

# New Mexico MCLE Rules

## 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.

(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 NMRA.

(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. 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 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. Subject to the approval of the Supreme Court, the board shall fix the compensation of the staff appointed or contracted pursuant to this rule, and shall

promulgate policies for the orderly and efficient conduct of their duties. The salaries and other expenses pursuant to this rule shall be paid by the board out of the funds collected pursuant to paragraph C of this rule.

**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 (9) 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.

**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:

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

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

3. 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 to the next compliance year only. Only two (2) 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 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 May 1, 2011 for compliance year ending December 31, 2011 and subsequent compliance years.]

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

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

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

(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, participation in education 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 attorneys' ethics and professionalism 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 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 program faculty includes at least one 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 segment 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.** Pursuant to 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. Such list, and any required credit filing fees, shall be provided within thirty (30) days of the program being held.

[As amended, effective May 1, 2011 for compliance year ending December 31, 2011 and subsequent compliance years.]

#### **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 activities 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 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 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 backward to prior year requirements.

**D. 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, 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.

[As amended, effective May 1, 2011 for compliance year ending December 31, 2011 and subsequent compliance years.]

### **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 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 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, 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 that 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 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 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). 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 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 and fifty dollars (\$250). 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.

#### **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.

#### **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.

**NM MCLE  
PO Box 93070  
Albuquerque, NM 87199**

**505.821.1980  
mcle@nmmcle.org  
www.nmmcle.org**