

MAY 21 1996

FILED

STATE OF MINNESOTA
IN THE SUPREME COURT
File No. C2-84-2163

In re: Petition of the Minnesota State Bar Association
for Amendment of the
Rules for Continuing Legal Education
of Members of the Bar

**FINAL REPORT OF THE SPECIAL
CONTINUING LEGAL EDUCATION
ADVISORY COMMITTEE ON
ELIMINATION OF BIAS**

TO THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:

On September 19, 1994, the Minnesota State Bar Association (MSBA) filed a Petition to amend Rule 3 of the Rules of the Supreme Court and Rules of the Board for Continuing Legal Education of Members of the Bar (Rules) to add specific requirements with respect to ethics and diversity training as part of each Minnesota licensed attorney's continuing legal education (CLE) obligation.

On September 15, 1995, the Court issued an order stating that effective with the CLE reporting period beginning July 1, 1996 and ending June 30, 1999, and for every reporting period thereafter, each Minnesota attorney shall provide evidence of having attended at least three (3) hours of continuing legal education courses on ethics or professional responsibility and at least two (2) hours of continuing legal education courses in the elimination of bias in the practice of law and in the legal profession. Also as part of the Court's Order, the Chair of the Board of Continuing Legal Education was authorized to appoint a committee to study and make recommendations with regard to the new elimination of bias requirement to be incorporated into the CLE Rules.

I. SPECIAL CONTINUING LEGAL EDUCATION ADVISORY COMMITTEE

The Special Continuing Legal Education Advisory Committee (Committee) was appointed by Philip L. Bruner, Chair of the Minnesota Board of Continuing Legal Education (Board), to study and make recommendations to the Court for changes to the CLE Rules incorporating these requirements. The following persons agreed to serve and were appointed:

Merritt R. Marquardt, Chair
3M Company
St. Paul

Gail Chang Bohr
Children's Law Center of MN
St. Paul

Leonardo Castro
Chief Public Defender
Mankato

Linda F. Close
Assistant Attorney General
St. Paul

Joanell M. Dyrstad
Public Member
Red Wing

Gregory N. Gray
Assistant Legal Council
Cenex Inc.
Inver Grove Hgts

Lee W. Hanson
Halls Byers Hanson Steil &
Weinberger
St. Cloud

Frank V. Harris
Minnesota CLE
St. Paul

Jarvis C. Jones
St. Paul Companies
St. Paul

Camilla Nelson
MN Attorney General's Office
St. Paul

Susan Richard Nelson
Robins Kaplan Miller & Ciresi
Minneapolis

Ronald L. Seeger
Dunlap and Seeger
Rochester

Mark T. Signorelli
Brown, Andrew, Signorelli & Zallar
Duluth

Hon. John E. Simonett
Greene Espel Law Firm
Minneapolis

William J. Wernz
Dorsey & Whitney
Minneapolis

Steven W. Zachary
State of Minnesota
Diversity and Equal Opportunity
St. Paul

The members of the Committee represent various geographic locations of the state, different law practice settings, as well as a balance of gender, race and ethnicity. Membership of the Committee also included representation from various bar associations in the state, and continuing legal education providers. A non-attorney public member was also included.

The Special CLE Advisory Committee met in October, November, December, 1995 and in January, March, and April, 1996. An Interim Report was filed with the Court on January 30, 1996 which identified the following issues for resolution:

- Whether the CLE Rules should articulate the categories (in addition to race and gender) of persons subject to bias, whether this should be left undefined, or whether a less specific definition should be developed.
- In drafting a definition of "courses in the elimination of bias", whether the definition should exclude courses dealing with "how to handle a case involving illegal bias."
- Whether law office management courses which deal with elimination of bias issues should be subject to a six (6) hour maximum.
- Whether elimination of bias programs should be required to last for 120 minutes (the minimum period of time required by the Court's order) or whether such programs, like other CLE programs, should be permitted to be accredited in segments of 15, 30, 60 or 90 minutes.
- Whether special provisions should be made for Minnesota's 5,000 out-of-state practitioners who may encounter difficulties in finding accredited CLE courses accredited as "elimination of bias."

II. PRESENTATIONS MADE TO THE COMMITTEE

A notice was published in Finance & Commerce in November, 1995 informing the public of the new CLE requirement on the elimination of bias, providing notification of the formation of the Special Continuing Legal Education Advisory Committee and inviting interested persons to address the Committee or submit written comments. A press release describing the Court's order was sent in mid-September to the major legal publications in the state. Each of the members of the Special CLE Advisory Committee was invited to suggest persons who might be interested in addressing the Committee.

As a result of this publicity, eleven (11) persons contacted the Committee and asked for the opportunity to make a presentation. In addition, written comments were received from three (3) persons. Summarized below are the comments of those presenters and correspondents.

Gregory Pulles, an attorney and a member of the Individual Rights Foundation, urged the Committee to recommend rules that would permit the approval of courses expressing viewpoints regarding the extent of bias in the legal profession different from those identified by the Race Bias Task Force Report. Similar thoughts were expressed by William Mohrman, an attorney and a member of the Federalist Society. He cautioned the Committee against drafting rules that would require attorneys to attend courses contrary to the attorneys' political or religious beliefs. He recommended that standards assure a broad range of course content.

Joe Garritano and Bill Keppel, representing Minnesota Institute of Legal Education, recommended rules allowing bias education incorporated into substantive law courses, as opposed to requiring free standing elimination of bias programming.

Frank Harris, a member of the Special Advisory Committee and Executive Director of Minnesota CLE, said that the rules should continue to allow sponsors broad latitude in the planning and presentation of courses. He agreed that the rules should permit bias education to arise out of substantive law courses. He suggested that ways should be explored to allow out-of-state attorneys to fulfill the new requirement.

Myrna Myrofsky of the Professional Development Group, a diversity training organization, suggested that the Committee explore ways to assure the quality of elimination of bias programs.

Associate Dean Edwin Butterfoss of the Hamline University School of Law, recommended the adoption of a broad definition of bias, permitting the approval of any course designed to help attorneys become aware of bias in society in general. He expressed opposition to the approval of courses on "how to handle a bias case", stating that such a practice will encourage attorneys to choose substantive law courses on discrimination rather than selecting courses that more directly address the issues of elimination of bias in the legal profession.

Barbara Jerich, a private diversity trainer, presented a model for diversity training focused upon the interplay of workplace systems, attorney to attorney relationships, and attorney to client relationships. She recommended that bias courses should last at least two hours.

Jane Schoenicke, Executive Director of the Hennepin County Bar Association, recommended separating the substantive law and bias elimination requirement, prohibiting the accreditation as "elimination of bias" courses on illegal discrimination. She recommended that the rules state the specific categories of protected classes. She also suggested that the articulation of learning objectives would aid providers in planning courses to fulfill this requirement. Learning objectives would give the Board a clear basis for determining whether a course meets the objectives of the elimination of bias requirement. She argued against allowing courses to qualify as both ethics and elimination of bias, even though some courses that deal with the non-discrimination requirements of the Rules of Professional Conduct might also be submitted as elimination of bias CLE. She favored finding a way to facilitate out-of-state practitioners in meeting this bias requirement.

Eric Janus, Professor of Law and one of the creators of the elimination of bias seminars at William Mitchell College of Law, recommended that courses be diverse representing a variety of perspectives. He said that presenters should be sought out to present programs which represent different points of view on bias and the elimination of bias. He recommended that program sponsors be required to articulate in writing the connection they establish between course content and the Board's stated learning objectives.

Written comments were received from several attorneys who questioned how the requirement would be administered, particularly with respect to out-of-state attorneys. Peter Swanson, also of the Individual Rights Foundation, wrote to recommend that elimination of bias courses be "directly related to the practice of law". He also recommended that substantive courses on how to represent a client on either side of a discrimination case should be approved as "bias CLE". He strongly urged that the Board be prepared to approve courses taught from the perspective of all political and religious viewpoints.

III. RECOMMENDATIONS FOR RULE CHANGES

Attached and marked **Exhibit A** are proposed rule changes addressing courses in the elimination of bias in the legal profession and in the practice of law. These changes address each of the issues identified earlier by the Committee and incorporate the Committee's recommendation for CLE Rule changes reflecting these issues. The footnotes to the rules provide the Court with the Committee's rationale with respect to each recommended change. They are not intended to be incorporated into the rule changes.

The Committee devoted considerable time to discussing various approaches to defining elimination of bias. Committee members have drafted a definition specific enough to provide direction to course sponsors but general enough so

as not to dictate precisely the issues to be addressed in accredited elimination of bias courses. Committee members considered various approaches to this definition, such as incorporating into the rules a list of protected classes identical to those listed in the Human Rights Act or identical to those listed in Rule 8.4 of the Rules of Professional Conduct. The Committee discussed whether it might be more appropriate to adopt a broad definition allowing accreditation of virtually any course addressing bias against any group. Merely specifying race and gender as issues qualifying for elimination of bias CLE was also discussed.

The definition which Committee members ultimately agreed upon is one derived in large part from the Minnesota Human Rights Act and from the Rule 8.4 of the Rules of Professional Conduct. That definition has been modified to reflect the unique concerns of the practice of law and the administration of justice, as well as the concerns expressed to the Committee by those who testified before it.

In addition to rule changes, the Committee redrafted two forms which are currently published along with the rules of the Board but are not currently part of the rules. The attached Rule changes incorporate the forms as appendices to the rules and thus also incorporate them into the Rules of the Board of CLE. The first, attached hereto as **Exhibit B Appendix II**, is the CLE Course Approval Form which has been modified to clarify the fact that the elimination of bias requirement as well as the new ethics requirement must be addressed by sponsors when credit is sought.

The form requires the course sponsor, or the attorney submitting the course approval form, to select one of three options describing the treatment in the course of ethics or professional responsibility, and if applicable, elimination of bias. This form allows the sponsor or the submitting attorney to select the type of credit for which course approval is sought.

At subdivision VI on the face of the Course Approval Form are the rules applicable to elimination of bias credit as well as the steps to be followed to receive this type of credit. Finally, a list of "Learning Goals for Elimination of Bias CLE" is contained in the form. These learning goals were identified by the Committee as appropriate for these types of courses. These goals are not intended to be used to create a finite definition with strict parameters for courses approved in this area. Rather, they seek to articulate what could be accomplished in courses of this nature. They set forth the objectives to which course sponsors may refer in planning such courses as well as in seeking credit.

Attached as **Exhibit C is Appendix III**, the affidavit of CLE Compliance to be completed by the reporting attorney. The Special Committee accepted the revisions recommended to this form by the Ethics Committee. Columns are available for each of the three types of credit, with notations about the necessary

number of hours required in each category. The form is intended not only as a convenient way for the Board to receive attorney information about the CLE compliance, but is also designed to educate the attorney about the requirement in anticipation of completing it.

IV. RECOMMENDATION FOR EVALUATION PROCESS

The Committee recommends that the CLE Board establish an evaluation process for review of the content of elimination of bias courses. The Committee also recommends that providers be required to solicit and submit to the CLE Board course evaluations obtained from course attendees so that the Board may consider and recommend to the Court at a later date any changes or improvements to the Rules of the CLE Board with regard to the bias requirement. The Committee further recommends that the CLE Board conduct one, two, and three-year evaluations of elimination of bias courses and present the Court with a follow-up analysis of the results of this review.

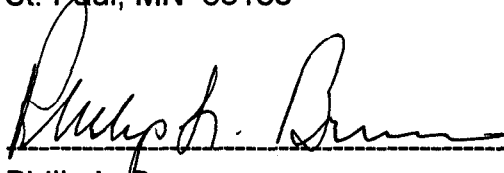
V. CONCLUSION

The Committee's recommendations, which have been reviewed and ratified by the Minnesota State Board of Continuing Legal Education, are the result of careful study and consideration of the views of persons representing many segments of the Bar in Minnesota as well as persons having a personal or professional interest in the topic of professional education. The Committee is satisfied that it has provided fair opportunity to all interested groups within the community to present comments and suggestions for the drafting and implementation of these rules. The Committee intends that the recommendations set forth in this Report will serve the best interests of all segments of the Bar of Minnesota, and offers the Report with the hope that these changes will be beneficial to the practice of law and the administration of justice within the State of Minnesota.

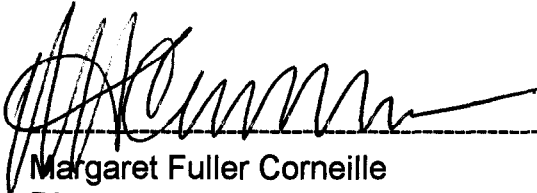
Respectfully submitted,



Merritt R. Marquardt
Chair
SPECIAL CLE ADVISORY COMMITTEE
3M Company
P.O. Box 33428
St. Paul, MN 55133



Philip L. Bruner
Chair
MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION
90 South Seventh Street, #2200
Minneapolis, MN 55402



Margaret Fuller Corneille
Director
MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION
25 Constitution Avenue, #110
St. Paul, MN 55155

Dated: May 21, 1996

**Proposed Changes to the CLE Rules
Incorporating Elimination of Bias Requirement
with Explanatory Footnotes**

Rules of the State Board of Continuing Legal Education

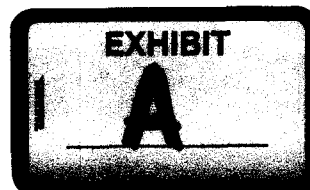
DEFINITIONS

In these rules,¹

- a. "Approved Course" means a course approved by the Board.
- b. "Board" means the State Board of Continuing Legal Education.
- c. "Chairperson" means the chairperson of the Board.
- d. "Classroom" means a room suitably appointed with chairs, writing surfaces, lecterns and other normal accoutrements of a teaching room.
- e. "Director" means the Director of the Board.
- f. "Laboratory Setting" means a mock courtroom, law office, negotiation table or other simulated setting in which demonstrations are given, role playing is carried out or lawyers' activities are taught by example or participation.
- g. "Participant" means a Minnesota lawyer attending an approved course.
- h. "Course in the elimination of bias in the legal profession and in the practice of law"² means a course directly related to the practice of

¹ The footnotes summarize the Committee's rationale for recommending particular rule changes and are not intended to be published along with the rules.

² This definition was derived both from Rule 8.4 of the Minnesota Rules of Professional Conduct and from the Minnesota Human Rights Act. Rule 8.4 prohibits attorneys from harassing any person because of "sex, race, age, creed, religion, color, national origin, disability, sexual preference or marital status." The Minnesota Human Rights Act MS 363.03(1) lists the following as protected categories for the purpose of unfair employment practices: "race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age."



law³ which is designed to educate attorneys to identify and eliminate⁴ from the legal profession and from the practice of law, biases against persons because of race, gender, economic status,⁵ creed, color, religion⁶, national origin, disability, age or sexual orientation.”⁷

Rule 101 Standards for Course Approval and Credit for Attendance.

The following standards shall be met by any course for which credit or approval is sought:

- (a.) The course shall have significant intellectual or practical content.
- (b.) The course shall deal primarily with matter directly related to the practice of law or to the professional responsibility or

³ The phrase “directly related to the practice of law” is used here for the purpose of emphasizing that courses addressing elimination of bias, like any other accredited CLE course, must specifically relate to issues arising in the practice of law. Several presenters stressed the importance of requiring that elimination of bias CLE be law-related.

⁴ The Committee uses the terms “identify and eliminate” to express the intention not only to raise attorneys’ awareness about bias in the legal profession but to encourage the presentation of courses which explore ways for attorneys to eliminate bias.

⁵ Committee members expressed their belief that the problems of race and gender bias so commonly are intertwined with issues of economic status, that the phrase “economic status” should be included within the list of bias-related concerns. The Committee chose the phrase “economic status”, rather than the phrase “status with regard to public assistance” contained in the Human Rights Act, because it better describes matters of concern expressed in the Minnesota Supreme Court’s Gender Bias and Race Bias Task Force Reports referenced in the Court’s order of December 15, 1995 creating the elimination bias CLE requirement.

⁶ Several presenters told the Committee that bias based on religious beliefs should be included in the course approval criteria.

⁷ The balance of these categories were taken from the Human Rights Act and Rule 8.4 of the Rules of Professional Conduct. The Committee believes this modified list reflects the unique concerns of the practice of law and of the administration of justice.

ethical obligations of the participants or to the elimination of bias in the legal profession and in the practice of law.⁸

- (c.) Each faculty member shall be qualified by practical or academic experience to teach the specified subject he or she covers matter. Legal subjects should normally be taught by lawyers.
- (d.) While written materials need not be distributed for every course, thorough, high quality, readable, carefully prepared written materials should be distributed to all participants at or before the time the course is offered whenever practicable.
- (e.) Participants shall attend courses in a suitable classroom or laboratory setting devoted to the educational activity of the program. Subject to the exception of paragraph (l) below, no program will be approved which involves solely TV viewing in the home, correspondence work or self-study. Video, motion picture or sound tape presentations may be used provided that a faculty person is in attendance at all presentations, either in person or through live telecommunications hook up, allowing all seminar participants to hear and participate in the question and answer session. (Adopted March 9, 1987.)
- (f.) ~~Ordinarily~~ Credit will not normally be given for speeches given at luncheons or banquets.
- (g.) A list of all participants shall be maintained by the sponsoring agency and transmitted to the Board following the presentation of the course.
- (h.) Credit shall be awarded on the basis of one hour for each 60 minutes actually spent in attendance at an approved course.
- (i.) A lawyer shall not receive credit for any course attended before being admitted to practice law in Minnesota, but one so admitted

⁸ Rule 101(b) incorporates the concept that there are now three sub-categories of CLE: standard CLE, ethics/professional responsibility CLE and elimination of bias CLE. CLE was limited to courses which were "directly related to the practice of law or to the professional responsibility or ethical obligations of the participants." While broadening the scope of the definition to include "elimination of bias" as an approvable topic, courses must still be "directly related to the practice of law."

may receive credit of one hour for each 60 minutes actually spent in attendance, for attending for credit or as an auditor a regular course offered by a law school approved by the American Bar Association.

- (j.) Notwithstanding the provisions of Rule No. 101(i.), a person who takes approved courses or teaches in an approved course after sitting for the Minnesota Bar Examination, but before admission to practice, may claim credit for the courses taken or the teaching done, if he or she passes that bar examination. ~~(Amended, effective July 15, 1976.)~~
- (k.) An in-house course is one sponsored by a single private law firm, a single corporate law department or a single federal, state or local governmental agency for lawyers who are members or employees of the firm, department or agency. An approved in-house course must meet all of the following requirements:
1. It must meet all of the requirements of Board Rule No. 101 and other applicable Board Rules.
 2. At least 25% of the hours of approved instruction must be taught by instructors having no continuing relationship or employment with the sponsoring firm, department or agency.
 3. It must be made available to enough outside lawyers so that the audience can potentially be composed of at least 25% participants who are not lawyers working in or for the firm, department or agency.
 4. Information concerning the course must be adequately communicated to outside lawyers so that they will have reasonable opportunity to attend.
 5. It must be approved prior to its presentation. A course presented and controlled by an established continuing legal education course sponsor who is completely independent of the firm or organization for whose members the course is presented may be approved notwithstanding the fact that the course does not comply with requirements 3, 4, or 5. A course presented primarily for clients or clients' counsel will not be approved for credit. ~~(Amended, December 12, 1983.)~~

(l.) Attorneys residing or working outside of the State of Minnesota during the CLE reporting period⁹ who, because of non-residence are unable in good faith¹⁰ to attend courses accredited as "elimination of bias" as defined in these Rules, may receive up to 2 hours of credit in fulfillment of the elimination of bias requirement by viewing a videotaped course or courses that otherwise meet the requirements of these Rules. To apply for approval of a videotaped elimination of bias course, an attorney must complete and submit the Course Approval Form in Appendix II of these Rules and receive approval of the videotaped elimination of bias course or courses prior to submitting the CLE affidavit."¹¹

⁹ The Committee drafted this provision broadly for the benefit of Minnesota's nearly 5,000 out-of-state practitioners. Attendance at "elimination of bias" CLE courses is required in only one other state - California. Minnesota licensed practitioners living in other states will have difficulty locating courses which are both "directly related to the practice of law" and address "elimination of bias" in the legal profession. The videotape provision affords this group of attorneys a convenient way to obtain the required elimination of bias CLE course credit without exempting this group from the requirement.

¹⁰ The good faith standard is included as a means of encouraging live attendance while still permitting the out-of-state practitioner to decide whether to choose the alternative method of viewing a videotaped "elimination of bias" course.

¹¹ Allowing attorneys residing or working outside of Minnesota to fulfill this requirement by viewing a videotape up to two hours in length seemed the best accommodation for the nearly 25% of Minnesota's active licensed attorneys having an address outside the state of Minnesota. The Committee was concerned that attorneys might choose to change their license status from "active practicing" to "voluntary restricted" status in order to avoid having to return to Minnesota just to attend an accredited course. The Committee decided that viewing a videotape was the most effective way to meet this requirement. It was agreed that in order to receive credit for viewing a videotaped course the attorney would need to complete and submit a course approval form. A two-hour restriction was placed on the viewing of the videotape to prevent attorneys from obtaining additional CLE hours by watching videotapes of other accredited programs.

Rule 104 Other Credit.

- a. **Teaching Credit.** Credit for teaching in an approved course shall be awarded to presenting faculty on the basis of one credit for each 60 minutes spent by the faculty preparing the presentation and materials for the course. No credit shall be awarded for teaching directed primarily to persons preparing for admission to practice law.
- b. **Law Office Management.** A lawyer may receive credit for attendance at a course on law office management ~~on the basis of one credit per 60 minutes actually spent in attendance at the course~~ to a maximum of six credits per reporting period.¹² The course must be submitted for review pursuant to Rule 102. Law office management courses that specifically address elimination of bias in the law office or in the practice of law may be accredited instead as elimination of bias CLE and when so designated are not subject¹³ to the 6-hour maximum¹⁴ on law office management courses.
- c. **Courses at Universities.** Courses which are part of a regular curriculum at a college or university, other than a law school, may be approved for a maximum of 15 hours per course when the attorney requesting approval submits evidence supporting the conclusion that the course meets the

¹² This phrase is unnecessary because law office management courses are approved on the basis of a 60-minute hour as any other CLE course.

¹³ This provision precludes the 6-hour law office management maximum from applying to courses which are approved as "elimination of bias". This recommendation is made in order to permit attorneys to attend "elimination of bias" education in the context of a law office management course. Without this provision, the attorney might not be credited with elimination of bias credit in a law office management course accredited as elimination bias, if the attorney had already attended more than six hours of law office management courses.

¹⁴ The Committee discussed whether a restriction should be placed on the number of elimination of bias courses an attorney can take. Committee members felt that since there was no restriction on the number of CLE hours one can take in any other area of the law, no limitation should be placed on elimination of bias CLE.

101(a) through (e) criteria and that it is directly related to the applying attorney's practice of law.

d. Ethics courses. In order to be approved as ethics or professional responsibility under these Rules, courses or sessions within courses must be at least 30 minutes in length and must be separately identified as ethics or professional responsibility on the course agenda and on the Course Approval Form Appendix II.¹⁵

e. Elimination of Bias Courses. Courses or sessions within courses accredited as elimination of bias:

- (1) must be at least sixty (60) minutes in length.¹⁶
- (2) must be identified on the Course Approval Form as fulfilling the elimination of bias requirement and be accompanied by a narrative required by Appendix II of these Rules.¹⁷
- (3) must focus on issues in the legal profession and in the practice of law and not upon issues of bias in society in general.¹⁸

¹⁵ The recommendation of the Ethics Committee of the Board is that course segments accredited as ethics should be no less than 30 minutes in length.

¹⁶ Members discussed whether bias courses should be as brief as 15 minutes in length or as long as 2 hours in length. They considered whether sponsors would be encouraged to include segments on bias more frequently if the minimum time was less than 2 hours, or whether a longer time would encourage the development of the topic in greater depth. Committee members agreed that 30 minutes was not long enough to adequately address this topic. It was decided that a 60-minute minimum time frame would be acceptable. This would also permit the subject to be taught at luncheon meetings.

¹⁷ Committee members believe the sponsor should be responsible for identifying the agenda hours where elimination of bias is addressed and for providing an explanation as to how the course fulfills the bias requirement. Committee members agreed that it is important for the sponsor to articulate in writing the connection between course content and the Board's stated goals for elimination of bias education listed on the course approval form in Appendix II.

¹⁸ Committee members debated whether courses on bias in society in general should be accredited. The Committee concluded that courses on bias in society in general would not be accredited as "elimination of bias CLE" because

(4) may not include courses on the substantive law of illegal discrimination unless such courses meet one or more of the Goals for the Elimination of Bias as set forth in the Course Approval Form at Appendix II.¹⁹

f. Categories of Credit. There are three types of continuing legal education credit: standard CLE, elimination of bias CLE, and ethics and professional responsibility CLE. No segment of a course will be accredited in more than one category of credit. The sponsor or the submitting attorney must designate on the Course Approval Form Appendix II the type of credit sought.²⁰

SAC\SACRFPG.DOC

they would go beyond the scope of the Court's order which addresses the elimination of bias in the legal profession and in the practice of law.

¹⁹ Committee members considered at length whether courses on how to prosecute or defend an illegal discrimination case" should be accredited as elimination of bias CLE. The Committee concluded that such courses should not be considered "elimination of bias" because such courses (as well as any other discrimination courses) address the substantive law of illegal discrimination and do not address the Court's concern about the elimination of bias in the legal profession and in the practice of law. However, the committee concluded that if a course sponsor designed a course with the intention of meeting one or more of the Goals of Elimination of Bias as set out in the Course Approval Form Appendix II, and chose to use recent case law on illegal discrimination in the legal profession and in the practice of law as the vehicle upon which to present a course, the sponsor should be free to do so.

²⁰ The Committee determined that any segment of a course should be accredited as only one type of CLE. This recognizes that some courses will address both ethical issues and elimination of bias issues at the same time. However, the sponsor should select which of the special CLE credit types it seeks when credit is applied for. This will prevent an attorney from claiming more than one category of credit for attendance at a single course segment. This provision will permit a single course to be divided into two (2) or more segments and for credit to be granted in two (2) or more categories for the segments. For example, a day-long CLE course is usually accredited for 6.5 hours. Of those hours, 5 hours may be devoted to the study of the substantive law in a particular field. One hour could be devoted to the elimination of bias in the practice of law and in the legal profession, and one half hours could be devoted to "ethics". However, no one segment would be accredited as both "elimination of bias" and "ethics".

**MN STATE BOARD OF CONTINUING LEGAL EDUCATION
COURSE APPROVAL FORM**

Instructions: Please type. Leave no blanks. **Incomplete forms will be returned to you.** In completing this form, please refer to the Rules of the Board of Continuing Legal Education published in the Rules of Court volume of the Minnesota Statutes.¹

A lawyer or sponsoring agency adversely affected by the determination of the Director may request review by the Board.

I. SPONSOR INFORMATION

Name _____
Street Address _____ City _____ State _____ Zip Code _____
Contact Person _____ Telephone (area code) _____

Submitted by: Name _____
course sponsor course participant (circle one):

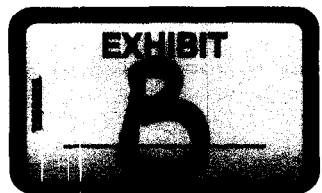
Expected Audience or Marketing Target: _____

A list of Minnesota participants must be maintained by the sponsor and made available to the Board upon request.

II. COURSE DATA

Title _____
Date _____ Location _____

¹ These footnotes contain explanations for the changes recommended by the Special CLE Advisory Committee and are not intended to be published with the form or along with the Rules of the CLE Board.



Check those which apply:

_____ live lecture _____ in-house program (see Rule 101(k))
_____ demonstration, role play, mock trial

_____ study tour _____ video-tape/film (must have live moderator)
_____ live satellite broadcast (must have live moderator)

III. FACULTY DATA: Indicate where in the brochure this information is found or attach separate sheet.

IV. SESSION SCHEDULE AND AGENDA: Provide a detailed agenda or information on an attached sheet showing a complete breakdown of the program, marking the segments for which credit is requested. For each segment, indicate the beginning and ending times, the faculty, and sufficient detail about the content of the segment in order to make an accreditation decision under Board Rules. **Course segments can be accredited as standard CLE, or ethics CLE or elimination of bias CLE (see Rule 104(f)).²** Indicate for each segment the type of CLE credit for which you are applying. Attach a copy of the promotional brochure, if any, and describe the materials to be distributed to participants (a copy may be submitted in lieu of a description.)

V. ETHICS AND PROFESSIONAL RESPONSIBILITY CONTENT: Ethics or professional responsibility *must* be a component of every approved standard CLE course in Minnesota or an explanation must be provided as to why ethics is not covered.³ In addition, courses may also be accredited as "Ethics CLE" or "Elimination of Bias CLE". See Rules 2, 3 and Rule 104 of the Rules of the Supreme Court and of

² Except for the reference to the 3 types of CLE credit, sections I through IV of this form are unchanged from that which has been published for many years with the CLE Rules. The Committee recommends that the form be incorporated into the text of Rule 2 of the CLE Rules as Appendix II of the Rules.

³ This statement reiterates the Rule 2 general ethics requirement which provides that every course accredited as CLE include ethics in the program. This also informs sponsors that in those instances when ethics is not covered, it is necessary to include a reasonable explanation as to why that occurred.

the CLE Board.⁴ In order to qualify for ethics CLE credit, an ethics course or segment of a course must be at least 30 minutes⁵ in length.

Check below the treatment of ethics or professional responsibility content in the program⁶.

A portion of the program 30 minutes or more in length addresses ethics or professional responsibility and is marked as "Ethics" on the attached program agenda.

Ethics or professional responsibility concerns are addressed throughout the program but no distinct segment is 30 minutes or more in length.

No portion of the program addressed ethics or professional responsibility. Attached is an explanation of why ethics or professional responsibility content is not present in this program.

VI. ELIMINATION OF BIAS EDUCATION: Please check here to indicate whether you are requesting Elimination of Bias credit for this program:

Elimination of Bias credit is sought. See attached narrative.

No credit for Elimination of Bias is sought.

Minnesota CLE Rule 3 describes course requirements for CLE on the "elimination of bias in the legal profession and in the practice of law." In order to be afforded "elimination of bias" credit, such courses or segments of courses must be at least 60 minutes in length.⁷ If elimination of bias credit is sought for some portion of this course, please do the following:⁸

⁴ This reference is included to encourage sponsors and attorneys to check the Rules for more information about the new requirements. Following the adoption of CLE Rule changes, information regarding these provisions will be sent to all licensed Minnesota attorneys informing them of these rule changes.

⁵ The Ethics Committee determined that an ethics course or a segment on ethics within a course must be at least 30 minutes in length in order for it to be approved as "ethics CLE."

⁶ This section directs sponsors to choose one of three options with regard to ethics CLE.

⁷ This section reiterates the Rule 104(e) provision that the minimum length of time for elimination of bias CLE is 60 minutes.

⁸ This section provides a checklist of tasks the sponsor must complete in order to obtain "elimination of bias" CLE credit.

1. Review the "elimination of bias" goals listed below;
2. Mark the segment or segments on the agenda which the sponsor believes fulfill these requirements;
3. Attach a brief written narrative describing how the course segment or segments meet one or more of the "Learning Goals for Minnesota Elimination of Bias Courses" listed below.⁹

Please note that courses or segments of courses may address ethics and elimination of bias topics. A sponsor may seek credit in one category or the other, but will not be accredited in both categories simultaneously. The Board will determine in which category credit will be granted, based upon the course description and the sponsor's narrative.

LEARNING GOALS FOR MINNESOTA ELIMINATION OF BIAS COURSES ¹⁰

Courses approved as "elimination of bias" must be at least **60 continuous minutes in duration**, must be directly related to the practice of law, must meet all other requirements of Rule 101 of the Rules of the CLE Board and must be designed to meet one or more of the following goals:

1. to educate attorneys about the elimination of bias or prejudice in the legal profession, in the practice of law, and/or in the administration of justice;
2. to educate attorneys regarding barriers to hiring, retention, promotion, professional development and full participation of lawyers of color, women, and those persons referenced in the "elimination of bias" definition (*/.*) of the Rules of the CLE Board, both in the public and private sector of the legal profession and in the practice of law;¹¹

⁹ The Committee discussed at length the Board's task in determining when a course should be accredited as elimination of bias CLE. The Committee concluded that the burden should be on the sponsor or the applying attorney to state how the program fulfills the elimination of bias requirement. The Board will make the final determination about what category of credit is granted.

¹⁰ The Committee chose to incorporate into the course approval form learning goals for elimination of bias courses. These provisions are intended to be illustrative and not exhaustive. Although this list is not set forth in a particular rule of the CLE Board, the rules incorporate the Course Approval Form by reference. The Committee anticipates that these provisions will be used by the Board in the course of reviewing and making course approval determinations.

¹¹ This statement is derived from the Hennepin County Glass Ceiling Report as well as other studies of the legal profession which find that there are barriers to certain groups of attorneys.

3. to educate attorneys about the problems identified in the Supreme Court's Race Bias and Gender Fairness Task Force Reports, as well as in other studies, reports or treatises which describe bias and prejudice in the legal profession, in the practice of law, and/or in the administration of justice.

*Until credit is granted by the Minnesota Board of Continuing Legal Education, sponsors are asked to advertise credit as "applied for."

REVCRSAP.DOC

MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION

Minnesota Judicial Center, 25 Constitution Ave, Suite 110, St. Paul, Minnesota 55155

AFFIDAVIT OF CLE COMPLIANCE

License Number: _____ Name _____

CLE Category: _____ Mailing Address _____

Period Covered: _____ Date of this Report: _____

I swear that the information below is an accurate and complete record of my attendance.

Attorney Signature _____

ATTENDANCE INFORMATION

SPONSORING AGENCY	COURSE TITLE	COURSE DATES	HOURS OF STANDARD CLE	HOURS OF ETHICS*	HOURS OF ELIMINATION OF BIAS*
a.					
b.					
c.					
d.					
e.					

(USE ADDITIONAL SHEETS IF NECESSARY)

HOURS OF PREPARATION AND TEACHING INFORMATION

SPONSORING AGENCY	COURSE TITLE	COURSE DATES	HOURS OF STANDARD CLE	HOURS OF ETHICS*	HOURS OF ELIMINATION OF BIAS*
a.					
b.					



* At least 5 hours of CLE in Ethics and at least 2 hours of CLE in the Elimination of Bias are required every 3 years. Hours for all categories of credit (the above as well as standard CLE) must total 45 hours in a 3 year reporting period. Courses accredited as law office management must not exceed 6 hours per 3 year period. Course segments will not be accredited as both ethics and elimination of bias.

Please retain a copy of this form for your records.