

NOTICE TO THE BAR

CONTINUING LEGAL EDUCATION -- PROPOSED AMENDMENTS TO RULE 1:42 AND CLE REGULATIONS TO REQUIRE CREDITS IN DIVERSITY, INCLUSION, AND ELIMINATION OF BIAS - PUBLICATION FOR COMMENT

The Supreme Court invites written comments on a proposal to amend Rule 1:42-1 (“Continuing Legal Education Required”) and CLE regulations 103:1 and 201:1 to require diversity, inclusion, and elimination of bias training for attorneys licensed in New Jersey. The proposed amendments are attached.

For some time, the Court has been considering CLE requirements on diversity, inclusion, and elimination of bias, having recently worked with the Board on Continuing Legal Education to review proposals by the Supreme Court Committee on Minority Concerns (n/k/a the Committee on Diversity, Inclusion, and Community Engagement) and the Supreme Court Committee on Women in the Courts. Those earlier proposals recommended amending Rule 1:42-1 and related CLE regulations to require diversity, inclusion, and elimination of bias training for attorneys.

While those proposals still were pending, the Court on June 5, 2020 issued a public statement recommitting the Judiciary to the elimination of barriers to equal justice. Building on that statement, the Court on July 16, 2020 issued an Action Plan for Equal Justice, which outlines a series of initiatives that the Judiciary will seek to accomplish within a year, including the following:

4. Requiring Anti-Bias Continuing Legal Education. The Supreme Court will revisit, refine, and adopt an “elimination of bias” requirement as part of statewide mandatory Continuing Legal Education for judges and attorneys.

Since issuance of the Court’s statement, the New Jersey State Bar Association (NJSBA) and other stakeholders have expressed support for the addition of a CLE requirement in the area of diversity, inclusion, and elimination of bias. At the same time, the Judiciary has developed proposals for the implementation and administration of such new CLE requirements, taking into consideration the status of attorneys licensed in New Jersey who are approaching the end of their two-year reporting cycle, attorneys who are midway through their cycle, and attorneys who also are licensed in additional jurisdictions.

Proposal – Diversity, Inclusion, and Elimination of Bias Credits as Part of
Ethics/Professional CLE Requirements

The proposal is to increase the total credit hours required for professionalism and ethics from four to five credits (of the overall total requirement of 24 credits per two-year reporting cycle) and to require that at least two credit hours of those five credit hours required for professionalism and ethics include the completion of qualifying coursework on diversity, inclusion, and elimination of bias.

The proposal is for the amendments to become effective January 1, 2021. With that effective date, attorneys in the current two-year CLE reporting cycle that ends December 31, 2020 would not be required to report compliance with the revised requirements (five professionalism and ethics credits rather than four, with two of those five hours on diversity, inclusion and elimination of bias). The requirements would apply to attorneys in the next two-year CLE reporting cycle that ends on December 31, 2021 (and to attorneys in all subsequent two-year reporting cycles).

Please send any comments on the proposed rule amendments in writing by October 12, 2020 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Amendments to Rule 1:42-1 and CLE Regulations –
Diversity, Inclusion, and Elimination of Bias Requirement
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via e-mail to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by e-mail should include their name and e-mail address). Comments are subject to public disclosure upon receipt.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: September 14, 2020

Proposed Amendments to Rule 1:42-1

1:42-1. Continuing Legal Education Required.

An attorney holding a license to practice in this State shall be required to participate in a program of continuing legal education in accordance with regulations adopted under these rules. In satisfaction of the continuing legal education requirement, attorneys shall participate in twenty-four hours of qualifying continuing legal education over a two-year period. [Four] Five of the twenty-four hours of credit shall be concentrated in the areas of ethics and/or professionalism. At least two of the five hours of credit in ethics and/or professionalism shall be in diversity, inclusion, and elimination of bias. Attorneys shall demonstrate that they have satisfied the continuing legal education requirement by certifying to their compliance at the end of the two-year period in a manner prescribed by the Board on Continuing Legal Education. In addition, attorneys shall maintain all necessary records and documentation to demonstrate such compliance in accordance with regulations adopted under these Rules.

Note: Adopted December 18, 2009 to be effective immediately; amended
to be effective January 1, 2021.

Proposed Amendments to CLE Regulations 103:1 and 201:1

Regulation 103:1. Definitions.

(a) – (j) no change

(k) “ethics” and/or “professional responsibility” shall mean those course or segments of courses devoted to (1) the substance, underlying rationale, and the practical application of the Rules of Professional Conduct; (2) the professional obligations of the attorney to the client, the court, the public, and other lawyers; [or] (3) substance abuse and its effects on lawyers and the practice of law; and (4) diversity, inclusion, and elimination of bias. Diversity, inclusion, and elimination of bias programs and courses relevant to the practice of law may include, among other topics, implicit and explicit bias, equal access to justice, serving a diverse population, diversity and inclusion initiatives in the legal profession, and cultural competency in the practice of law or the administration of justice.

(l) – (t) no change

Regulation 201:1. Mandatory requirements. Every active lawyer shall complete twenty-four credit hours of continuing legal education every two years. Of those twenty-four credits, not less than [four] five credits must be in ethics and/or professionalism. At least two of the five hours of credit in ethics and/or professionalism shall be in diversity, inclusion, and elimination of bias.

Note: These regulations were approved by the Board on Continuing Legal Education on January 15, 2020, and by the Supreme Court of New Jersey on January 26, 2010; amendments to Regulations 103:1(a), 201:2, 201:6, 201:8, 202:1, and 401:4 were approved by the Board on March 28, 2011 and by the Supreme Court on July 21, 2011 to be effective immediately; amendments to Regulations 103:1(j) and (l), 201:4, 201:6,

201:8, 202:2, 202:3, 302:4, 302:10, 402:1, 402:2, and 402:3 were approved by the Board on September 28, 2012 and by the Supreme Court on October 23, 201 to be effective November 9, 201, and with the amendment to Regulation 201:8 to be applied retroactively; amendments to Regulation 103(k) and 201:1 were approved by the Board on _____ and by the Supreme Court on _____ to be effective January 1, 2021.