

**REGULATIONS OF THE
WASHINGTON STATE CONTINUING LEGAL EDUCATION BOARD
Approved as Amended by the Board of Governors and Supreme Court**

Regulation 101. Definitions

- (a)** “Accredited activity” means any method by which a lawyer may earn MCLE credits, and includes courses, self-study, teaching, pro bono legal services, law school competitions, nexus, and writing and editing, as described in these regulations.
- (b)** "Accredited sponsor" means an organization that meets the requirements of Regulation 105 for accreditation of its entire legal education program subject to review by the MCLE Board.
- (c)** “APR 11” means Admission to Practice Rule 11, including subsequent amendments.
- (d)** “Attending” means:
(1) Presenting for or being present in an audience, either in person or through an electronic medium, at an accredited live continuing legal education course at the time the course is actually being presented; or
(2) Engaging in self-study using pre-recorded audiovisual or audio-only courses that have been accredited by the MCLE Board.
- (e)** “Chairperson” means the chairperson of the MCLE Board, except where otherwise indicated.
- (f)** “Course” means an organized program of learning dealing with matter directly relating to the practice of law or legal ethics, including anti-bias and diversity training, and substance abuse prevention training.
- (g)** “Ethics” includes discussion, analysis, interpretation, or application of the Rules of Professional Conduct, Rules for Enforcement of Lawyer Conduct, Code of Judicial Conduct, judicial decisions interpreting these rules, and ethics opinions published by bar associations relating to these rules. It also includes the general subject of professional conduct standards for lawyers representing clients and the public interest. Ethics credits may also be awarded for creditable activities in the areas of diversity and anti-bias with respect to the practice of law, or the risks to ethical practice associated with diagnosable conditions of stress, anxiety, depression, and addictive behavior.
- (h)** "Executive Secretary" means the executive secretary of the MCLE Board.
- (i)** “Form 1” means the CLE course accreditation application form.

- (j) “Governmental agency” means federal, state, local, and military agencies and organizations, and organizations primarily funded by one or more of the preceding, but excludes colleges, universities, law schools, and graduate schools.
- (k) “Groups 1, 2, and 3” means three groups of lawyers for purposes of the reporting periods to which they are assigned: Group 1 consists of lawyers admitted through 1975 and in 1991, 1994, 1997, 2000, etc.; Group 2 consists of lawyers admitted 1976 through 1983, and in 1992, 1995, 1998, etc.; and Group 3 consists of lawyers admitted 1984 through 1990 and in 1993, 1996, 1999, etc. New admittees shall be assigned to these Groups in the same manner upon admission.
- (l) “Legal education” means activities that meet the requirements of these regulations and that maintain or enhance the competence of lawyers with respect to the practice of law.
- (m) “MCLE Board” means the Washington State Board of Mandatory Continuing Legal Education.
- (n) “Participating” means taking part in an accredited continuing legal education course as a contributing member of a panel.
- (o) “Qualified legal services provider” means a not-for-profit legal services organization whose primary purpose is to provide legal services to low income clients, as defined in APR 8(e)(2).
- (p) “Quorum of the MCLE Board” means four or more members of the Board.
- (q) “Teaching” means the delivery of a prepared talk, lecture or address at an accredited continuing legal education course.

[Regulation 101 amended effective May 2, 2000; October 1, 2002; January 1, 2009.]

Regulation 102. Standards for Approval and Accreditation. To be approved for credit, all courses must meet all of the following criteria, except where otherwise stated.

- (a) A course must have significant intellectual or practical content relating to the practice of law or legal ethics. In determining whether courses have such content, the following factors should be considered:
 - (1) The topic, depth, and skill level of the material;
 - (2) The level of practical or academic experience or expertise of the presenters or faculty;
 - (3) The intended audience, which may include others besides lawyers;
 - (4) The written materials, which must be of high quality, in a hardcopy or electronic format, and distributed to all attendees at or before the

course is presented. In some unusual cases, written materials may not be necessary, but that is the exception and not the rule; and,
(5) The physical setting, which must be suitable to the educational activity and free from unscheduled interruption.

- (b)** Any written, electronic, or presentation materials must be available for submission and review upon request by the MCLE Board. However, in the case of government-sponsored, closed seminars, where materials are subject by law to confidentiality rules or regulations, those portions of the materials subject to confidentiality may be redacted from the overall submission, provided that a list of the redacted materials, a general summary of the redacted materials, and the basis for confidentiality, is supplied.
- (c)** The course must be open to audit by the MCLE Board or its designees at no charge. However, this requirement may be waived in cases of government-sponsored, closed seminars if the reason stated on the Form 1, as required by Reg 104(a)(3), is approved by the MCLE Board.
- (d)** The sponsor must keep accurate attendance records and retain them for six years. The sponsor must provide copies to the MCLE Board upon request. In addition, the sponsor must report attendance within 30 days of the end of the program as required by APR11.6(a)(1).
- (e)** The attendees must be provided with a critique form or evaluation sheet to complete. The completed forms, or a compilation of all numerical ratings and comments, must be retained by the sponsor for two years and copies must be provided to the MCLE Board upon request.
- (f)** There must be no marketing of any law firm or any company that provides goods or services to lawyers or law firms during the presentation of the program in the room where the program is being held.
- (g)** Aside from indicating that an activity has been accredited for the number and type of credits approved by the MCLE Board, people and organizations must not state or imply that the WSBA or the MCLE Board approves or endorses any person, law firm, or company providing goods or services to lawyers or law firms.
- (h)** A course must not focus directly on a pending case, action or matter currently being handled by the sponsor if the sponsor is a private law firm, corporate legal department, or a government agency.
- (i)** If the course is sponsored by a private law firm, no client, former client, or prospective client of the private law firm may directly or indirectly pay for or underwrite the course, in whole or in part.

[Regulation 102 amended, effective January 1, 2009.]

Regulation 103. Earning and Calculating Credits. WSBA MCLE staff, the Executive Secretary, or the MCLE Board will apply APR 11 and these regulations to determine approval or denial of accreditation, and to determine the number of credits a lawyer can earn for each activity.

- (a) Accreditable activities.** A lawyer may earn continuing legal education credit by attending, teaching, or participating in accredited continuing legal education activities, subject to all restrictions, limitations, and conditions set forth in APR 11 and these regulations.
- (1) A lawyer may earn credits through an creditable activity even if neither the lawyer nor the activity is in Washington State (see Regulation 103(e)(1), 103(k), and 107(e)); and
 - (2) To be creditable, an activity must have no attendance restrictions based on race, color, national origin, religion, creed, gender, age, disability, sexual orientation, or marital status.
 - (3) A lawyer may earn teaching and preparation credits through teaching a pre-admission course required by APR 5(b) and APR 18(c)(1)(i)
- (b) Live credits.** A lawyer may earn “live credits” by attending in person or via an electronic medium, or by teaching or participating in an accredited course at the time the course is actually being presented.
- (1) Teleconferences, videoconferences, and webcasts are considered “live” if there are presenters or expert moderators available to all course attendees at the time the course is actually being presented, and all attendees can hear or see other attendees’ questions and the resultant responses at the time they happen.
 - (2) Viewings of pre-recorded courses presented by one or more expert moderators qualified and available at the time of the viewing to answer questions and expand on topics may also be considered “live”.
 - (3) Writing credits, as defined in Regulation 103(j), are considered to be live credits.
- (c) Credit for attending accredited courses.** A lawyer may earn one credit for each 60 minutes spent attending actual instruction at an accredited course. A lawyer may earn no more than eight credits per day spent attending courses. A lawyer may earn credit only once for attending the same approved course.
- (d) Credit for teaching or participating in accredited courses.** A lawyer may earn credit by teaching or participating in an accredited continuing legal education course.

Additionally, a lawyer who is teaching or participating in an accredited course may earn one credit for each 60 minutes actually spent by the lawyer preparing for the presentation of the course up to a maximum of 10 credits per course. A lawyer may earn credit only once for teaching or

participating in the same accredited course, regardless of the number of times the course is presented.

EXAMPLE: Lawyer X gives a one-hour presentation and attends the other five hours at a six-credit-hour course presented in three cities, and attends the rest of the course on each of those days. If Lawyer X spent 10 hours preparing for the presentation, Lawyer X may earn a total of 16 credits.

EXAMPLE: Lawyer X gives a two-hour presentation and attends the other four hours at a six-credit-hour course presented in three cities, and attends the rest of the course on each of those days. If Lawyer X spent 15 hours preparing for the presentation, Lawyer X may earn a total of 16 credits.

(e) Credit for attending or teaching law school courses.

(1) Attending. A lawyer may earn one credit for each 60 minutes of instructed class time the lawyer attends in law school courses at the J.D. or advanced education level. The course may be taken within or outside the United States, and the lawyer is not required to take or be successful on any examination given in connection with the course in order to earn CLE credits for attending the course. To earn credit, the lawyer must:

- (A)** Arrange for the instructor or law school registrar to verify the lawyer's actual attendance at the various sessions of the course and to report such attendance to the MCLE Board; and
- (B)** Comply with the applicable regulations of the law school or university involved.

(2) Teaching. Full time teachers and lawyers whose primary employment is teaching law school courses may not earn credit for teaching or preparation of law school courses, but a lawyer who is acting as a part-time adjunct professor or lecturer may earn credit in connection with that lawyer's first presentation of a specific law school course, as follows:

- (A) Presentation time-** one credit for each 60 minutes of presentation time for that lawyer's first presentation of a specific law school course, up to a maximum 15 credits for actual presentation time; and
- (B) Preparation time-** one credit for each 60 minutes the lawyer spends preparing for each 60 minutes of presentation time, up to a maximum of 10 credits of actual preparation time for each 60 minutes of presentation time.

- (f) **Credit for pro bono legal services:** A lawyer may earn six credits annually if:
- (1) The lawyer receives at least two hours of education in a given calendar year, under the auspices of a qualified legal services provider, which may consist of:
 - (A) Not less than two hours of training in MCLE Board-approved ~~with~~ live presentation(s); or
 - (B) Not less than two hours individually viewing or listening to pre-recorded training courses approved by the MCLE Board; or
 - (C) Not less than two hours of any combination of the foregoing training; or
 - (D) Not less than two hours serving as a mentor to a participating lawyer who has completed the foregoing training; and
 - (2) The lawyer completes not less than four hours of pro bono work in that same calendar year by:
 - (A) Providing legal advice, representation, or other legal assistance to low-income client(s) through a qualified legal services provider; or
 - (B) Serving as a mentor to other participating lawyer(s) who are providing legal advice, representation, or assistance to low-income client(s) through a qualified legal services provider.

[Regulation 103 amended effective May 2, 2000; August 3, 2004.]

- (g) **Credit for law school competitions.** A lawyer may earn one general – not ethics – credit for each 60 minutes spent judging or preparing law school students for law competitions, mock trials, or moot court arguments at an ABA accredited law school. Up to a maximum of six credits per reporting period may be earned provided the following conditions are met:
- (1) Prior to the event, the sponsor provides the lawyer “judge” training in the feedback process to be used by the “judge” to give performance feedback to each student during the event. Such training must incorporate the requirements of Regulation 102(a), and it can be conveyed by live or video-taped training, a written outline of points to be covered by the “judge”, or other acceptable method.
 - (2) The lawyer “judge” provides specific performance feedback to each student participant during the event.
 - (3) The sponsor issues appropriate certification documenting the name of the lawyer, the activity name, date, and location, and the number of CLE credits earned.
 - (4) The lawyer does not earn credits for preparation time or for grading written briefs or other written papers in connection with this type of activity.

- (h) **Credit for self-study.** A lawyer may earn credit for self study by completing MCLE Board-approved pre-recorded audiovisual or audio-only courses, under the following conditions:
- (1) Requirements for lawyers.**
- (A)** For all self-study courses, the lawyer must report on a Form 1 for each activity:
 - (i)** The sponsor and title of the course;
 - (ii)** The original date the activity was recorded;
 - (iii)** The date the lawyer completed the course; and
 - (iv)** The number of credits for which the course was approved. **(B)** The lawyer must declare on the reporting period CLE Certification form that the lawyer did not knowingly violate any copyright laws in earning the credits.
- (2) Requirements for sponsors regarding accreditation of self-study courses.** For all pre-recorded courses approved for credit by the MCLE Board:
- (A)** The sponsor must affix on the outside of the recording:
 - (i)** The name of the sponsor;
 - (ii)** The name of the course;
 - (iii)** The date originally recorded;
 - (iv)** The total running time in hours and minutes; and
 - (v)** The number of credits for which it has been approved.
 - (B)** Sponsors are not required to submit a copy of the self-study course with the Form 1, but must provide copies to the MCLE Board on request.
 - (C)** If a live course was approved by the Board, the recorded version of that course is automatically approved if the sponsor creates a “duplicate” Form 1 at the MCLE web site or submits a paper Form 1 for the recorded version of the course.
 - (D)** Written materials distributed at the live course must also be distributed with the pre-recorded course.
 - (E)** The accreditation of the pre-recorded course expires five years after the date the course was originally recorded, except those determined by the MCLE Board to be purely skills training courses.
- (i) Credit for nexus courses.** A lawyer may earn credits for actually attending, teaching, or participating at a course that does not qualify for approval under these regulations and does not directly deal with the practice of law but that is substantially related to the lawyer’s area of practice. To earn such credits, the lawyer must demonstrate that the topic, depth, and skill level will improve the lawyer’s competence to practice law.
- (j) Credit for writing and editing activities.** Credit for writing and-or editing activities ~~may be~~ is granted sparingly, and only on a case by case basis. A lawyer may earn one live credit for every 60 minutes spent in writing and

editing activities, up to a maximum of 10 live credits per writing activity, under the following conditions:

- (1) The writing or editing in question meets the standards of these regulations;
- (2) The writing is published for the education of the Bar by a recognized publisher of legal works; and
- (3) The writing or editing is not performed for or on behalf of a client or prospective client, for marketing purposes, or in the course of the regular practice of law.

(k) Credit for courses for lawyers in foreign countries and/or remote locations in the United States.

- (1) A lawyer may earn credit for programs outside the United States, including courses concerning laws of jurisdictions outside the United States, if those courses are approved for credit by the MCLE Board.
- (2) A lawyer residing in a foreign country where standard live CLE courses are unavailable may earn credit for courses that do not fully meet the standards of these regulations and which would not be approved if offered within the United States. In determining whether to grant credit for such courses, the MCLE Board shall consider, among other things, the availability of courses in the area involved and the good faith attempts of the lawyer to comply with the requirements of APR 11 and these regulations.
- (3) With approval from the MCLE Board, a lawyer in a foreign country with no reasonable opportunities for attendance at live CLE programs may earn a maximum of 45 credits per reporting period through approved self-study courses or by attending informal CLE programs developed and presented by lawyers in the foreign jurisdiction.
- (4) With approval from the MCLE Board, a lawyer in a location within the United States that is very remote and removed from reasonable opportunities for attendance at live CLE programs may earn a maximum of 45 credits per reporting period through approved self-study courses. Such approval will be granted sparingly.

(l) Examples of activities that may qualify for credit. The following types of activities may be approved for credit, subject to the other provisions of these regulations:

- (1) Courses about running a law office – in particular, docket control, malpractice avoidance, and education on substance abuse by lawyers and other legal professionals, time management, increasing office efficiency, business planning, office financial management, billing and collections procedures, office technology, and customer service, as each relates to the practice of law.
- (2) Courses designed to improve a lawyer's skills for communicating with clients or to improve the lawyer-client relationship.
- (3) Courses on how to conduct electronic legal research.
- (4) Alternate dispute resolution courses.

- (5) A lawyer's attendance at Bar review/refresher courses for jurisdictions other than Washington, on the basis of one credit for each classroom hour of actual instruction or audio/videotaped instruction.
 - (6) Courses sponsored by or involving participation by a company that provides services or products to the legal community, but only if the written material does not include prepared promotional literature, and:
 - (A) There is no marketing of that company during the program; or
 - (B) There is equal treatment in any discussion and written materials of alternate vendors of the particular product or service.
- (m) **Examples of activities that do not qualify for credit.** The following types of activities will not be approved for credit:
- (1) Teaching a legal subject to non-lawyers in an activity or course that would not be approved for credit if taught to lawyers.
 - (2) Programs primarily designed to teach lawyers how to improve market share, attract clients or increase profits, unless the program primarily focuses on topic areas that include, but are not limited to, marketing ethics, case law updates, conflicts of interest, or conflicts of law.
 - (3) Programs primarily designed to be a sales vehicle for a service or product.
 - (4) Writing for or on behalf of a client, or for the regular practice of law.
 - (5) Meritorious legal work, such as pro bono work, except as provided in Reg. 103(f).
 - (6) Bar review/refresher courses offered in preparation for the Washington State Bar examination.
 - (7) Jury duty.
 - (8) Programs primarily designed to enhance a person's ability to present or prepare a continuing education program.
 - (9) Private law firm, corporate legal department, or government agency sponsored courses that are focused directly on a pending case, action or matter being handled by the private law firm, corporate legal department or government agency sponsor.

Regulation 104. Applying for Accreditation of an Activity. Subject to the requirements and restrictions of APR 11 and these regulations, sponsoring organizations or individual lawyers may apply for accreditation of an activity. The MCLE Board, with the approval of the WSBA Board of Governors, may adopt and assess a fee on sponsoring organizations or individuals for the purpose of defraying the costs of processing applications for accreditation of courses or activities.

- (a) **Application by sponsor.**
- (1) **Submitting Form 1.** A sponsoring organization may apply for accreditation of a continuing legal education course or activity by submitting a completed Form 1 to the WSBA MCLE staff, together with payment of the required fee, if any.
 - (2) **Private law firm and corporate legal department sponsors.** Private law firms and corporate legal departments must:

- (A) Register as the sponsor of a course if they either present the course or contract with an outside CLE provider to present the course.
- (B) Submit completed Form 1s by no later than 14 days before the first presentation day of the activity. Failure to submit the Form 1 at least 14 days in advance of the activity may result in imposition of a late fee and/or denial of accreditation for the activity.

(3) Government sponsors. Government sponsors must:

- (A) Register as the sponsor of a course if they either present the course or contract with an outside CLE provider to present the course;
- (B) Submit completed Form 1s by no later than 14 days before the first presentation day of the activity. Failure to submit the Form 1 at least 14 days in advance of an activity may result in imposition of a late fee and/or denial of the accreditation of the activity; and
- (C) If a closed course cannot be audited by the MCLE Board or its designees due to confidentiality rules or regulations, this must be stated on the Form 1.

(4) Accreditation of same course. A sponsor may apply for accreditation of a course that is the same as an accredited course presented by that sponsor within 12 months from the original date of accreditation, by creating a duplicate Form 1 on the MCLE website or submitting a paper Form 1 for each subsequent presentation. Such duplicate or paper Form 1s must be submitted by no later than one day before the subsequent presentation of the previously approved activity.

(5) Accreditation statement in brochures. If a course has been approved and accredited, the sponsoring organization may announce in informational brochures and/or registration materials: "This course has been approved for _____ hours of Washington MCLE credit, including _____ hours of ethics credit."

(6) Reporting attendance. After the conclusion of the presentation of a course, the sponsor must submit an attendance report showing the actual attendance time of each lawyer, either through the MCLE website or by submitting it to the Executive Secretary, within 30 days after the program.

(b) Application by individual lawyer.

- (1) Submitting Form 1.** A lawyer may apply to receive credit for a continuing legal education course or activity by submitting a completed Form 1 to the WSBA MCLE staff for that activity, along with any other materials or information required by these regulations or requested by the WSBA MCLE staff, the Executive Secretary, or the MCLE Board.

(2) No individual application for private law firm or corporate legal department sponsored course. A lawyer who is associated with or employed by a private law firm or corporate legal department that maintains an office within Washington State may not apply to receive credit for a continuing legal education course sponsored by that private law firm or corporate legal department for which the sponsor did not submit a completed Form 1.

(3) Individual lawyer as sponsor. A lawyer who is the sponsor of a CLE program must submit a Form 1 as a sponsor, not as an individual lawyer, and follow all rules and regulations applicable to sponsors.

[Regulation 104 amended effective January 1, 2009.]

Regulation 105. Accredited Sponsors

- (a) General provisions.** The Executive Secretary may approve sponsoring organizations as “accredited sponsors”. The following apply to all accredited sponsors:
- (1)** Accredited sponsors are not required to seek approval for individual courses that they sponsor.
 - (2)** All courses sponsored by an accredited sponsor and in compliance with APR 11 and these regulations are considered approved by the MCLE Board, subject to review by the MCLE Board.
 - (3)** For any course it is sponsoring, an accredited sponsor may state the following (or something substantially similar) in the promotional or registration materials: This activity has been approved for Washington State MCLE credit in the amount of ____ hours (of which ____ hours will apply to ethics credit requirements).
 - (4)** Approval of a course and/or the award of credits made by an accredited sponsor may be reviewed at any time, and accepted or rejected by the MCLE Board, Executive Secretary, and/or WSBA MCLE staff, based on the course’s conformance to Regulation 102.
 - (5)** The MCLE Board may set and assess fees and fines, or revoke an organization’s accredited sponsor status, for repeated failure to correctly award credit for courses, failure to pay the annual accredited sponsor fee, or for failure to comply with accredited sponsor reporting or other requirements.
 - (6)** Except as specified in this regulation, an accredited sponsor shall continue to be subject to and governed by all provisions of APR 11 and these regulations.
- (b) Duties of accredited sponsors.** Any organization that is approved as an accredited sponsor must:
- (1)** Accurately calculate the number of credits to be awarded for each course, by applying the provisions of Regulations 102 and 103.

- (2) Submit an accurately completed electronic Form 1 for a course at least one day prior to presentation of the live course or one day prior to making a pre-recorded course available to lawyers.
- (3) Keep accurate attendance records for each live course and retain them for six years. An attendance report showing the actual attendance of each lawyer must be submitted through the MCLE website within 30 days of completion of the course.
- (4) Provide a critique form or evaluation sheet to all live course attendees. The accredited sponsor must retain the completed forms or a compilation of all numerical ratings and comments, for two years and provide copies to the MCLE Board upon request.
- (5) Demonstrate a continuing ability to provide high-quality continuing legal education activities and to correctly determine credit awards for those activities.
- (6) At least annually, provide to the MCLE Board a list of all its course offerings, identifying the number of lawyers and non-lawyers attending each program, and providing any additional information required by the MCLE Board.
- (7) Pay any required annual accredited sponsor fee.
- (8) Permit course audits by the MCLE Board or its designees at no charge.
- (9) For any pre-recorded programs not originally offered as a live program by the sponsor, the sponsor must:
 - (A) Review the content and materials of each such course; and
 - (B) Ensure that the course is in compliance with all provisions of APR 11 and these regulations.

(c) Applying to become an accredited sponsor.

- (1) To apply to become an accredited sponsor, an organization must:
 - (A) Submit a completed application form and all required documentation, in the required format, to the Executive Secretary, along with payment of any required fee; and
 - (B) Provide proof to the Executive Secretary that the sponsoring organization has at least three years of previous experience in sponsoring and presenting at least 30 unique continuing legal education activities a year, and that the organization can correctly apply APR 11 and these regulations to determine and award credit for such activities; and
 - (C) Provide on request information about 10 courses from the previous three years, selected by the Executive Secretary, for evaluation of course content and attendee evaluations.
- (2) No private law firm or corporate legal department may be an accredited sponsor.

- (3) A request for accredited sponsor status shall be granted or denied by the Executive Secretary after consideration of the application and other materials submitted.
- (4) An adverse determination by the Executive Secretary regarding an application for accredited sponsor status may be appealed to the MCLE Board for a final review and decision on the application in a manner consistent with the provisions of Regulation 106(c).

[Regulation 105 amended effective January 1, 2009.]

Regulation 106. Delegation by MCLE Board and Executive Secretary

- (a) **To committees:** The MCLE Board may delegate tasks and duties to committees for the purpose of administering and enforcing APR 11 and these regulations.
- (b) **To Executive Secretary.**
 - (1) Subject to review by the MCLE Board, the Executive Secretary is authorized to act on behalf of the MCLE Board, in reviewing, granting or denying applications for accreditation of continuing legal education activities or applications for accredited legal sponsor status, ensuring compliance with reporting and other requirements and regulations, granting or denying petitions for waivers or for extension of time deadlines, and in providing interpretations of APR 11 and these regulations. The Executive Secretary may delegate to WSBA MCLE staff such of these duties and responsibilities as may be appropriate for timely and orderly administration of the Board's work, subject to review by the Executive Secretary and MCLE Board.
 - (2) Pursuant to guidelines established by the MCLE Board, the Executive Secretary shall provide a written description of any action taken, in response to written requests for approval of courses or accreditation of sponsors, awarding of credit for attending, teaching or participating in approved courses, writing and editing, waivers, extensions of time deadlines and interpretations of APR 11 and these regulations. The Executive Secretary may seek a determination of the Board before making such response.
 - (3) Upon request by the MCLE Board, the Executive Secretary shall report on determinations made since the last meeting of the MCLE Board.
- (c) **Review of Executive Secretary's actions.**
 - (1) Any person or organization affected by any adverse determinations or any question of interpretation of these regulations or APR 11 by the Executive Secretary may seek MCLE Board review by filing a written petition.
 - (2) The petitioning person or organization may present information to the MCLE Board in writing or in person or both.

- (3) The MCLE Board shall review petitions for review of adverse determinations made by the Executive Secretary.
- (4) The MCLE Board may take appropriate action after review of a petition and any other relevant information presented to it, and the Board shall advise the affected person or sponsoring organization in writing of its findings and any action taken.

[Regulation 106 amended effective January 1, 2009.]

Regulation 107. Exemptions, Waivers, Modifications

(a) Undue hardship, age, or disability. All active members of the WSBA and other lawyers, as established from time to time by the APRs or these regulations, are required to comply with the provisions of APR 11 and these regulations. The MCLE Board may grant extensions, waivers or modifications of the time deadlines or education requirements because of undue hardship, age, or disability of a lawyer.

Exemptions, waivers, or modifications based upon undue hardship, age or disability should be granted only sparingly. All applications for exemptions, waivers and modifications shall be retained by the MCLE Board.

- (1) Applications for extensions, waivers or modifications must be made in writing and supported by a sworn statement in the form of an affidavit or declaration.
 - (2) The applicant must establish to the satisfaction of the MCLE Board that such condition of undue hardship, age, or disability warrants granting an exemption, waiver, or modification.
 - (3) An application for exemption, waiver, or modification, including the sworn statement in support thereof, must be filed for each reporting period for which the exemption, waiver or modification is sought.
 - (4) Neither a lawyer's status with the WSBA, nor the lawyer's other duties nor obligations as established by the WSBA bylaws or by court rules and regulations, are affected by the granting of an exemption, waiver, or modification of the continuing legal education requirements under this regulation.
 - (5) The MCLE Board may revoke an exemption, waivers, or modification if there is a change in the facts or circumstances upon which such exemption, waiver, or modification was granted.
- (b) Judicial exemption.**
- (1) **Full time.** Full-time judges, magistrates, court commissioners, administrative law judges, and the Washington State Supreme Court clerk or assistant clerk, who are prohibited by statute, code, regulation, or court rule from practicing law, are exempt from the continuing legal education requirement established by APR 11. The exemption ends

when the full-time judicial position ends, if the member is on active status with the WSBA.

(2) Part time. Part-time or pro- tem judges, magistrates, court commissioners, administrative law judges, and court clerks who are active members of the WSBA, are fully subject to the requirements of APR 11.

(c) Legislative and gubernatorial exemption.

(1) Active WSBA members otherwise subject to the continuing legal education requirements of APR 11, who are also members of the Washington State Congressional Delegation or members of the Washington State Legislature, or who are currently serving as the Governor of Washington State are exempted from the requirements of APR 11 for the reporting period(s) during which they are in office.

(2) This exemption does not apply to active lawyers who are:

(A) Serving in the legislature of any other state;

(B) Serving in the administrative branch of any state government; or

(C) Serving on the staff of any member of the Washington State Congressional Delegation or the Washington State Legislature, or the Washington State Governor.

(d) Active military duty. Active lawyers who are employed in the armed forces of the United States may be granted an exemption, waiver, or modification of the continuing legal education requirement established by APR 11, upon proof of undue hardship.

(e) No exemption for Active lawyers living outside the United States.

Active lawyers who live or are employed outside the United States are required to comply with the continuing legal education requirements of APR 11, unless they otherwise qualify under these regulations for an exemption for a different reason.

[Regulation 107 amended effective January 1, 2009]

Regulation 108. Reinstatement of Continuing Education Requirements.

(a) A lawyer who was not required to comply with the education or reporting requirements of APR 11 and these regulations for any reason, who returns to being subject to those requirements, retains the lawyer's original assigned reporting group (Group 1, 2, or 3), and is subject to the requirements immediately.

(b) Reinstatement is conditioned on compliance with the reinstatement requirements of the WSBA Bylaws.

Regulation 109. Reinstatement of Lawyers Suspended from Practice for Failure to Comply with APR 11

- (a) To be reinstated to active status with the WSBA after being suspended from practice for failure to comply with APR 11 and its regulations, a lawyer must:
 - (1) File a completed application to return to active status with the WSBA, together with any required application fee;
 - (2) Make up any deficiency and fully comply with the provisions APR 11 and these regulations;
 - (3) Pay all required fees, late fees, and/or penalties; and
 - (4) Fully comply with any additional requirements imposed by the Admission to Practice Rules or the WSBA Bylaws.

- (b) Once a suspended lawyer has complied with the provisions of Regulation 109(a), the MCLE Board shall recommend to the Supreme Court that the suspended lawyer be reinstated to active status, and refer the matter to the Supreme Court for entry of an appropriate order.

[Regulation 109 amended effective January 1, 2009.]

Regulation 110. Rulemaking Authority

- (a) The MCLE Board, subject to the approval of the Board of Governors and the Supreme Court, has continuing authority to make regulations consistent with APR 11 in furtherance of the development and regulation of continuing legal education for Washington lawyers.
- (b) The MCLE Board may adopt policies, consistent with these regulations, to provide guidance in the administration of these regulations and APR 11. The MCLE Board will notify the Board of Governors of any policies that it adopts. Unless the Board of Governors objects, such policies will become effective 60 days after promulgation by the MCLE Board (c) Subject to approval by the WSBA Board of Governors, the MCLE Board may adopt and assess any fees that may be required to timely and appropriately administer APR 11 and these regulations, as well as to offset the reasonably necessary costs of all functions under APR 11 and these regulations that are performed by the MCLE Board and its designees.

[Regulation 110 amended effective January 1, 2009.]

Regulation 111. Confidentiality

The files and records of the MCLE Board and/or the WSBA relating to or arising out of lawyer's failure to comply with the requirements of APR 11 and these regulations are confidential. Such records shall not be disclosed except in furtherance of the MCLE Board's or WSBA's duties, or upon the affected lawyer's request, the Supreme Court's direction, or pursuant to a proper subpoena duces tecum.

[Regulation 111 amended effective January 1, 2009.]

Regulation 112. Out-of-State Compliance

- (a) The MCLE Board has determined that the Mandatory Continuing Legal Education requirements in Oregon, Idaho, and Utah substantially meet Washington's continuing legal education requirements. These states are designated as comity states.
- (b) A lawyer whose principal place of business is not in Washington may comply with these rules and regulations by filing a certificate of compliance from a comity state MCLE office that certifies that the ~~member~~ lawyer is subject to the MCLE requirements of that other jurisdiction and that the member has complied with that other jurisdiction's MCLE requirements during the lawyer's reporting period.

[Regulation 112 amended effective January 1, 2009.]