



WSBA

MANDATORY CONTINUING LEGAL EDUCATION BOARD

MEMORANDUM

To: Chief Justice Barbara A. Madsen
From: Scott J. Bergstedt, Chair, MCLE Board
Date: April 8, 2016
Re: Comment on Proposed Amendment to APR 11

The Mandatory Continuing Legal Education Board (MCLE Board) has had the opportunity to review the proposed amendment to APR 11 submitted by the Superior Court Judges Association which reads:

Former Judges. Persons who have served as Judges as defined by GR 26 and who are becoming active members of the Association are to be given full credit for carryover Continuing Judicial Education Credits. Former judges in this category shall not be charged a fee related to the transfer of carryover credits. A former judge who is in compliance with GR 26 shall not be required to comply with APR (c)(1)(i) for the first year in which he or she serves as ari (sic) active member of the Association.

The MCLE Board believes that the proposed amendment should not be adopted for several reasons. At the outset, the carryover provision is already covered in the WSBA Bylaws. Secondly, the suggested amendment promotes an unequal application of the mandatory continuing legal education requirements by exempting a particular membership group (former judges) from a specific MCLE requirement.

The proposed amendment is intended to give full carryover credits to judges who have excess Continuing Judicial Education Credits (up to 15). Although this is a sensible request, it is also unnecessary because the credit carryover process already provides for the acceptance of judicial credits as attorney credits. The WSBA Bylaws Section III.C.2.a.4 states that “[e]ither judicial continuing education credits or lawyer continuing education credits may be applied to the credit requirement for judicial members transferring to active. If judicial continuing education credits are applied, the standards for determining accreditation for judicial continuing education courses will be accepted as establishing compliance.” In view of that clause, the existing and long

standing administrative practice of the MCLE board is to accept and convert all CJE credits to CLE credits. Thus, an amendment that proposes to do what is already required by the current rules and is also the current practice is redundant. Furthermore, APR 11 provides the intent of the Supreme Court, establishing “the minimum continuing legal education requirements for lawyers.” It is not the place to describe the details of procedure and process of the MCLE Board. There is an established process to petition the Board concerning the process and procedure of the implementation of APR 11. Additionally, it would be impractical to include all of the general procedure and process of the MCLE Board in APR 11.

Another goal of the proposed amendment is to openly exempt former judges from having to comply with a specific category of MCLE credits (Law & Legal Procedure Credits) for the first year of active practice. However, exempting former judges from complying with the law & legal credit requirement is also redundant since the majority of CJE credits fall into the “law and legal” credits category. It is also inconsistent with the Supreme Court’s goal to ensure that all active lawyers in the state of Washington comply with MCLE requirements regardless of their previous membership status. Additionally, publicly showing favoritism toward former judges presents an appearance of impropriety.

Finally, the suggested amendment explicitly prohibits the Bar from charging a fee to former judges for the transfer of their carryover CJE credits. Former judges as well as all other membership status individuals have not been charged a fee in the past and the MCLE board has never sought to charge any members a fee to transfer carryover credits. Thus, this provision serves no purpose.

Therefore, for the reasons stated above, the MCLE Board strongly opposes the proposed amendment to APR 11 submitted by the Superior Court Judges Association.

Respectfully,



Scott J. Bergstedt, Chair, MCLE Board

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, April 22, 2016 8:07 AM
To: Tracy, Mary
Subject: FW: MCLE Board Comment on Proposed Amendment to APR 11 (Order No 25700-A-1130)
Attachments: MCLE Board Comment on Proposed Amendment to APR 11.pdf

Hi Mary, I think this is a rule thing???

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Renata Garcia [mailto:renatag@wsba.org]
Sent: Thursday, April 21, 2016 6:12 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Bobby Henry <roberth@wsba.org>
Subject: MCLE Board Comment on Proposed Amendment to APR 11 (Order No 25700-A-1130)

Dear Ms. Carlson,

Please see attached comment submitted by the MCLE Board. Please let me know if you need anything else.

Thank you,

Renata de Carvalho Garcia | MCLE Manager
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