted two hours of professionalism and ethics credits to be carried over and excess professionalism credits to be applied toward the general requirement.

**The 2006 amendment**, approved by Supreme Court Order No. 06-8300-033, effective January 1, 2007, added the last sentence of Paragraph A, added the second sentence of Paragraphs C and D, added the last sentence of Paragraph E, added the second sentence of Paragraph F and deleted the remainder of Paragraph F and all of Paragraph G, relating to the initial compliance year and Paragraph H relating to the definition of a "compliance year".

**The 2005 amendment**, approved March 24, 2005 by Supreme Court Order No. 05-8300-07, effective January 1, 2006, amended Paragraph A to change the number of hours from fifteen (15) to twelve (12) and insert the last sentence defining an hour as sixty (60) minutes, inserted a new Paragraph B, relettered former Paragraph B as Paragraph C and changed "fifteen (15)" to "twelve (12)", relettered former Paragraph C as Paragraph D, amended the first sentence to reduce the number of professionalism hours from two (2) to one (1) and deleted the remainder of the paragraph, relettered

former Paragraph D as Paragraph E and amended the paragraph to be consistent with the Paragraph A through D amendments and relettered the Paragraphs E, F and G as Paragraphs F, G and H.

**The 2000 amendment**, effective January 1, 2001, redesignated former Paragraphs C, E and F as Paragraphs E, F and G; added Paragraph C concerning professional credits; in Paragraph D, inserted "compliance year only" at the end of the first sentence, deleted the former second sentence which read: "However, not more than fifteen (15) hours shall be carried over from the prior year" and added the second, third and fourth sentences.

**The 1998 amendment**, effective March 23, 1998, rewrote Subsection C.

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

**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, rewrote Paragraph E; and added Paragraph F.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Discipline of attorney for failure to comply with continuing legal education requirements, 96 A.L.R.5th 23.

Constitutional validity of continuing legal education requirements for attorneys, 97 A.L.R.5th 457.

## **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. Extensions and waivers.**

(1) Upon petition and a finding by the board of special circumstances constituting undue hardship, the board may provide an extension of time to complete the credit requirements of these rules.

(2) Upon a finding by the board of special circumstances constituting undue hardship and with approval by the Supreme Court, the board may grant a waiver to an active licensed member from the credit requirements of these rules.

C. **U.S. military active duty.** An active licensed member of the state bar who is in the armed services of the United States and who serves one hundred eighty (180) days or more in any year on full-time active duty is exempt from the minimum education requirements of Rule 18-201 NMRA during such year. In order to be eligible for this

exemption, the member must provide to the board a certification of the military service and dates.

[As amended, effective January 1, 1990; as amended by Supreme Court Order No. 06-8300-033, effective January 1, 2007; by Supreme Court Order No. 09-8300-041, effective November 18, 2009.]

## ANNOTATIONS

**The 2009 amendment**, approved by Supreme Court Order No. 09-8300-041, effective November 18, 2009, added Paragraph C.

**The 2006 amendment**, approved by Supreme Court Order No. 06-8300-033 effective January 1, 2007, rewrote Paragraph B to provide for an extension of time to complete credit requirements upon a showing of special circumstances constituting undue hardship and to require the board to find special circumstances constituting undue hardship prior to the Supreme Court granting a waiver from the credit requirements of these rules.

### **18-203. Accreditation; course approval; provider reporting.**

A. **Accreditation.** The board shall do the following:

(1) accredit institutions

(a) that have a history of providing quality continuing legal education; and

(b) that meet current accredited provider standards established by the board;

(2) approve individual programs of continuing legal education. The content of the instruction provided may include, but not be limited to, live seminars, participation in educational activities involving the use of computer-based resources, audiotapes, and videotapes; and

(3) periodically review accredited institutions.

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

(1) assure that each program addresses the ethical or professionalism implications where appropriate; provided, however, that only those portions of a program specifically approved or specified as granting ethics and professionalism credit shall be used to fulfill the attorney's ethics and professionalism requirement;

(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 legal ethics and professionalism;

(4) assure that presenters for all programs are qualified by practical or academic experience to teach the subject to be covered;

(5) assure that legal subjects are normally taught by attorneys;

(6) assure that, with the exception of wellness programs submitted by the New Mexico Lawyers and Judges Assistance Program, program faculty include at least one (1) lawyer, judge, or full-time law professor;

(7) 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; and

(8) assure that a level of activity is noted on the promotional materials following the guidelines listed below:

(a) *Advanced*. An advanced continuing legal education course should be designed for the practitioner who specializes in the subject matter of the course;

(b) *Intermediate*. An intermediate course is designed for the practitioner experienced in the subject matter, but not necessarily an expert. A survey course in which there have been recent, substantial changes will be deemed intermediate. In an intermediate course, some segments may be low intermediate or basic and others high or advanced. In those instances, the course taken as a whole will be considered intermediate;

(c) *Basic*. A basic course is designed for the practitioner with no experience or limited experience in the area of law with which the course deals. A survey course will be considered basic unless there are recent, significant changes in the law.

**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. Provider attendance lists.** Under practices and procedures 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. The list and any required credit filing fees shall be provided within thirty (30) days of the program being held.

[As amended, effective January 1, 1990; November 1, 1991; January 1, 1994; January 16, 1996; February 18, 1998; January 1, 2001; January 1, 2001; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007; by Supreme Court Order No. 08-8300-049, effective December 31, 2008; by Supreme Court Order No. 11-8300-020, effective May 1, 2011 for compliance year ending December 31, 2011, and subsequent compliance years; as amended by Supreme Court Order No. 17-8300-010, effective September 11, 2017.]

## ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-010, effective September 11, 2017, provided an exception to the requirement that accredited institutions and program providers must assure that program faculty include at least one lawyer, judge, or full-time law professor; in Paragraph B, Subparagraph B(1), after “fulfill the”, deleted “attorneys” and added “attorney’s”, in Subparagraph B(6), after “assure that”, added “with the exception of wellness programs submitted by the New Mexico Lawyers and Judges Assistance Program”, and after “one”, added “(1)”, and in Subparagraph B(8)(b), after “some”, deleted “segment” and added “segments”; and in Paragraph D, deleted “Pursuant to” and added “Under”, and after “participant.”, deleted “Such” and added “The”.

**The 2011 amendment**, approved by Supreme Court Order No. 11-8300-020, effective May 1, 2011, eliminated the requirements that providers address the code of professional responsibility and offer courses on professional conduct and law office management.

**The 2008 amendment**, approved by Supreme Court Order No. 08-8300-049, effective December 31, 2008, in Paragraph A, added the designation of Subparagraph (a) and added a new Subparagraph (b).

**The 2006 amendment**, approved by Supreme Court Order No. 06-8300-033, effective January 1, 2007, added a new Subparagraph (5) of Paragraph B designation for the second sentence of former Subparagraph (4) relating to legal subjects being taught by attorneys, added a new Subparagraph (6) to provide that at least one faculty member of a program include a lawyer, judge or full-time professor; deleted Paragraph D relating to self-study credit, Paragraph E, relating to publications, Paragraph F, relating to live program credit, Paragraph G, relating to speakers and Paragraph H, relating to hours earned; and redesignated former Paragraph I as Paragraph D. See Rule 18-204, adopted effective January 1, 2007 for the contents of Former Paragraphs D through H.

**The 2005 amendment**, approved March 24, 2005 by Supreme Court Order No. 05-8300-007, effective January 1, 2006, amended Paragraphs E and H to change the definition of a credit hour from "fifty (50)" minutes to "sixty (60)" minutes.

**The second 2000 amendment**, effective January 1, 2001, substituted "self-study course is" for "video or audio tapes are" and inserted "and was produced within five (5) years from the date of viewing, listening or participating" in Subparagraphs D(1) and (2); and rewrote the undesignated paragraph following Subparagraph D(3).

**The first 2000 amendment**, effective January 1, 2001, inserted "and professionalism" in Subparagraphs B(1) and B(3).

**The 1998 amendment**, effective February 16, 1998, inserted "participation in education activities involving the use of computer-based resources" in Subparagraph A(2), inserted "or participating in educational activities involving the use of computer-based resources" in Paragraph D; and deleted "or" following "viewing" and inserted "or participating" in Subparagraph D(1).

**The 1996 amendment**, effective January 16, 1996, added Subparagraph B(6) and made related changes, and inserted "and listening to audio tapes" in Paragraph F.

**The 1994 amendment**, effective May 1, 1994, added Paragraph E, redesignated former Paragraphs E and F as Paragraphs F and G, and deleted former Paragraph G relating to publications, which read: "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."

**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".

## **18-204. Earning credits; credit types.**

A. **Scope.** This rule sets forth the means by which a member may acquire the credits required by Rule 18-201 NMRA.

### **B. Live program credit.**

(1) Credit for attending approved live programs shall be based on one (1) hour of credit for each sixty (60) minutes of actual instruction time, which may include the following:

- (a) lecture;
- (b) panel discussion;
- (c) question-and-answer periods;
- (d) film presentation; or

(e) time spent viewing videotapes or listening to audiotapes at an organized open enrollment program at which there is a moderator assigned to supervise the program and to foster discussion among participants, and provided that this program is approved as provided for in these rules.

(2) The individual seeking live program credit must not have previously received credit for the same program.

### **C. Self-study credit.**

(1) Self-study general or ethics and professionalism credits may be given for viewing videotapes or listening to audiotapes or participating in educational programs involving the use of computer-based resources, provided the following conditions are met:

(a) board approval is received prior to viewing, listening or participating;

(b) the self-study course is from an accredited provider pursuant to Rule 18-203 NMRA and was produced within five (5) years from the date of viewing, listening or participating; or

(c) the self-study course is from an approved program pursuant to Rule 18-203 NMRA and was produced within five (5) years from the date of viewing, listening or participating.

(2) Absent prior board approval in exceptional circumstances, no more than four (4) hours of credit may be given during one (1) compliance year for self-study activities.

(3) The individual seeking self-study credit must not previously have received self-study or live-program credit for the same program.

(4) Self-study credits may be applied only to the continuing legal education requirements for the year in which they are earned, and may not be carried over to subsequent year requirements or applied backward to prior year requirements.

D. **Speakers.** Speakers who participate in an accredited provider's program or an approved program may receive credit for preparation time and presentation time, including credit for repeated presentations, within the following parameters:

- (1) Speakers may receive credit for the actual presentation time.
- (2) Speakers may receive up to three (3) hours of credit for preparation time for each presentation hour.
- (3) For repeat presentations, the speaker may only receive credit for presentation time.

E. **Publications.**

(1) Credit for one (1) hour may be earned for each sixty (60) minutes spent authoring or co-authoring written material that is actually published in a legal periodical, journal, book or treatise approved by the board, provided that the following conditions are met:

(a) the material substantially contributes to the legal education or competency of the attorney and other attorneys; and

(b) the work is not done in the ordinary course of the attorney's practice of law or the performance of regular employment.

(2) Credit is given in the year the work is accepted for publication, or in which publication actually occurs.

(3) The maximum number of credits an attorney can earn for a publication is ten (10) general credits.

F. **Other attorney 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.

G. **Judges.**

(1) In addition to other means set forth in this rule, judges, retired judges who are active licensed members of the state bar, domestic violence special commissioners and domestic relations hearing officers may satisfy the continuing legal education requirements of Paragraph F of Rule 18-201 NMRA by attending judicial education programs

(a) provided by the Judicial Continuing Education Committee;

(b) approved by the Minimum Continuing Legal Education Board;

(c) provided by the Judicial Education Center; or

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

(2) Annual training for metropolitan, district and appellate court judges, domestic violence special commissioners and domestic relations hearing officers shall include appropriate training in understanding domestic violence, as determined by the Judicial Continuing Education Committee.

[Approved by Supreme Court Order No. 06-8300-033, effective January 1, 2007; as amended by Supreme Court Order No. 11-8300-020, effective May 1, 2011, for compliance year ending December 31, 2011, and subsequent compliance years.]

## ANNOTATIONS

**The 2011 amendment**, approved by Supreme Court Order No. 11-8300-020, effective May 1, 2011, permitted ethics and professionalism credits to be given for self-study.

## ARTICLE 3 Reporting

### 18-301. Compliance; reporting.

A. **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.

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

C. **Credit reporting deadline.** The deadline for reporting prior year credits earned is May 1 of each year following the December 31 compliance deadline. The May 1 reporting deadline:

(1) does not relieve an active licensed member from the compliance deadlines set forth in Paragraphs A and B of this rule;

(2) does not relieve an active licensed member from the procedures set forth in Paragraph B of Rule 18-202 NMRA for seeking an extension of time to complete the credit requirements of these rules or a waiver from the credit requirements of these rules;

(3) does not preclude the Supreme Court from taking disciplinary action pursuant to Paragraph G of this rule; and

(4) does not preclude sanctions for late compliance set forth in Paragraph H of this rule.

**D. Annual report statement.** 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 provided to each member no later than the last day of February of each year. This report shall include reference to hours earned during the compliance year that have been reported by active members and the providers and any carryover hours from the previous compliance year. The annual report statement shall indicate whether the active member has completed credit requirements for the compliance year or whether the active member has a deficiency in credits. Any active member may notify the board of any errors or omission on their annual report statement.

**E. Second notification of deficiency to active members.** On or about April 1 of each year following the December 31 compliance deadline, the board shall prepare a letter for each active member of the state bar who continues to have a deficiency in credits for the previous compliance year. The letter will indicate that the active member has until April 30 of the present year to complete the necessary credit requirements for compliance.

**F. Certification 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 May 1 following the December 31 compliance deadline have failed to comply with the requirements of these rules.

**G. Citation to show cause.** 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 the citation may be by personal service or by first class mail postage prepaid. The member's 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.

**H. Sanctions.** In addition to any disciplinary action taken by the Supreme Court pursuant to Paragraph G of this rule, each active member who fails to comply with the provisions of these rules is subject to monetary sanctions as follows:

(1) Each active member who fails to complete the annual minimum educational requirements by December 31 of each year shall pay a fee of one hundred dollars (\$100.00). The fee shall be assessed in the annual report statement provided to each member pursuant to Paragraph A of this rule, and shall be paid no later than

March 31. Payment of the one hundred dollar (\$100) fee does not eliminate compliance year credit requirements.

(2) Each active member who, as of April 1, either continues to have a deficiency in credits for the previous compliance year or fails to pay the fee assessed pursuant to Subparagraph (1) of this paragraph shall pay an additional fee of two hundred fifty dollars (\$250.00). That fee shall be paid no later than April 30. Payment of the two hundred fifty dollar (\$250) fee does not eliminate compliance year credit requirements.

(3) The board shall include in the certifications to the Supreme Court, pursuant to Paragraph F of this rule, any member who has failed to pay any assessed fees prior to May 1.

(4) The board shall not waive any fees unless the member can prove that the member was in compliance with the minimum educational requirements prior to the applicable deadline.

[As amended, effective January 1, 1990; November 1, 1991; July 18, 1994; September 4, 2001; March 5, 2002; October 30, 2002; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007.]

## ANNOTATIONS

**The 2006 amendment**, approved November 29, 2006 by Supreme Court Order No. 06-8300-033, effective January 1, 2007, added Paragraphs A through C; redesignated former Paragraph A as Paragraph D; amended former Paragraphs B and C to redesignate those Paragraphs as Paragraphs E and F and to insert "following the December 31 compliance deadline"; redesignated the second sentence of former Paragraph C as Paragraph G; redesignated former Paragraph D as Paragraph H and amended Subparagraphs (1) and (2) of the redesignated Paragraph H to add the last sentences of the subparagraphs.

**The 2005 amendment**, approved March 24, 2005 by Supreme Court Order No. 05-8300-007, effective January 1, 2006, amended Paragraph B to delete the requirement that the notification of deficiency letter be certified.

**The second 2002 amendment**, effective October 30, 2002, in Paragraph D, inserted "In addition to any disciplinary action taken by the Supreme Court pursuant to Paragraph C of this rule", substituted "monetary sanctions as follows" for "a monetary sanction in an amount to be determined by the Minimum Continuing Legal Education Board and approved by the Supreme Court" and inserted the monetary sanctions in Paragraphs D(1) through D(4).

**The first 2002 amendment**, effective March 5, 2002, in the undesignated paragraph following Paragraph C, rewrote the second sentence which read "Service of such citation may be personal or by registered or certified mail".

**The 2001 amendment**, effective September 4, 2001, substituted "provided" for "mailed" in the first sentence, inserted "active members and" and "from the previous compliance year" in the second sentence and added the last two sentences in Subsection A; rewrote Subsection B, which formerly dealt with verification of statement by members; rewrote the first paragraph in Subsection C; and added Subsection D.

**The 1994 amendment**, effective July 18, 1994, substituted "the last day of February" for "January 31" in Paragraph A, substituted "April 1" for "March 1" in Paragraph B, and substituted "April 30" for "March 31" in Paragraph C.

**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. **Review by board.** An attorney, judge or provider who is aggrieved by a decision of the board and who is unable to resolve the disagreement informally may petition the board to review the decision. The petition must be in writing and filed with the board within thirty (30) days from the date the decision was mailed to the petitioner. The petition must state briefly the facts supporting the petitioner's claim and may be accompanied by supporting evidence or documentation. The board may, in its discretion, request that the petitioner appear before the board.

B. **Decision.** The board shall review the petition and shall notify the petitioner of its final decision. The decision shall be based on a review of the petition and the records of the board.

C. **Appeal.** An attorney, judge or provider may petition the Supreme Court for modification or reversal of the decision of the board. The petition must be filed with the Court within thirty (30) days after the date of mailing of the final decision by the board and must be accompanied by a certificate of service on the board. Unless otherwise directed by the Court, within thirty (30) days after service of the petition, the board shall file with the Court a response to the petition and shall deliver the record considered by the board in this matter.

[As amended, effective January 1, 1990; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006.]



## ANNOTATIONS

**The 2006 amendment**, approved March 24, 2005 by Supreme Court Order No. 05-8300-007 effective January 1, 2006, deleted former Paragraph A and added a new Paragraph A, amended Paragraph B to delete "upon its receipt", inserted "final" before the word "decision", and added the second sentence, amended Paragraph C by providing for a petition to be filed by a "judge or provider" and added the second and third sentences.

### **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.]

## **Appendix A — Regulations Implementing Continuing Education Requirements for State District and Appellate Court Judges**

Pursuant to NMRA, 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.]

#### **ANNOTATIONS**

**Cross references.** — For Rules Governing Judicial Education see Rule 25-101 NMRA et seq.

### **Appendix B — Regulations of the Committee Minimum Continuing Legal Education**

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to a court order dated November 14, 1989, the Regulations of the Continuing Legal Education Committee are withdrawn effective January 1, 1990.