

ABA Model Rule for Continuing Legal Education with Comments

INTRODUCTION

The Model Rule for Minimum Continuing Legal Education (MCLE) was developed by the American Bar Association Standing Committee on Continuing Legal Education. It was prepared in response to Report 117A, which was presented to the ABA House of Delegates by the ABA Young Lawyers Division and passed by the House of Delegates during the 1986 ABA Annual Meeting. The Colorado Bar Association, the State Bar of Georgia, the Mississippi State Bar and the State Bar of Wisconsin also supported the submission of Report 117A. The resolutions, as amended, recommended by the report were adopted by the ABA House of Delegates on August 13, 1986 as follows:

BE IT RESOLVED That the ABA supports the concept of mandatory continuing legal education for all active lawyers.

BE IT FURTHER RESOLVED That the ABA urges the various states that have not yet adopted such a program to seriously consider its adoption.

BE IT FURTHER RESOLVED That the Standing Committee on Continuing Education of the Bar develop materials and guidelines and otherwise assist the states in developing mandatory continuing education programs.

This rule is presented as a measure for comparison and for consideration by jurisdictions that have adopted or will adopt a minimum continuing legal education requirement. In the opinion of the Standing Committee, use of the term "minimum" rather than "mandatory" continuing legal education more accurately reflects the spirit of the rule's intent, and has been utilized throughout.

The Final Statement from the November 13-16, 1987 National Conference on the Continuing Education of the Bar, known as Arden House III, urges the adoption by MCLE states of uniform standards and means of accreditation of CLE programs and providers. This rule is proposed as a model for these purposes; adjustments may be made to accommodate particular situations in the states.

This model rule consists of Sections, which present the substance of the rule, and Comments, which may assist in understanding the rule by explaining the practices of some MCLE jurisdictions and by providing suggestions and background information.

This model rule was amended in August 1996 in order to afford MCLE credit for technology-based CLE. Sections 2(b), 6(a) and (b), 7(a) through (i) with Comments, and the Comments of Section 9 were rewritten at that time. This model rule was last amended in February 2004 to recommend a requirement for the completion of programs related to racial and ethnic diversity and the elimination of bias in the profession. The Comments to Section 2 were revised to include that additional language. This edition of the Model Rule for Minimum Continuing Legal Education includes all amendments.

SECTION 1: COMMITTEE ON CONTINUING LEGAL EDUCATION (CLE)

(a) THE SUPREME COURT OF THE STATE OF SHALL APPOINT A CONTINUING LEGAL EDUCATION COMMITTEE (CLEC) COMPOSED OF NINE (9) MEMBERS. AT LEAST ONE (1) MEMBER OF THE COMMITTEE SHALL BE A LAY PERSON. THE EXECUTIVE DIRECTOR OF THE STATE BAR MAY BE AN EX-OFFICIO MEMBER OF THE CLEC.

THE CLEC SHALL ELECT FROM AMONG THEMSELVES BY MAJORITY VOTE AN EXECUTIVE COMMITTEE COMPOSED OF A CHAIRPERSON AND A VICE-CHAIRPERSON. THE EXECUTIVE COMMITTEE MAY ACT ON BEHALF OF THE CLEC TO CONDUCT ALL NECESSARY BUSINESS OF

THE CLEC BETWEEN MEETINGS. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO EMPLOY PERSONS AS NECESSARY FOR THE EFFICIENT ADMINISTRATION OF THIS RULE.

(b) THE CLEC SHALL HAVE THE FOLLOWING DUTIES:

- (1) ADMINISTER THIS RULE;
- (2) ADOPT REGULATIONS CONSISTENT WITH THIS RULE; AND,
- (3) REPORT AT LEAST ANNUALLY TO THE STATE BAR AND THE SUPREME COURT.

COMMENT: The primary purpose of this section is the creation of an administrative body (committee or commission) which will have authority to adopt additional regulations and which will provide a structure for the efficient administration of the MCLE program. The duties listed in subsection (b) are duties common to most CLEC's.

This model rule assumes that the highest court of the state is the Supreme Court of the State, but it recognizes that some states, such as New York, use a different title for its highest court. The rule also assumes that the Supreme Court of the State has exclusive authority to regulate the practice of law within the state.

In states with a unified bar, the Supreme Court of the State may delegate to the State Bar Association the authority to appoint the members of the CLEC. Also, it may be desirable to permit the Executive Director of the State Bar to appoint a designee as his or her representative to the CLEC.

SECTION 2: CONTINUING LEGAL EDUCATION REQUIREMENT

(a) EVERY ACTIVE LAWYER IN THE STATE OF SHALL COMPLETE FIFTEEN (15) HOURS OF CONTINUING LEGAL EDUCATION ANNUALLY.

(b) THE MCLE REQUIREMENT MAY BE MET EITHER BY ATTENDING APPROVED COURSES OR COMPLETING ANY OTHER CONTINUING LEGAL EDUCATION ACTIVITY APPROVED FOR CREDIT BY THE CLEC. SELF-STUDY, TEACHING, WRITING FOR CLE PUBLICATIONS, PARTICIPATION IN EDUCATIONAL ACTIVITIES INVOLVING THE USE OF COMPUTER-BASED RESOURCES, AND IN-OFFICE LAW FIRM CONTINUING LEGAL EDUCATION EFFORTS MAY BE CONSIDERED FOR CREDIT WHEN THEY MEET THE CONDITIONS SET FORTH IN THIS RULE.

COMMENT: "Active lawyer" is defined in Section 5. The rule is designed to make it relatively easy for lawyers to meet the requirements while keeping it practical to monitor and administer. Nearly one-half of the states with an MCLE program have an annual requirement of fifteen (15) credit hours, many states have an annual requirement of twelve (12) credit hours.

States that require fifteen (15) credit hours often recognize a variety of continuing legal education activities by which a lawyer can fulfill the credit requirements, including self-study, writing for CLE publications, and in-office CLE activities. "Self-study" is defined in Section 9. Many states give credit for CLE teaching.

The majority of states require annual reporting of CLE activities, but some states have a two or three-year reporting period. Certain states permit continual reporting, which encourages lawyers to update their CLE records as they fulfill their CLE obligations. The argument for longer reporting periods is to provide flexibility in meeting the credit requirements; however, annual reporting minimizes procrastination. More importantly, annual reporting encourages regular updating of a lawyer's professional knowledge.

To encourage lawyers to participate in continuing education efforts which are of value to them, credit should be given for educational activities wherever offered and on whatever subject, provided the standards described above are met.

Regulatory systems should require that lawyers, as part of their mandatory continuing legal education either through a separate credit or through existing ethics and professionalism credits, complete programs related to the promotion of racial and ethnic diversity in the legal profession, the promotion of full and equal participation in the profession of women and persons with disabilities, and the elimination of all forms of bias in the profession. Lawyers who practice in states and territories that do not require mandatory continuing legal education are encouraged to complete such programs as part of their continuing legal education.

The practice of law has seen dramatic changes over the past decade, creating different opportunities for lawyers to continue their educations. An increasingly diverse bar calls for increasing diverse educational options.

Technology offers significant opportunities to enhance traditional learning models and increases access to educational opportunities for all lawyers, particularly physically challenged lawyers, solo/small firm practitioners, and those in part-time or other nontraditional practice settings, young lawyers and those in areas remote from locations traditionally available for CLE.

Regulatory systems should consider, and when appropriate, approve educational activities that encourage the attainment and maintenance of professional competence through a variety of educational formats.

SECTION 3: REPORTING MCLE CREDIT

(a) THE CLEC SHALL SET AND PUBLISH AN ANNUAL DATE FOR REPORTING CLE CREDITS.

(b) ALL ACCREDITED SPONSORS OF CLE ACTIVITIES SHALL ENROLL ALL ATTENDEES ON ENROLLMENT FORMS APPROVED BY THE CLEC. UPON COMPLETION OF AN APPROVED COURSE THE SPONSOR SHALL FORWARD THE LIST OF ATTENDEES TO THE CLEC OR TO A REPOSITORY OF ATTENDANCE RECORDS DESIGNATED BY THE CLEC.

(c) A LAWYER MAY REPORT APPROVED ACTIVITIES USING AN AFFIDAVIT IN A FORM APPROVED BY THE CLEC.

(d) AT LEAST THIRTY (30) DAYS PRIOR TO THE ANNUAL REPORTING DATE, THE CLEC SHALL FORWARD A TRANSCRIPT OF COMPLETED CREDITS TO EACH ACTIVE LAWYER. TO AVOID DELINQUENCY, LAWYERS MUST REPORT ADDITIONAL CREDITS, CORRECTIONS OR OTHER CHANGES TO THE TRANSCRIPT TO THE CLEC PRIOR TO THE ANNUAL REPORTING DATE.

(e) A LAWYER WHOSE TRANSCRIPT INDICATES COMPLIANCE WITH THE MCLE REQUIREMENT MAY ASSUME THAT HE OR SHE IS IN COMPLIANCE.

COMMENT: The Rule provides for transcript reporting. Transcript reporting usually requires the CLE activity provider to maintain a record of course attendees and the credits earned for the CLE activity. At the conclusion of the CLE activity this record is sent by the CLE activity provider to the CLEC. Attendance and credit records are compiled by the CLEC and an individual transcript of CLE activities and completed credit hours is prepared for each active lawyer in the jurisdiction. This transcript is sent to each lawyer for verification at the end of each reporting period.

Currently five states utilize transcript reporting. Transcript reporting is recommended as the most efficient and accurate means of reporting credits. The transcript of a lawyer's CLE credits eliminates the need of individual lawyers to keep their own MCLE records. It also eliminates some of the verification problems that may arise with the affidavit system of reporting. The complexity of transcript reporting suggests the use of computers for this task.

A number of states provide for the use of affidavits as an alternative method of reporting. Reporting by affidavit requires the individual lawyer to maintain his or her own record of CLE credits on an affidavit submitted at the end of each reporting period.

Existing MCLE states currently use one of three annual reporting dates for reporting CLE credits: the end of the calendar year, the end of the state bar fiscal year, and the lawyer's birth date. Use of the lawyer's birth date is believed to cause the greatest number of administrative problems.

SECTION 4: SANCTIONS AND APPEAL

(a) DELINQUENCY. WITHIN THIRTY (30) DAYS AFTER THE ANNUAL REPORTING DATE THE CLEC SHALL SEND EACH LAWYER NOT IN COMPLIANCE WITH THE REQUIREMENTS OF THIS RULE A NOTICE OF DELINQUENCY. WITHIN NINETY (90) DAYS FOLLOWING THE ANNUAL REPORTING DATE, THE LAWYER SHALL TAKE STEPS NECESSARY TO MEET THE ANNUAL REQUIREMENTS OF THE RULE FOR THE PRIOR REPORTING PERIOD OR, WHERE THE CLEC TRANSCRIPT IS ALLEGED TO BE IN ERROR OR INCOMPLETE, SUBMIT AN AFFIDAVIT OF COMPLIANCE. AFTER THIS NINETY (90) DAY PERIOD, IF THE LAWYER FAILS TO REPORT CLE CREDITS SUFFICIENT TO PERMIT RETROACTIVE COMPLIANCE WITH THE RULE, OR FAILS TO SUBMIT AN AFFIDAVIT OF COMPLIANCE, THE CLEC SHALL FILE A NOTICE OF NONCOMPLIANCE WITH THE SUPREME COURT. THE SUPREME COURT SHALL THEN SUSPEND THE LAWYER'S LICENSE TO PRACTICE LAW.

(b) REINSTATEMENT. UPON CORRECTION OF THE DELINQUENCY AND PAYMENT OF THE REINSTATEMENT FEE, THE SUSPENDED LAWYER MAY REQUEST THE CLEC TO MOVE FOR REINSTATEMENT TO THE PRACTICE OF LAW. WITHIN THIRTY (30) DAYS OF A REQUEST FOR REINSTATEMENT BY A LAWYER, THE CLEC SHALL SUBMIT A MOTION TO THE SUPREME COURT FOR REINSTATEMENT.

COMMENT: There is no common sanction and appeal procedure. It is evident, however, that states are generous in allowing lawyers grace periods and appeal mechanisms for complying with the rule. The time for compliance after a notice of delinquency is sent to a lawyer ranges from ten (10) days to six (6) months; sixty (60) days is most common. Some states provide for the filing of a make-up plan by lawyers after they receive a notice of noncompliance, while others merely set a new deadline (grace period) for compliance after the first notice of delinquency. Some states provide for a direct appeal to the State Supreme Court or the state's lawyer discipline board, though most allow their administrative bodies (CLEC) to hear appeals. States which provide for an initial appeal to their CLEC also allow for a second appeal to their Supreme Court or State Bar authority.

Consideration should be given to whether the ninety (90) day period in which retroactive compliance with the annual requirement or the submission of an affidavit of compliance is permitted should be extendable in exigent circumstances. If extensions are to be granted, the length of the extension should be at the discretion of the CLEC.

While consideration should also be given to the possible failure of a lawyer to receive a notice of delinquency, the MCLE program would be well served by a general rule placing final responsibility for compliance with the individual lawyer.

Most but not all states require a reinstatement fee as a penalty. This fee ranges from \$15.00 to \$500.00.

SECTION 5: LAWYERS COVERED BY THE RULE

(a) ACTIVE LAWYERS

ALL ACTIVE LAWYERS MUST MEET THE REQUIREMENTS OF SECTION 2(a). WHERE STATE COURT RULES DO NOT OTHERWISE PROVIDE, AN ACTIVE

LAWYER IS DEFINED AS A PERSON REGULARLY ENGAGED IN THE PRACTICE OF LAW IN THE STATE OF . A LAWYER ACTIVE FOR ANY PART OF THE YEAR MUST COMPLY WITH THIS RULE.

(b) INACTIVE LAWYERS

LAWYERS NOT REGULARLY ENGAGED IN THE PRACTICE OF LAW ARE CONSIDERED TO BE INACTIVE AND ARE NOT SUBJECT TO THE REQUIREMENTS OF THIS RULE. INACTIVE LAWYERS MAY CONFIRM THEIR STATUS BY PETITION TO THE STATE BAR OR SUPREME COURT, WITH NOTICE OF THE CONFIRMATION SENT TO THE CLEC.

COMMENT: The definition of an active lawyer is intended to include all lawyers engaged in the practice of law for the purpose of representing clients, including in-house or government lawyers whose client may be the business entity, partnership, state, municipality, governmental body or service employing them. The definition of an inactive lawyer is intended to be narrowly construed and limited to those lawyers who have retired from active practice in the state or who hold positions for which a law degree is necessary but which do not require the representation of a client or the preparation of legal opinions.

Exemptions are inconsistent with the purpose of MCLE and are not recommended. Many states exempt only inactive lawyers from MCLE while others exempt active lawyers due to hardship or when they reach the age of 65, 70 or 75. Other exemptions include first-year admittees to the bar (although some of these states mandate that new members of the bar participate in a bridge-the-gap program), members of Congress or the United States Armed Forces, federal and state judges, and persons otherwise prohibited from practicing law. Because exemptions are usually the creature of political compromise at some stage of the approval process, they are not recommended for inclusion in a draft proposal of a MCLE rule. Many public officials and judges automatically fall under the definition of "inactive" in many states or they can request inactive status under existing rules.

SECTION 6: SPONSOR APPROVAL

(a) AN INDIVIDUAL ORGANIZATION OR OTHER ENTITY MAY APPLY TO THE CLEC FOR DESIGNATION AS AN APPROVED OR ACCREDITED SPONSOR OF MCLE COURSES OR ACTIVITIES, INCLUDING EDUCATIONAL ACTIVITIES INVOLVING THE USE OF COMPUTER-BASED RESOURCES. COURSES OR ACTIVITIES OFFERED BY AN APPROVED OR ACCREDITED SPONSOR WILL BE APPROVED AUTOMATICALLY FOR MCLE CREDIT PROVIDED THE SPONSOR STATES THAT THE COURSE OR ACTIVITY MEET THE STANDARDS SET OUT IN SECTION 7 FOR INDIVIDUAL COURSE OR ACTIVITY APPROVAL.

(b) COURSES OR ACTIVITIES OFFERED BY A PROVIDER ACCREDITED OR APPROVED BY ANOTHER CLEC OR A NATIONAL MCLE ACCREDITING BODY WILL BE APPROVED AUTOMATICALLY FOR CREDIT PROVIDED THE SPONSOR STATES THAT THE COURSE OR ACTIVITY MEET THE STANDARDS SET OUT IN SECTION 7 FOR INDIVIDUAL COURSE OR ACTIVITY APPROVAL.

COMMENT: An approved sponsor may be an ABA-accredited law school or an organization engaged in continuing legal education which, during the three (3) years immediately preceding its application, has sponsored at least six (6) separate courses or activities which comply with the requirements for individual course or activity approval under the Comment portion of Section 7. Status as an approved sponsor should be subject to annual or other periodic review.

The following standards for approval of a sponsor by the CLEC are believed to be desirable:

An approved sponsor must:

1. Develop and implement methods to evaluate its course offerings or activities to determine their effectiveness and the extent to which they meet the needs of lawyers, and, upon request from the CLEC, provide course evaluations by attendees;
2. Submit information concerning the course or activity within thirty (30) days of the presentation of the course or activity , including the registration list in an approved format, the brochure describing the course or activity, a description of the method or manner of presentation of course or activity materials, and, if specifically requested by the CLEC, provide in a timely manner a set of the course or activity materials;
3. Provide courses or activities consistent with the standards for individual course or activity approval in Section 7;
4. Make the course or activity available to lawyers throughout the state who are thought to be interested in the subject matter, except for in-office courses described in Section 8, and except, as permitted under paragraph (g) of Section 7, for
 - a) courses or activities offered by professional organizations primarily or exclusively for the education of their members, and
 - b) courses or activities offered primarily or exclusively for government lawyers.
5. Agree to pay the administrative or sponsor fees and appropriate attendee fee, if any, established by the CLEC, or advise CLE registrants that it does not pay the sponsor fee for individual courses or activities and that it is the responsibility of each registrant to pay any applicable attendee fee; and,
6. Submit to all reasonable requests and abide by all regulations hereafter promulgated by the CLEC.

The CLEC has the authority to audit and review programs. The CLEC may revoke the approval of a sponsor which fails to comply with its regulations, requirements or course standards, and the CLEC shall have the authority to impose reasonable fees upon course or activity sponsors for the support of its operations.

These standards for the approval of a sponsor are utilized by most MCLE states.

SECTION 7: INDIVIDUAL COURSE OR ACTIVITY APPROVAL

TO BE APPROVED FOR CREDIT, CONTINUING LEGAL EDUCATION COURSES OR ACTIVITIES, INCLUDING EDUCATIONAL ACTIVITIES INVOLVING THE USE OF COMPUTER-BASED RESOURCES, OFFERED BY NON-APPROVED SPONSORS MUST MEET THE FOLLOWING STANDARDS. A CLEC MAY GRANT CREDIT FOR SUCH COURSES UPON WRITTEN APPLICATION OF A NON-APPROVED SPONSOR OR AN ATTENDEE.

- (a) THE COURSE OR ACTIVITY MUST BE OF INTELLECTUAL OR PRACTICAL CONTENT AND, WHERE POSSIBLE, INCLUDE A PROFESSIONAL RESPONSIBILITY COMPONENT;
- (b) THE COURSE OR ACTIVITY MUST CONTRIBUTE DIRECTLY TO LAWYERS' PROFESSIONAL COMPETENCE OR SKILLS, OR TO THEIR EDUCATION WITH RESPECT TO THEIR PROFESSIONAL OR ETHICAL OBLIGATIONS;
- (c) COURSE OR ACTIVITY LEADERS OR LECTURERS MUST HAVE THE NECESSARY PRACTICAL OR ACADEMIC SKILLS TO CONDUCT OR FACILITATE THE COURSE OR ACTIVITY EFFECTIVELY;
- (d) BEFORE, AT, OR DURING THE COURSE OR ACTIVITY, EACH ATTENDEE MUST BE PROVIDED WITH COURSE OR ACTIVITY MATERIALS, EITHER PRINT OR ELECTRONIC, OF A QUALITY AND QUANTITY WHICH INDICATE THAT ADEQUATE TIME HAS BEEN DEVOTED TO THEIR PREPARATION AND THAT THEY WILL BE OF VALUE TO THE REGISTRANTS IN THEIR PRACTICES;

(e) WHEN THE COURSE OR ACTIVITY IS TO BE CONDUCTED IN A CLASS OR SEMINAR IT MUST BE PRESENTED IN A SUITABLE SETTING, ONE CONDUCIVE TO A GOOD EDUCATIONAL EXPERIENCE, WHICH PROVIDES REGISTRANTS WITH ADEQUATE WRITING SURFACES. WHEN THE EDUCATIONAL ACTIVITY INVOLVES THE USE OF COMPUTER-BASED RESOURCES IT MUST BE PRESENTED IN A SUITABLE SETTING, ONE CONDUCIVE TO A GOOD EDUCATIONAL EXPERIENCE;

(f) DURING COURSES OR ACTIVITIES PRESENTED BY MEANS OF VIDEOTAPE, MOTION PICTURE, AUDIO TAPE, SIMULTANEOUS BROADCAST, TELECONFERENCE, COMPUTER NETWORK, OR OTHER SUCH SYSTEMS OR DEVICES, THERE MUST BE AN OPPORTUNITY TO ASK QUESTIONS OF THE COURSE FACULTY. IF THE FACULTY ARE NOT AVAILABLE IN PERSON, VIA TELEPHONE OR ON-LINE, THEN A QUALIFIED COMMENTATOR SHOULD BE AVAILABLE TO OFFER COMMENT AND ANSWER QUESTIONS DIRECTLY, ELECTRONICALLY, OR IN WRITING;

(g) SUBJECT TO SECTION 8, AND EXCEPT FOR COURSES OR ACTIVITIES OFFERED BY PROFESSIONAL ORGANIZATIONS PRIMARILY OR EXCLUSIVELY FOR THE EDUCATION OF THEIR MEMBERS AND COURSES OR ACTIVITIES OFFERED PRIMARILY OR EXCLUSIVELY FOR GOVERNMENT LAWYERS, THE COURSE OR ACTIVITY MUST BE OPEN TO ANY LAWYER THOUGHT TO BE INTERESTED IN THE SUBJECT MATTER;

(h) THE SPONSOR MUST ENCOURAGE ACTIVE PARTICIPATION BY LAWYERS AS PLANNERS, COORDINATORS, AUTHORS, PANELISTS, FACILITATORS, OR LECTURERS; AND,

(i) WITHIN THIRTY (30) DAYS OF A REQUEST FROM THE CLEC, THE SPONSOR MUST SUBMIT INFORMATION CONCERNING THE COURSE OR ACTIVITY. THE INFORMATION SHALL INCLUDE A REGISTRATION LIST IN AN APPROVED FORMAT, THE BROCHURE OR OTHER COMMUNICATION DESCRIBING THE COURSE OR ACTIVITY, A DESCRIPTION OF THE METHOD OR MANNER OF PRESENTATION OF COURSE OR ACTIVITY MATERIALS, AND, IF SPECIFICALLY REQUESTED BY THE CLEC, A SET OF THE COURSE OR ACTIVITY MATERIALS AND EVALUATIONS.

COMMENT: To encourage lawyers to attend courses or activities of value to them, credit is given for courses or activities wherever offered and on whatever subject, provided the course or activity standards are met.

These course or activity approval standards are consistent with standards used by the majority of MCLE states. Some states require an ethics component in every offering, many suggest it be included.

A non-approved sponsor or provider of a course or activity may request approval of individual courses or activities. This obviates multiple, separate applications by individual lawyers for credit for the same course or activity. Individual lawyers may request credit for activities for which a sponsor or provider has not applied for approval.

The suitable setting referred to in Section 7(e) requires the sponsor to give reasonable consideration to the needs of handicapped lawyers when selecting course or activity sites.

SECTION 8: IN-OFFICE CLE

COURSES OFFERED BY LAW FIRMS, EITHER INDIVIDUALLY OR WITH OTHER LAW FIRMS, CORPORATE LEGAL DEPARTMENTS, OR SIMILAR ENTITIES PRIMARILY FOR THE EDUCATION OF THEIR MEMBERS MAY BE APPROVED FOR CREDIT.

COMMENT: The standards set forth in Section 7, except 7(g), are applicable to the approval of individual in-office courses. In addition, following are suggested additional standards to be met by organizations seeking approval of in-office courses:

1. Information describing the individual course and a request for approval shall be filed with the CLEC on or before the date on which the course is held. A submission received by the CLEC or postmarked within two (2) working days following the date of the conclusion of the course shall be considered to have been timely filed. The CLEC, at its discretion, may grant retroactive approval and may also request course materials from the course sponsor;
2. Experienced lawyers must contribute to the development or teaching of the course;
3. The courses must be attended by five (5) or more lawyers, including the instructor;
4. The course must be scheduled at a time and location so as to be free of interruption from telephone calls and other office matters, and should be made available to other lawyers to the extent feasible and consistent with client confidentiality; and,
5. Not more than one-half (1/2) of the approved credits for any reporting period may be earned through in-office activities.

In-office continuing legal education courses are an integral part of some legal service organizations' total CLE effort. The rule seeks to encourage participation in continuing legal education, and attendance at in-office programs should be recognized as part of that effort. Existing in-office courses may be improved by compliance with the standards of the rule and programs may evolve to meet new continuing legal education requirements.

SECTION 9: SELF-STUDY

IN ADDITION TO FORMAL COURSES CONDUCTED IN A CLASS OR SEMINAR SETTING, THE CLEC SHALL ACCREDIT SELF-STUDY COURSES INVOLVING THE USE OF AUDIO OR VIDEO TAPES, COMPUTERS, OR CORRESPONDENCE COURSES.

COMMENT: It is suggested that self-study continuing legal education activities shall be subject to the following standards:

Self-study CLE activities must:

1. be part of a structured course of study;
2. be organized by an accredited sponsor;
3. include the use of thorough, high-quality written or electronically transmitted materials which are available to the registrant upon completion of the course.
4. not be used to satisfy more than one-third (1/3) of the total CLE requirement; and,
5. not be used to satisfy more than one-half (1/2) of the total CLE requirement when combined with approved in-office CLE courses;

These additional standards should also be considered:

A. In order to have its individualized educational programs approved, the sponsor shall agree to maintain and supply the CLEC with a record of lawyers obtaining such programs from it.

B. In awarding credit for individualized educational activities, the CLEC shall consider the following factors:

- i. the nature of the structured, individualized activities comprising the course of study;
- ii. the time normally required to complete those activities; and,
- iii. the extent to which the lawyer's educational effort in this course or activity is evaluated by the sponsor.

C. If the educational activity consists of listening to or watching the electronic replay of a lecture, the CLEC shall award credit just as it does for attendance at a live lecture. In order to claim credit for individualized educational activity, a lawyer shall engage in such activity in a physical setting conducive to intellectual concentration and effective study.

SECTION 10: FINANCING MCLE

THE ADMINISTRATIVE COST OF MCLE MAY BE COVERED BY AN ANNUAL FEE ESTABLISHED BY THE CLEC AND PAID BY ALL ACTIVE LAWYERS. THE FEE SHALL BE PAID ON THE ANNUAL REPORTING DATE.

COMMENT: Most states finance their MCLE programs by an annual fee ranging from \$5.00 to \$15.00. The fee is usually due on the reporting date. Some states finance MCLE through sponsor fees and attendee fees. A sponsor fee is a fee remitted by the sponsor to the governing body of MCLE. The fee is computed on a per-credit per-lawyer basis. An attendee fee is paid by an individual lawyer seeking credit computed on the same basis as a sponsor fee.

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