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Rule 45 - [Effective 1/1/2025] Mandatory Continuing Legal Education

(a) Continuing Legal Education Requirements.

1. Every active member of the bar, not exempted, shall complete a minimum of fifteen hours of continuing legal education activity in each educational year. An educational year shall begin on July 1 and end on the following June 30.

2. A minimum of three hours of continuing legal education activity each educational year shall be in the area of professional responsibility. Professional responsibility includes instruction in legal and judicial ethics, professionalism, and malpractice prevention, and may include such topics as substance abuse, including causes, prevention, detection and treatment alternatives, attorneys' fees, client development, law office economics and practice, alternatives to litigation for managing conflict and resolving disputes, stress management, and the particular responsibilities of public lawyers, judges, and in-house counsel, to the extent that professional responsibility is directly addressed in connection with these topics. Lawyers elected, appointed or employed as government lawyers must have at least one hour on rules that are specifically applicable to government lawyers by July 1, 2025, or if not a government lawyer on the effective date of this amendment to this rule, within one year after being appointed or employed as a government lawyer.

3. An active member of the bar, not exempted, who serves as an arbitrator under Rule 73, Arizona Rules of Civil Procedure, is eligible for two hours of continuing legal education activity credit in lieu of financial compensation otherwise available under A.R.S. § 12-133(g) or local rule for service as an arbitrator. Such credit shall be included in the maximum number of hours allowed for self-study and shall be awarded under procedures approved by the Board of Governors.

4. An active member of the bar, not exempted, who provides pro bono service to the poor or near poor through an approved legal services organization, as defined in Rule 38(d), is eligible for one hour of continuing legal education credit for every five hours of pro bono service provided, up to a maximum of five hours per educational year of continuing legal education credit. Such credit shall be included in the maximum number of hours allowed for self-study and shall be reported in the attorney's annual affidavit of compliance.

5. An active member of the bar, not exempted, who serves as an arbitrator for a fee dispute resolution under the auspices of the State Bar Fee Arbitration Committee is eligible for one hour of continuing legal education activity credit for each hearing actually conducted, up to a maximum of two hours credit in any one educational year. This credit shall be applied to the required three hours of activity in the area of professional responsibility mandated for that educational year.

6. An active member of the bar, not exempted, who successfully completes a mentor program as a mentor or mentee under the auspices of the State Bar Mentor Program is

eligible for up to eight (8) hours of continuing legal education activity credit, of which up to two (2) credit hours may qualify as professional responsibility credits, up to a maximum of eight (8) hours of continuing legal education credit per educational year. All credits are applied in the year the program is completed.

7. An active member of the bar, not exempted, who attends a continuing education program to satisfy a state agency license renewal requirement is eligible to claim one hour of continuing legal education credit for every qualifying hour of credit earned in satisfaction of the member's state agency license renewal requirement. To be eligible to qualify as continuing legal education credit, credit earned in satisfaction of the member's state agency license renewal requirement must derive from a continuing education program that: consists of an organized program of learning, deals with matters directly related to the law, will increase the participant's professional competence as a lawyer, follows an agenda, is accompanied by substantive or practical written materials or exercises, and substantially conforms, as far as practicable, to the regulations established by the board. Notwithstanding the foregoing, credits earned in satisfaction of a member's state agency license renewal requirement cannot be counted toward the professional responsibility activity required under section (a)(2). "State agency license renewal requirement" has the meaning provided in A.R.S. § 12-112.01.

(b)Exemptions.

1.*Inactive and Retired Members.* An inactive or retired member of the bar shall be exempt from the requirements of section (a), if the lawyer is inactive or retired during the entire educational year. An active member who transfers to inactive or retired status is exempt during the educational year in which the transfer occurs.

2.*Court Personnel: Retired Judges Subject to Assignment To Judicial Service.* Court administrators, court clerks, and other court personnel who are active members and who are also subject to the educational requirements of the Council on Judicial Education and Training (COJET), will be deemed to have complied with the requirements of section (a) upon the filing of an affidavit of compliance as required in section (c). Retired judges subject to assignment to judicial service pursuant to A.R.S. § 38-813 who are active members and do not maintain an office separate from their residence, and no substantial part of whose activities consists of the active representation of clients outside the judge's family, will be deemed to have complied with the requirements of section (a) upon the filing of an affidavit of compliance with the educational requirements of COJET.

3.*Active Members at Least 70 Years Old Before January 1, 2009.* An active member who both has been admitted to practice in Arizona and has attained the age of 70 before January 1, 2009, shall be exempt from the requirements of section (a).

4.*New Admittees.* A lawyer newly admitted between January 1 and June 30 need not comply with the requirements of section (a) for that educational year. A lawyer newly admitted between July 1 and December 31 shall comply with the requirements of section (a) for that educational year by completing two-thirds of the requirement.

5. *Out-of-State Compliance.* An active member of the bar who resides in another MCLE jurisdiction, and who is subject to and complying with the MCLE requirements for that jurisdiction, shall be exempted from the requirements of section (a) for the educational year in question. However, any member exempted under this section must satisfy the requirements of section (c).

6. *Other Exemptions.* Upon application and showing of undue hardship, the CEO/ED of the state bar or his or her designee may exempt an active member from the requirements of section (a) or extend the deadline for compliance for a period of not more than one year. Any consideration for additional time past one year based on a continuing hardship, would require a new application. Any denial of a request made pursuant to this rule shall be reviewed by the board.

(c) Affidavit of Compliance. On or before September 15 of each calendar year, every member who was active during the educational year, and not otherwise exempted, shall file with the board a completed affidavit or certification of compliance demonstrating full compliance with this rule. As an alternative to filing a written certificate, the board may allow certification to be filed electronically in a method and form as approved by the board. The affidavit will be considered timely received if the envelope in which it is mailed is postmarked on or before September 15, or if the affidavit is date-stamped received by State Bar personnel on or before the close of business September 15.

(d) Delinquent Compliance Fee and Delinquent Affidavit Filing Fee.

1. *Delinquent Compliance Fee.* A member who was active during the educational year and not otherwise exempted and who fails to complete the requirements of section (a) by the end of the educational year shall be deemed delinquent. Failure to obtain the required 15 hours of continuing legal education credit by the June 30 deadline will result in assessment of a delinquency fee per a delinquency fee schedule established by the board with the consent of this Court.

Such fees shall be in addition to any fee for delinquent filing of the affidavit required by section (c) as set forth below in sub§ 2. Failure to complete the requirements of section (a) by September 15 may result in a motion for summary suspension pursuant to section (i) of this rule.

2. *Delinquent Affidavit Filing Fee.* An affidavit not filed when due under sections (b)(5) or (c) shall be deemed delinquent. A member who was active during the educational year and not otherwise exempted shall be subject to assessment of a delinquency fee per a delinquency fee schedule established by the board with the consent of this Court. Failure to file the affidavit by December 15 may result in a motion for summary suspension pursuant to section (i) of this rule.

(e) Status Changes.

1. *Return from Inactive or Retired Status to Active Status.* Before a member will be permitted to change status from inactive or retired to active, that member must show completion of hours of continuing legal education activity equivalent to those required in section (a) of this rule for each of the last two years for which the member was on inactive or retired status.

2. Any inactive, retired, or judicial member who transfers to active status shall comply with the educational requirements of section (a) of this rule in effect for the educational year in which such transfer occurs.

(f)Records. Every active member, not exempted, shall maintain records (as defined in Regulation 101(j)) evidencing participation in continuing legal education for each education year. The lawyer shall preserve these records for two years after the filing of the affidavit.

(g)Audits of Compliance. Each year the board shall randomly select a designated number of active members, except those exempt under section (b)(2) of this rule, to audit for compliance with this rule.

(h)Regulation Authority. The administration of the continuing legal education requirements and the audits of compliance as provided by this rule shall be in accordance with regulations established by the board.

(i)Summary Suspension. Upon notice of the state bar pursuant to Rule 62, any member who fails to comply with this rule for any educational year in which he or she was an active member and not otherwise exempted may be summarily suspended by order of the board, provided that a notice by certified mail, return receipt requested, of such noncompliance shall have been sent to the member, mailed to his or her last address of record in the State Bar office, at least 30 days prior to such suspension. The member may be reinstated upon completion of the continuing legal education activity requirements for each educational year in which the member was suspended with proof of cure, payment of a reinstatement fee as established by the board with consent of this Court, and payment of, all delinquency fees pursuant to section (d) of this rule and in accordance with Rule 64(f) of these rules.

(j)Confidentiality of Records. Unless otherwise directed by the board, the file, records, and proceedings, as they relate to or arise out of any failure of any active member to satisfy the requirements of the rule, shall be deemed confidential to the same extent as bar disciplinary proceedings and shall not be disclosed except in furtherance of the duties of the board or upon the request of the active member affected or as they may be introduced in evidence or otherwise produced in proceedings under the rule.

(k)Immunity from Civil Suit. Communications to the court, state bar, or committee thereof relating to compliance with this rule and testimony given in compliance proceedings shall be absolutely privileged conduct, and no civil action predicated thereon may be instituted against any witness. Members of the board, volunteers, and staff shall be immune from suit for any conduct in the course of their official duties to the extent permitted by law.

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Added Oct. 11, 1989, retroactively effective to 7/1/1989. Amended on an emergency basis effective 6/4/1990, and made permanent 11/6/1990; 12/12/1991, effective 1/1/1992; 11/30/1992, effective 7/1/1993; 9/30/1993, effective 12/1/1993; 1/30/1995, effective 6/1/1995; 10/28/1996, effective 12/1/1996. Amended April 22, 1998, effective 6/1/1998; 4/27/1998, effective 7/1/1998; 10/5/1998, effective 12/1/1998. Amended and effective 10/6/2000. Amended Jan. 24, 2001, effective 6/1/2001; 10/4/2004, effective 12/1/2004; 9/16/2008, effective 1/1/2009; 8/28/2013, effective 1/1/2014; 9/2/2014, effective 1/1/2015; amended effective 1/1/2019; amended effective 5/1/2020; amended Aug. 24, 2023, effective 1/1/2024; amended Aug. 22, 2024, effective 9/14/2024; amended August 22, 2024, effective 1/1/2025; amended December 3, 2024, effective 1/1/2025.

NOTES TO 1996 AMENDMENTS

Rule 45 (a) requires every nonexempt "active member" to participate in mandatory continuing legal education. An active member is defined by Rule 31(c)(2), Rules of the Supreme Court, as persons licensed to practice law "except for persons who are inactive, suspended, or judicial members." Full-time appellate court judges, superior court judges, and judges of courts of limited jurisdiction are judicial members under Rule 31(c)(5). As such, they are not "active members" of the state bar and are, therefore, not subject to the requirements of Rule 45. Instead, the Council on Judicial Education and Training (COJET) is the regulatory body responsible for implementing and ensuring compliance with the educational requirements for judicial members.

Likewise, although active members subject to COJET must file an affidavit of compliance with the state bar pursuant to section (b)(2) of this rule, once the state bar has determined that such active members are exempt under section (b)(2), its jurisdiction ends and COJET is responsible for enforcing educational compliance through audits or other methods.

COURT COMMENT [AMENDMENT EFFECTIVE JUNE 1, 1998]

The Court recognizes that as a practical matter, in order to insure sufficient offerings of a professionalism course to permit members of the bar to satisfy new Rule 45(a)(3) within the time frame specified, the State Bar of Arizona must approve or license others to present courses on the principles of professionalism, but has been assured by the State Bar that such approval will only be granted to courses that adhere to the curriculum of the Professionalism Course presented by the State Bar itself. The quality of the faculty teaching any CLE course, and particularly a course on professionalism, is an essential ingredient in the course's success.

The permission granted to specialty sections of the Bar and other similar organizations to offer courses on professionalism that allow their members to satisfy the requirements of new subsection (a)(3) should not contribute to the "balkanization" of members of the profession along special interest lines. Sections and organizations which seek approval for such alternative professionalism course offerings shall permit non-members of such sections and organizations to participate in the course, either as faculty members or attendees, and shall adhere to the prescribed curriculum.

HISTORICAL NOTES

Order dated Dec. 12, 1991, filed Dec. 18, 1991, effective Jan. 1, 1992, provided in part 23:

"These amendments shall not apply to discipline proceedings governed by the disciplinary procedures in force prior to February 1, 1985. The amendments shall apply to all other discipline proceedings which were commenced as provided in Supreme Court Rule 53(a) either prior to or on or after the date hereof."

Deleted rule 45(i) [deleted Dec. 12, 1991, effective Jan. 1, 1992], added Oct. 11, 1989, retroactively effective to July 1, 1989, related to reinstatement from suspension.