

STATE OF MINNESOTA

IN SUPREME COURT

C2-84-2163

PROMULGATION OF AMENDMENTS TO
THE RULES FOR CONTINUING LEGAL
EDUCATION OF MEMBERS OF THE BAR

ORDER

WHEREAS, the Special Continuing Legal Education Advisory Committee on Elimination of Bias and the Minnesota State Board of Continuing Legal Education have recommended amendments to the Rules for Continuing Legal Education of Members of the Bar that address courses in the elimination of bias in the legal profession and in the practice of law, and

WHEREAS, the Supreme Court has reviewed the recommendations and is fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The attached amendments to the Rules for Continuing Legal Education of Members of the Bar are prescribed and promulgated.
2. The amendments are effective July 1, 1996.
3. The Board of Continuing Legal Education shall establish an evaluation process for review of the content of elimination of bias courses. The Board shall report its finding to this court by July 1, 1998.

DATED: June 28, 1996

BY THE COURT:

OFFICE OF
APPELLATE COURTS

JUN 28 1996

FILED



A.M. Keith
Chief Justice

Rule 1 Purpose

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

In addition to improving an attorney's knowledge of the law, continuing legal education should address the special responsibilities which lawyers as officers of the court have to improve the quality of justice administered by the legal system and the quality of service rendered by the legal profession.

Rule 2 State Board of Continuing Legal Education

There is hereby established a State Board of Continuing Legal Education, to be appointed by this Court, consisting of twelve members and a chairperson. Three of the members of the Board other than the chairperson may be persons who are not members of the Bar of this state. Each other member of the Board, with the exception of one who shall be a district Judge, shall be a member of the Bar of this state who practices in Minnesota with his principle office located in this state. Six of the members of the Board other than the chairperson shall be nominated by the Minnesota State Bar Association in the manner determined by it. Of the members first appointed, four shall be appointed for 1 year, four for 2 years, and four for 3 years, two in each instance from the nominees of the Minnesota State Bar Association and one in each instance being a lay member. Thereafter, appointments shall be for a 3-year term. No member may serve more than two 3-year terms. Each member shall serve until his successor is appointed and qualifies. The chairperson of the Board shall be appointed by this Court for such time as it shall designate and shall serve at the pleasure of this Court. This Court shall also designate a secretary of the Board. The chairperson, the secretary,

and other members of the Board shall serve without compensation, but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

The Board shall have general supervisory authority over the administration of these rules. The Board shall accredit courses and programs which will satisfy the educational requirements of these rules and shall discover and encourage the offering of such courses and programs.

The Board shall at all times be subject to the direction and supervision of this Court in all matters.

Sponsors of Continuing Legal Education courses shall apply for credit in accordance with the rules of the Board promulgated pursuant to Rule 7, below.

In applying for credit, a sponsoring agency or attorney shall submit to the Board ~~a description of an application for course approval (Appendix II, which is incorporated herein) describing the program under consideration, including such details as location, description, list of credentials of speakers, type of presentation, number of course hours for which credit is sought, type of credit for which approval is sought (standard CLE, ethics/professional responsibility CLE, elimination of bias CLE) and such other matters as the Board may require. pursuant to Rule 7. In addition, the sponsoring agency shall submit to the Board a description of the treatment given professional responsibility and ethical considerations involved in the substantive or procedural courses under consideration. If no coverage of these areas is scheduled, the sponsoring agency shall state the reasons therefor. Every accredited CLE course must include general treatment of professional responsibility and ethical considerations or include on the application for course approval an explanation as to why ethics is not included.~~

If in the opinion of the Board, ~~presentation of problems~~ the treatment of professional responsibility or legal ethics topics within courses accredited as standard continuing legal education ~~are omitted, or~~ is inadequate without satisfactory explanation, the Board may refuse to grant full credit for all hours in attendance, impose a deduction from credit hours which would otherwise be granted, and in the case of persistent refusal to cover these topics, refuse to grant further credit for courses offered by the sponsor.

If the Board deducts Continuing Legal Education credit, or refuses to grant credit on this basis, it shall so inform the sponsor.

Rule 3 Report of Continuing Education.

Each registered attorney duly admitted to practice in this state desiring active status must make a written report to the Board in such manner and form as the Board shall prescribe. ~~Such~~ The report shall be filed with the Board within 60 days after the close of the 3-year period within which ~~such~~ the attorney is required to complete ~~his or her~~ the continuing legal education requirements. ~~Such~~ The report shall be accompanied by proof satisfactory to the Board that ~~such~~ the attorney has completed a minimum of 45 hours of course work either as a student or a lecturer in continuing legal education. Effective with the reporting period July 1, 1996 through June 30, 1999, and for all subsequent reporting periods, the attorney's report shall include within the 45 hours, evidence of attendance at a minimum of three hours of courses on ethics and professional responsibility education and evidence of attendance at a minimum of two hours of courses in the elimination of bias in the legal profession and in the practice of law, approved by the Board as suitable and sufficient and attended by the reporting attorney within the 3-year period just completed.

Definitions

In these rules,

- 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 ethics and professional responsibility" means a course or session within a course that deals with the Minnesota Rules of Professional Conduct, the ABA Model Rules of Professional Conduct, the rules of professional conduct or professional responsibility of other jurisdictions, or the opinions and case law arising from the application of any of the above-specified rules, including a course or session within a course that addresses in a specific way concepts such as professionalism, civility and ethical conduct in the practice of law and in the legal profession.
- i. "Course in the elimination of bias in the legal profession and in the practice of law" means a course directly related to the practice of law that is designed to educate attorneys to identify and eliminate from the legal profession and from the practice of law, biases against persons because of race, gender, economic status, creed, color, religion, national origin, disability, age or sexual orientation."

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 ethical obligations of the participants or to the elimination of bias in the legal profession and in the practice of law.
- 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.
- f. ~~Ordinarily~~ Credit will not normally be given for speeches 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 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.
- 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.

- I. Attorneys residing or working outside of the State of Minnesota during the CLE reporting period who, because of non-residence are unable in good faith 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."

Rule 103 Announcement of Approval.

Any person may announce, as to a course that has been given approval that: "This course has been approved by the Minnesota Board of Continuing Legal Education for _____ hours in the following category or categories of credit:

- a. standard continuing legal education,
- b. ethics or professional responsibility continuing legal education or
- c. elimination of bias continuing legal education."

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. 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 subject to the 6-hour maximum 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 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.
- 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.
 - 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.
 - 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.

- 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.
- 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.

Rule 106 Reporting of Attendance at Approved Courses.

- a.** Every lawyer shall submit within 60 days after the close of the period during which his or her educational requirements must be completed an affidavit setting forth all information called for on the Affidavit of CLE Compliance, attached hereto as Appendix III and incorporated herein.

Appendix II

**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.

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 _____

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)

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

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

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

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. If elimination of bias credit is sought for some portion of this course, please do the following:

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.

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

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 (1.) of the Rules of the CLE Board, both in the public and private sector of the legal profession and in the practice of law;
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.

Appendix III
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 3 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.

Appendix III
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.					

(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.					

Please retain a copy of this form for your records.

* At least 3 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.