

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered January 29, 2019.

(Deleted material is struck through, and new material is underscored.)

Effective March 1, 2019, Illinois Supreme Court Rules 791 and 796 are amended, as follows.
Effective July 1, 2019, Illinois Supreme Court Rule 795 is amended, as follows.

Amended Rule 791

Rule 791. Persons Subject to MCLE Requirements

(a) Scope and Exemptions

These Rules shall apply to every attorney admitted to practice law in the State of Illinois, except for the following persons, who shall be exempt from the Rules' requirements:

(1) All attorneys on inactive or retirement status pursuant to Supreme Court Rule 756(a)(5) or (a)(6), respectively, or on inactive status pursuant to the former Supreme Court Rule 770 or who have previously been placed on voluntarily removed status by the Attorney Registration and Disciplinary Commission ("ARDC");

(2) All attorneys on disability inactive status pursuant to Supreme Court Rules 757 or 758;

(3) All attorneys serving in the office of justice, judge, associate judge, or magistrate of any federal or state court;

(4) All attorneys serving in the office of judicial law clerk, administrative assistant, secretary, or assistant secretary to a justice, judge, associate judge or magistrate of any federal court or any court of the State of Illinois, or in any other office included within the Supreme Court budget that assists the Supreme Court in its adjudicative responsibilities, provided that the exemption applies only if the attorney is prohibited by the terms of his or her employment from actively engaging in the practice of law and is registered with the ARDC pursuant to Supreme Court Rule 756(a)(3)(B);

(5) All attorneys licensed to practice law in Illinois who are on active duty in the Armed Forces of the United States, until their release from active military service and their return to the active practice of law;

(6) An attorney otherwise subject to this rule is entitled to an exemption if the attorney meets all of these criteria:

(i) the attorney is a member of the bar of another state which has a comparable minimum continuing legal education requirement or is licensed to practice law under a limited license issued by another state which has a comparable minimum continuing legal

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education requirement;

(ii) the individual attorney's only or primary office is in that other state or, if the attorney has no office, the individual attorney's only or primary residence is in that state;

(iii) the attorney is required by that state to complete credits to be in compliance with the continuing legal education requirements established by court rule or legislation in that state; and

(iv) the attorney has appropriate proof that he or she is in full compliance with the continuing legal education requirements established by court rule or legislation in that state; and

(7) In rare cases, upon a clear showing of good cause, the Minimum Continuing Legal Education Board ("Board") may grant a temporary exemption to an attorney from the Minimum Continuing Legal Education ("MCLE") requirements, or an extension of time in which to satisfy them. Good cause for an exemption or extension may exist in the event of illness, financial hardship, or other extraordinary or extenuating circumstances beyond the control of the attorney. Attorneys denied a temporary exemption or extension may request reconsideration of the initial decision made by the Director of MCLE ("Director") by filing a request in a form approved by the Board (or a substantially similar form) no later than 30 days after the Director's initial decision. The Director shall decide the request for reconsideration within 30 days of its receipt, and promptly notify the attorney. If the Director denies the request, the attorney shall have 30 days from the date of that denial to submit an appeal to the full Board for consideration at its next scheduled Board meeting. Submission of a request for reconsideration or an appeal does not stay any MCLE compliance deadlines or MCLE fee payments.

(b) Full Exemptions

An attorney shall be exempt from these Rules for an entire reporting period applicable to that attorney, if:

(1) The attorney is exempt from these Rules pursuant to paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6), on the last day of that reporting period; or

(2) For the two-year periods ending June 30, 2019, and June 30, 2020, the attorney is exempt from these Rules pursuant to paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6), for at least 365 days of that reporting period. For all other reporting periods, the attorney is exempt from these Rules pursuant to paragraph (a)(6) for at least 365 days of that reporting period; or

(3) The attorney is exempt from these Rules pursuant to paragraphs (a)(3), (a)(4), or (a)(5) for at least one day of the reporting period.

(4) The attorney receives a temporary exemption from the Board pursuant to paragraph (a)(7), for that reporting period.

(c) Partial Exemptions

For the reporting periods ending June 30, 2019, and June 30, 2020, an attorney who is exempt from these Rules under paragraphs (a)(1), (a)(2), or (a)(6) for more than 60, but less than 365, days of a two-year reporting period, and who is not exempt for the entire reporting period pursuant to paragraph (b), shall be required to earn one-half of the CLE activity hours that would

otherwise be required pursuant to Rule 794(a) and (d). In all subsequent reporting periods, there are no partial exemptions from the MCLE requirements.

(d) Nonexemptions

Beginning with the reporting periods ending June 30, 2021, and June 30, 2022, an ~~Attorney~~ attorney who is exempt from these Rules for less than 61 days during a two-year reporting period, and who is not exempt for the entire reporting period pursuant to paragraph (b), shall be required to earn all of the CLE activity hours required pursuant to Rule 794(a) and (d).

(e) Resuming Active Status

(1) An attorney who was exempt from these Rules, pursuant to paragraphs (b)(1) or (b)(2), above, for the attorney's last completed reporting period because the attorney was on inactive, retirement, or disability inactive status pursuant to Supreme Court Rules 756(a)(5) or (a)(6), 757, or 758 or on inactive status pursuant to the former Supreme Court Rule 770 or who was previously placed on voluntarily removed status by the Attorney Registration and Disciplinary Commission ("ARDC"), shall, upon return to active status, be required to complete ~~have~~ 24 months to complete the deferred CLE requirements, not to exceed two times the requirement for the current two-year reporting period, in addition to the CLE credit required for the current two-year reporting period in which the attorney returns to active status unless the attorney is otherwise fully exempt from those requirements pursuant to paragraph (b).

(2) An attorney who is exempt pursuant to paragraph (b)(1) for two consecutive reporting periods due to inactive, retirement, or disability status but who also was on active status in both reporting periods must complete 60 total hours of credit, including at least 12 hours of professional responsibility if that attorney subsequently returns his or her license to active status in the third reporting period. Included in the 12 hours of professional credit must be at least 2 hours in the area of diversity and inclusion and at least 2 hours in the area of mental health and substance abuse. The credits must be completed within 365 days of the attorney returning to active status in the third reporting period, and they must be completed even if the attorney returns his or her license to inactive, retirement, or disability inactive status. These 60 total hours of credit are in addition to any credits that may need to be completed for that third reporting period.

If the attorney does not earn the required credits and report their compliance no later than 365 days after returning to active status in the third reporting period, the attorney shall pay a late fee, in an amount as set by the Board in the Court-approved fee schedule, and the attorney shall be referred to the ARDC pursuant to Rule 796(e).

(f) Attorneys on Discipline Status

Paragraphs (f)(1) and (2) shall apply to attorneys on discipline status for reporting periods ending June 30, 2012, and thereafter.

(1) Discipline Imposed Pursuant to Rule 770(a), (b), (c) and (e)

(i) An attorney whose discipline is imposed pursuant to Rule 770(a), (b), (c) and (e) is not required to comply with the MCLE requirements for any reporting period in which the discipline is in effect.

(ii) If the attorney is reinstated to the master roll by order of the Supreme Court ("Court"), the attorney must thereafter earn no less than 30 hours of MCLE credit and no

more than 90 hours of MCLE credit which will be set by the MCLE Board based on the length of the attorney's discipline and whether credits need to be earned for the current reporting period. Those MCLE credits shall be earned and reported to the MCLE Board no later than 365 days after entry of the order reinstating the attorney to the master roll. The attorney shall contact the MCLE Board promptly after entry of the order reinstating the attorney to the master roll to establish the number of credits that need to be earned by the attorney. The attorney may apply any MCLE credits earned while the discipline imposed pursuant to Rule 770(a), (b), (c) or (e) was in effect. If the attorney does not earn the needed credits and report no later than 365 days after entry of the order reinstating the attorney to the master roll, the attorney shall pay a late fee, in an amount as set by the Board in the Court-approved fee schedule, and the attorney shall be referred to the ARDC pursuant to Rule 796(e). A reinstated attorney then needs to comply with the MCLE requirements for the two-year reporting period that begins after the attorney's reinstatement and all reporting periods thereafter.

(2) Discipline Pursuant to Rule 770(d), (f), (g) and (h)

An attorney whose discipline is imposed pursuant to Rule 770(d), (f), (g) and (h) is required to comply with the MCLE requirements for all reporting periods in which the discipline is in effect.

(g) Foreign Legal Consultants

Beginning with the reporting period ending June 30, 2012 and thereafter, the MCLE Rules do not apply to foreign legal consultants licensed under Rule 712.

Adopted September 29, 2005, effective immediately; amended December 6, 2005, effective immediately; amended February 10, 2006, effective immediately; amended September 27, 2011, effective immediately; amended December 7, 2011, effective immediately; amended June 5, 2012, eff. immediately; amended Jan. 29, 2019, eff. Mar. 1, 2019.

Amended Rule 795

Rule 795. Accreditation Standards and Hours

(a) Standards

Eligible CLE courses and activities shall satisfy the following standards:

(1) The course or activity must have significant intellectual, educational or practical content, and its primary objective must be to increase each participant's professional competence as an attorney.

(2) The course or activity must deal primarily with matters related to the practice of law.

(3) The course or activity must be offered by a provider having substantial, recent experience in offering CLE or demonstrated ability to organize and effectively present CLE. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.

(4) The course or activity itself must be conducted by an individual or group qualified by

practical or academic experience. The course or activity, including the named advertised participants, must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Thorough, high quality, readable and carefully prepared written materials should be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Board.

(6) Traditional CLE courses or activities shall be conducted in a physical setting conducive to learning and free of interruptions from telephone calls, electronic communications, and other office or personal matters. The activity must be open to observation, without charge, by members of the Board, its staff, or their designees.

(7) The course or activity may be presented using one or more of these delivery methods as approved by the Board: in person or by live or recorded technology methods. Each delivery method must have interactivity as a key component, including the opportunity for participants to ask questions and have them answered by the course faculty or other qualified commentator.

(8) The course or activity must consist of not less than one-half hour of actual instruction, unless the Board determines that a specific program of less than one-half hour warrants accreditation.

(9) For each course or activity, the provider shall submit to the MCLE Board the name, ARDC registration number, and actual CLE hours, including professional responsibility hours, earned by each Illinois-licensed attorney in the manner and at the time specified by the Board. A list of the names of all participants for each course or activity shall be maintained by the provider for a period of at least three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the actual number of CLE hours, including professional responsibility hours, professionalism, including professionalism, diversity and inclusion, mental health and substance abuse, civility, or legal ethics CLE hours, earned by each attorney at that course or activity.

(b) Accredited CLE Provider

The Board may extend presumptive approval to a provider for all of the CLE courses or activities presented by that provider each year that conform to paragraph (a)'s Standards (1) through ~~(9)~~(8), upon written application to be an "Accredited Continuing Legal Education Provider ("Accredited CLE Provider")."² Such accreditation shall constitute prior approval of all CLE courses offered by such providers. However, the Board may withhold accreditation or limit hours for any course found not to meet the standards, and the Board may revoke accreditation for any organization which is found not to comply with standards. The Board shall assess an annual fee, over and above the fees assessed to the provider for each course, for the privilege of being an "Accredited CLE Continuing Legal Education Provider." An Accredited CLE Provider shall submit an annual report to the Board in the manner and at the time specified by the Board.

(c) Accreditation of Individual Courses or Activities

(1) Any provider not included in paragraph (b) desiring advance accreditation of an individual course or other activity shall apply to the Board by submitting a required application form, the course advance accreditation fee set by the Board, and supporting

documentation no less than 45 days prior to the date for which the course or activity is scheduled. Documentation shall include a statement of the provider's intention to comply with the accreditation standards of this Rule, the written materials distributed or to be distributed to participants at the course or activity, if available, or a detailed outline of the proposed course or activity and list of instructors, and such further information as the Board shall request. The Board staff will advise the applicant in writing within 30 days of the receipt of the completed application of its approval or disapproval.

(2) Providers denied approval of a course or activity shall promptly provide written notice of the Board's denial to all attorneys who requested Illinois MCLE credit for the course. Providers denied approval of a course or activity or individual attorneys who have attended such course or activity may request reconsideration of the Board's initial decision by filing a form approved by the Board no later than 30 days after the Board's initial decision. The Director shall consider the request within 30 days of its receipt, and promptly notify the provider and/or the individual attorney. If the Director denies the request, the provider shall have 30 days from the date of that denial to submit an appeal to the Board for consideration at the next scheduled Board meeting. Submission of a request for reconsideration or an appeal does not stay any MCLE submission deadlines or fee payments.

(3) Providers who do not seek prior approval of their course or activity may apply for approval for the course or activity after its presentation by submitting an application provided by MCLE staff, the supporting documentation described above, and the accreditation fee set by the Board.

(4) For each course or activity, the provider shall submit to the MCLE Board the name, ARDC registration number, and actual CLE hours, including professional responsibility hours, earned by each Illinois-licensed attorney in the manner and at the time specified by the Board. A list of the names of participants shall be maintained by the provider for a period of three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the actual number of CLE hours, including professional responsibility hours, professionalism, diversity and inclusion, mental health and substance abuse, civility, or legal ethics CLE hours, earned by each attorney at that course or activity.

(5) An attorney may apply to the Illinois MCLE Board for accreditation of an individual out-of-state CLE course if the following provisions are satisfied: (i) the attorney participated in the course either in person or via live audio or video conference; (ii) (a) for a course held in person in a state with a comparable MCLE requirement, the course must be approved for MCLE credit by that state; or (b) for a course held in person in a state or the District of Columbia without a comparable MCLE requirement, the course must be approved for MCLE credit by at least one other state with a comparable MCLE requirement; or (c) for a course attended by live audio or video conference, the course must be approved for MCLE credit by at least one other state with a comparable MCLE requirement; and (iii) the course provider has chosen not to seek accreditation of the course for Illinois MCLE credit.

(d) Nontraditional Courses or Activities

In addition to traditional CLE courses, the following courses or activities will receive CLE credit:

(1) “In-House” Programs. Attendance at “in-house” seminars, courses, lectures or other CLE activity presented by law firms, corporate legal departments, governmental agencies or similar entities, either individually or in cooperation with other such entities, subject to the following conditions:

(i) The CLE course or activity must meet the rules and regulations for any other CLE course or activity, as applicable, including submitting applications, attendance, and fees due under the fee schedule.

(ii) No credit will be afforded for discussions relating to the handling of specific cases, or issues relating to the management of a specific law firm, corporate law department, governmental agency or similar entity.

(2) Law School Courses. Attendance at J.D. or graduate level law courses offered by American Bar Association (“ABA”) accredited law schools, subject to the following conditions:

(i) Credit ordinarily is given only for courses taken after admission to practice in Illinois, but the Board may approve giving credit for courses taken prior to admission to practice in Illinois if giving credit will advance CLE objectives.

(ii) Credit towards MCLE requirements shall be for the actual number of class hours attended, but the maximum number of credits that may be earned during any two-year reporting period by attending courses offered by ABA accredited law schools shall be the minimum number of CLE hours required by Rule s 794(a) and (d).

(iii) The attorney must comply with registration procedures of the law school, including the payment of tuition.

(iv) The course need not be taken for law school credit towards a degree; auditing a course is permitted. However, the attorney must comply with all law school rules for attendance, participation and examination, if any, to receive CLE credit.

(v) The law school shall give each attorney a written certification evincing that the attorney has complied with requirements for the course and attended sufficient classes to justify the awarding of course credit if the attorney were taking the course for credit.

(3) Bar Association Meetings. Attendance at bar association or professional association meetings at which substantive law, matters of practice, professionalism, diversity and inclusion, mental health and substance abuse, civility, or legal ethics are discussed, in a setting conducive to learning and free of interruptions and subject to the requirements for CLE credit defined in paragraphs (a)(1) through (a)(2) above. Meetings may be any length, but an attorney may earn no more than one hour of MCLE credit from a live CLE-eligible presentation at any such meeting. To report attendance, the bar or professional association shall submit to the MCLE Board the meeting information, as well as the attorney names, ARDC registration numbers, and actual CLE hours, including professional responsibility hours, earned by each Illinois-licensed attorney, in the manner and at the time specified by the Board. The bar or professional association shall maintain a list of the names of all attendees at each meeting for a period of three years and shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the actual number of CLE hours, including professional responsibility hours, professionalism, diversity and inclusion, mental health and substance abuse, civility, or legal

~~ethics CLE hours, earned by each attorney~~ at that meeting.

(4) Cross-Disciplinary Programs. Attendance at courses or activities that cross academic lines, such as accounting-tax seminars or medical-legal seminars, may be considered by the Board for full or partial credit. Purely nonlegal subjects, such as personal financial planning, shall not be counted towards CLE credit. Any mixed-audience courses or activities may receive credit only for sessions deemed appropriate for CLE purposes.

(5) Teaching Continuing Legal Education Courses. Teaching at CLE courses or activities during the two-year reporting term, subject to the following:

(i) Credit may be earned for teaching in an approved CLE course or activity. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(ii) Time spent in preparation for a presentation at an approved CLE activity shall be counted at six times the actual presentation time.

(iii) Authorship or coauthorship of written materials for approved CLE activities shall qualify for CLE credit on the basis of actual preparation time, but subject to receiving no more than 10 hours of credit in any two-year reporting period.

(6) Part-Time Teaching of Law Courses. Teaching at an ABA-accredited law school, or teaching a law course at a university, college, or community college, subject to the following:

(i) Teaching credit may be earned for teaching law courses offered for credit toward a degree at a law school accredited by the ABA, but only by lawyers who are not employed full-time by a law school. Full-time law teachers who choose to maintain their licenses to practice law are fully subject to the MCLE requirements established herein, and may not earn any credits by their ordinary teaching assignments. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material. Teaching credit may be earned by appearing as a guest instructor, moderator, or participant in a law school class for a presentation which meets the overall guidelines for CLE courses or activities, as well as for serving as a judge at a law school training simulation, including but not limited to moot court arguments, mock trials, mock transactional exercises, and mock arbitrations/mediations. Time spent in preparation for an eligible law school activity shall be counted at three times the actual presentation time. Appearing as a guest speaker before a law school assembly or group shall not count toward CLE credit.

(ii) Teaching credit may be earned for teaching law courses at a university, college, or community college by lawyers who are not full-time teachers if the teaching involves significant intellectual, educational or practical content, such as a civil procedure course taught to paralegal students or a commercial law course taught to business students. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(7) Legal Scholarship. Writing law books and law review articles, subject to the following:

(i) An attorney may earn credit for legal textbooks, casebooks, treatises and other scholarly legal books written by the attorney that are published during the two-year reporting period.

(ii) An attorney may earn credit for writing law-related articles in responsible legal journals or other legal sources, published during the two-year reporting period, that deal primarily with matters related to the practice of law, professionalism, diversity and inclusion, mental illness and addiction issues, civility, or ethical obligations of attorneys. Republication of any article shall receive no additional CLE credits unless the author made substantial revisions or additions.

(iii) An attorney may earn credit towards MCLE requirements for the actual number of hours spent researching and writing, but the maximum number of credits that may be earned during any two-year reporting period on a single publication shall be one-half the minimum number of CLE hours required by Rule-s 794(a) and (d). Credit is accrued when the eligible book or article is published, regardless whether the work in question was performed in the then-current two-year reporting period. To receive CLE credit, the attorney shall maintain contemporaneous records evincing the number of hours spent on a publication.

(8) Pro Bono Training. Attendance at courses or activities designed to train lawyers who have agreed to provide pro bono services shall earn CLE credit to the same extent as other courses and seminars.

(9) Bar Review Courses. Attendance at bar review courses before admission to the Illinois Bar shall not be used for CLE credit.

(10) Reading Legal Materials. No credit shall be earned by reading advance sheets, newspapers, law reviews, books, cases, statutes, newsletters or other such sources.

(11) Activity of Lawyer-to-Lawyer Mentoring. Lawyers completing a comprehensive year-long structured mentoring program, as either a mentor or mentee, may earn credit equal to the minimum professional responsibility credit (six hours) during the two-year reporting period of completion, provided that the mentoring plan is preapproved by the Commission on Professionalism, the completion is attested to by both mentor and mentee, and both the mentor and mentee meet the eligibility requirements herein.

(i) Eligibility Requirements:

(A) The mentor has been in practice for a minimum of five years, and the mentee completes the program within the first five years of his or her practice; or

(B) The mentor and mentee are approved to participate in the ARDC Mentoring Program imposed as a condition of disciplinary sanction or as a condition of a deferral program.

(e) Credit Hour Guidelines

Hours of CLE credit will be determined under the following guidelines:

(1) Sixty minutes shall equal one hour of credit. Partial credit shall be earned for qualified activities of less than 60 minutes duration.

(2) The following are not counted for credit: (i) coffee breaks; (ii) introductory and closing remarks; (iii) keynote speeches; (iv) lunches and dinners; (v) other breaks; and (vi)

business meetings.

(3) Question and answer periods are counted toward credit.

(4) Lectures or panel discussions occurring during breakfast, luncheon, or dinner sessions of bar association committees may be awarded credit.

(5) Credits are determined by the following formula: Total minutes of approved activity *minus* minutes for breaks (as described in paragraph (e)(2)) *divided by 60 equals* maximum CLE credit allowed.

(6) Credits merely reflect the maximum that may be earned. Only actual attendance or participation earns credit.

(f) Financial Hardship Policy

The provider shall have available a financial hardship policy for attorneys who wish to attend its courses, but for whom the cost of such courses would be a financial hardship. Such policy may be in the form of scholarships, waivers of course fees, reduced course fees, or discounts. Upon request by the Board, the provider must produce the detailed financial hardship policy. The Board may require, on good cause shown, a provider to set aside without cost, or at reduced cost, a reasonable number of places in the course for those attorneys determined by the Board to have good cause to attend the course for reduced or no cost.

Adopted September 29, 2005, effective immediately; amended October 4, 2007, effective immediately; amended October 12, 2010, effective immediately; amended September 27, 2011; effective immediately; amended Feb. 6, 2013, eff. immediately; amended Nov. 18, 2016, eff. immediately; amended May 23, 2017, eff. July 1, 2017; amended Jan. 29, 2019, eff. July 1, 2019.

Amended Rule 796

Rule 796. Enforcement of MCLE Requirements

(a) Reporting Compliance

(1) Notice of Requirement to Submit MCLE Certification

The MCLE Board shall send to attorneys as set forth in (i), (ii) and (iii) below a notice of requirement to submit an MCLE certification (“Initial MCLE Notice”). The attorney’s certification shall state whether the attorney complied with these Rules, has not complied with these Rules or is exempt.

(i) Newly-admitted attorney requirement

On or before the first day of the month preceding the end of an attorney’s newly-admitted attorney requirement reporting period, the Director shall mail or email to the attorney, at a mailing or email address maintained by the ARDC, an Initial MCLE Notice.

(ii) Two-year reporting period ~~and deferred credits requirements~~

On or before May 1 of each two-year reporting period, the Director shall mail or email to the attorney, at a mailing or email address maintained by the ARDC, an Initial MCLE notice.

(iii) ~~Attorneys Known to be Exempt or Removed for MCLE Noncompliance~~ An

Initial MCLE Notice need not be sent to the following: an attorney

(A) Attorneys on inactive or retirement status pursuant to Supreme Court Rule 756(a)(5) or (a)(6), respectively, or on inactive status pursuant to the former Supreme Court Rule 770 or who have previously been placed on voluntarily removed status by the ARDC;

(B) Attorneys on disability inactive status pursuant to Supreme Court Rules 757 or 758;

(C) Attorneys known by the Director to be fully exempt from these Rules pursuant to Rule 791(b); or

(D) Attorneys who have ~~to an attorney who has~~ already been removed from the master roll of attorneys due to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more.

(2) Every Illinois attorney who is either subject to these Rules or who is sent an MCLE Initial Notice shall submit a certification to the Board, by means of the Board's online reporting system or other means specified by the Director, within 31 days after the end of the attorney's reporting period. It is the responsibility of each attorney on the master roll to notify the ARDC of any change of address or email address. Failure to receive an Initial MCLE Notice shall not constitute an excuse for failure to file the certification.

(b) Failure to Report Compliance

Attorneys who fail to submit an MCLE certification within 31 days after the end of their reporting period, or who file a certification within 31 days after the end of their reporting stating that they have not complied with these Rules during the reporting period, shall be mailed or emailed a notice by the Director to inform them of their noncompliance. Attorneys shall be given 61 additional days from the original certification due date provided in Rule 796(a)(2) to achieve compliance and submit a certification, by means of the Board's online reporting system or other means specified by the Director, stating that they have complied with these Rules or are exempt. The Director shall not send a notice of noncompliance to attorneys (1) whom the Director knows, based on the status of the attorneys' licenses with the ARDC as inactive, retirement, disability inactive, judicial, judicial staff, or military with the ARDC, are fully exempt from these Rules; or (ii) who have already been removed from the master roll of attorneys due to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more.

(c) Grace Period

Attorneys given additional time pursuant to paragraph (b) to comply with the requirements of these Rules may use that "grace period" to attain the adequate number of hours for compliance. Credit hours earned during a grace period may be counted toward compliance with the previous reporting period requirement, and hours in excess of the requirement may be used to meet the current reporting period's requirement. No attorney may receive more than one grace period with respect to the same reporting period, and the grace period shall not be extended if the Director fails to send, or the attorney fails to receive, a notice pursuant to paragraph (b).

(d) Late Fees

(1) Attorneys who are not fully exempt under Rule 791(a)(1), (2), (3), (4), or (5) and who, for whatever reason, fail to submit an MCLE certification pursuant to Rule 796(a)(2)

within 31 days after the end of their reporting period, ~~and who are sent a notice of noncompliance from the Director pursuant to paragraph (b)~~, shall pay a late fee, in an amount to be set by the Board. The Director shall not assess a late fee to an attorney whom the Director knows, based on the status of the attorney's license with the ARDC as inactive, retirement, disability inactive, judicial, judicial staff, or military ~~with the ARDC~~, are fully exempt from these Rules.

(2) Attorneys who submit an MCLE certification to the Board within 31 days after their reporting period ends and who certify that they failed to comply with these Rules during the applicable reporting period, shall pay a late fee, in an amount to be set by the Board that is less than the late fee imposed pursuant to paragraph (d)(1).

(e) Failure to Comply or Failure to Report

The Director shall refer to the ARDC the names of attorneys who were mailed or emailed a notice of noncompliance and who, by the end of their grace periods, failed either: (1) to comply or to report compliance with the requirements of these Rules to the MCLE Board; or (2) to report an exemption from the requirements of these Rules to the MCLE Board. The Director shall also refer to the ARDC the names of attorneys who, by the end of their grace period, failed to pay any outstanding MCLE fee. The ARDC shall then send notice, by mail or email, to any such attorneys that they will be removed from the master roll on the date specified in the notice, which shall be no sooner than 21 days from the date of the notice, because of their failure to comply or report compliance, failure to report an exemption, or failure to pay an outstanding MCLE fee. The ARDC need not send a notice to attorneys who have already been removed from the master roll of attorneys due to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more. The ARDC shall remove such attorneys from the master roll of attorneys on the date specified in the notice unless the Director certifies before that date that an attorney has complied. Such removal is not a disciplinary sanction.

(f) Recordkeeping and Audits

(1) Each attorney subject to these Rules shall maintain, for three years after the end of the relevant reporting period, certificates of attendance received pursuant to Rules 795(a)(8), (c)(4), (d)(1)(ix), (d)(2)(v), (d)(3), as well as sufficient documentation necessary to corroborate CLE activity hours earned pursuant to Rules 795(d)(4) through (d)(9).

(2) The Board may conduct a reasonable number of audits, under a plan approved by the Court. At least some of these audits shall be randomly selected, to determine the accuracy of attorneys' certifications of compliance or exemption. With respect to audits that are not randomly selected, in choosing subjects for those audits the Board shall give increased consideration to attorneys who assumed inactive or retirement status under Supreme Court Rule 756(a)(5) or (a)(6), and were thereby fully or partially exempt from these Rules pursuant to Rule 791(b) or (c), and who subsequently resumed active status.

(3) The ARDC may investigate an attorney's compliance with these Rules only upon referral from the Director; the ARDC will not investigate an attorney's compliance with these Rules as part of its other investigations. When the Director refers a matter to the ARDC, the investigation, and any resulting prosecution, shall be conducted in accordance with the rules pertaining to ARDC proceedings.

(g) Audits That Reveal an Inaccurate Certification

(1) If an audit conducted pursuant to paragraph (f)(2) reveals that the attorney was not in compliance with or exempt from these Rules for any reporting period for which the attorney had filed a certification of compliance or exemption, the Director shall provide the attorney with written notice containing: (i) the results of the audit, specifying each aspect of the Rules with which the attorney did not comply or the reason why the attorney is not exempt; (ii) a summary of the basis of that determination; and (iii) a deadline, which shall be at least 30 days from the date of the notice, for the attorney to file a written response if the attorney objects to any of the contents of the notice.

(2) After considering any response from the attorney, if the Board determines that the attorney filed an inaccurate certification, the attorney shall be given 60 days in which to file an amended certification, together with all documentation specified in paragraph (f)(1), demonstrating full compliance with the applicable MCLE requirements. The attorney also shall pay a late fee in an amount to be set by the Board. The assessment of a late fee is not a disciplinary sanction.

(3) If the results of the audit suggest that the attorney willfully filed a false certification, the Board through its Director shall provide that information to the ARDC.

(h) Reinstatement

An attorney who has been removed from the master roll due to noncompliance with these Rules may be reinstated by the ARDC, upon recommendation of the Board. Such recommendation may be made only after the removed attorney files a certification which the Board determines shows full compliance with the applicable MCLE requirements for each reporting period for which the attorney was removed from the master roll due to MCLE noncompliance. To be reinstated, the attorney shall pay a reinstatement fee for each reporting period for which the attorney was removed from the master roll due to MCLE noncompliance with the request, in an amount to be set by the Board. The Board may elect to cap the total amount of the reinstatement fee when an attorney has been removed from the master roll due to MCLE noncompliance in more than six consecutive reporting periods. The attorney must also meet any further conditions and pay any additional fees as may be required by Rule 756. The removed attorney may attain the necessary credit hours during the period of removal to meet the requirements for the years of noncompliance. Excess hours earned during the period of removal, however, may not be counted towards meeting the current or future reporting periods' requirements.

Adopted September 29, 2005, effective immediately; amended October 5, 2006, effective immediately; amended September 27, 2011; effective immediately; amended Nov. 19, 2015, eff. Feb. 1, 2016; amended Jan. 29, 2019, eff. Mar. 1, 2019.