

**PROPOSED REVISIONS TO THE RULES FOR MINIMUM  
CONTINUING EDUCATION  
PROPOSAL 2020-008**

**March 3, 2020**

The Board of Bar Commissioners, in its role as the MCLE Board, has recommended amendments to Rules 18-201 and 18-204 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Joey D. Moya, Clerk  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848  
[nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov)  
505-827-4837 (fax)

**Your comments must be received by the Clerk on or before April 2, 2020**, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's web site for public viewing.

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**18-201. Minimum educational requirements.**

A. **Hours required.** Every active licensed member of the state bar shall complete twelve (12) hours of continuing legal education during each year as provided by these rules. One hour of continuing legal education is equivalent to sixty (60) minutes of instruction. This rule sets forth the requisite hours and categories of continuing legal education. Rule 18-204 NMRA sets forth the means by which the hours may be acquired.

B. **Legal substantive credits.** Ten (10) of the required twelve (12) hours may include legal subjects or subjects which relate to the individual attorney's practice of law. The hours shall be defined as general credits.

C. **Legal ethics and professionalism credits.** At least two (2) hours of the twelve (12) hours shall be devoted to board approved subjects dealing with legal ethics or professionalism. Excess ethics and professionalism credits shall be applied as follows:

first, to any deficit in general credits in the current compliance year;  
second, to the next compliance year as carry-over ethics and professionalism credits; and  
third, to the next compliance year as carry-over general credits, subject to the limitations set forth in Paragraph D of this rule.

D. **Carry-over.** Any member may carry up to twelve (12) hours of excess credits earned in one (1) compliance year over to the next compliance year only. Only two (2) hours of ethics and professionalism credit may be carried over as part of the twelve (12) hours of credits. Excess ethics and professionalism credits can be converted to be used toward the substantive

(general) requirement. ~~[Self-study credit hours cannot be carried over.]~~ No credit may be carried over for more than one (1) compliance year.

E. **Judges.** Judges, retired judges who are active licensed members of the state bar, domestic violence special commissioners and domestic relations hearing officers shall be required to complete the same number of hours of continuing legal education as other active licensed bar members. The means by which these individuals may satisfy their continuing legal education requirements are set forth in Rule 18-204 NMRA.

[As amended, effective January 1, 1990; November 1, 1991; February 1, 1992; March 23, 1998; January 1, 2001; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007; by Supreme Court Order No. 11-8300-020, effective May 1, 2011 for compliance year ending December 31, 2011, and subsequent compliance years.]

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#### **18-204. Earning credits; credit types.**

A. **Scope.** This rule sets forth the means by which a member may acquire the credits required by Rule 18-201 NMRA.

B. **Live program credit.**

(1) Credit for attending approved live programs shall be based on one (1) hour of credit for each sixty (60) minutes of actual instruction time, which may include the following:

- (a) lecture;
- (b) panel discussion;
- (c) question-and-answer periods;
- (d) film presentation; or
- (e) time spent viewing videotapes or listening to audiotapes at an

organized open enrollment program at which there is a moderator assigned to supervise the program and to foster discussion among participants, and provided that this program is approved as provided for in these rules.

(2) The individual seeking live program credit must not have previously received credit for the same program.

C. **Self-study credit.**

~~[(1) Self-study general or ethics and professionalism credits may be given for viewing videotapes or listening to audiotapes or participating in educational programs involving the use of computer-based resources, provided the following conditions are met:~~

~~(a) board approval is received prior to viewing, listening or participating;~~

~~(b) the self-study course is from an accredited provider pursuant to Rule 18-203 NMRA and was produced within five (5) years from the date of viewing, listening or participating; or~~

~~(c) the self-study course is from an approved program pursuant to Rule 18-203 NMRA and was produced within five (5) years from the date of viewing, listening or participating.~~

~~(2) Absent prior board approval in exceptional circumstances, no more than four (4) hours of credit may be given during one (1) compliance year for self-study activities.~~

~~\_\_\_\_\_ (3) The individual seeking self-study credit must not previously have received self-study or live-program credit for the same program.~~

~~\_\_\_\_\_ (4) Self-study credits may be applied only to the continuing legal education requirements for the year in which they are earned, and may not be carried over to subsequent year requirements or applied backward to prior year requirements.]~~

(1) Attorneys may obtain up to four (4) self-study credits per compliance period for participating in various legal activities that have been approved by the board. The board shall establish the number of credits available for a given activity (maximum of four (4)), the evaluation criteria, and the reporting methods for each approved activity.

(2) Attorneys may obtain up to four (4) self-study credits per compliance period for viewing or listening to previously recorded courses. To be eligible for credit, the course must comply with the standards defined in Rule 18-203 NMRA and the attorney seeking credit must provide a certificate of completion. The attorney seeking self-study credit must not previously have received self-study or live-program credit for the same program.

D. **Speakers.** Speakers who participate in an accredited provider's program or an approved program may receive credit for preparation time and presentation time, including credit for repeated presentations, within the following parameters:

(1) Speakers may receive credit for the actual presentation time.

(2) Speakers may receive up to three (3) hours of credit for preparation time for each presentation hour.

(3) For repeat presentations, the speaker may only receive credit for presentation time.

E. **Publications.**

(1) Credit for one (1) hour may be earned for each sixty (60) minutes spent authoring or co-authoring written material that is actually published in a legal periodical, journal, book or treatise approved by the board, provided that the following conditions are met:

(a) the material substantially contributes to the legal education or competency of the attorney and other attorneys; and

(b) the work is not done in the ordinary course of the attorney's practice of law or the performance of regular employment.

(2) Credit is given in the year the work is accepted for publication, or in which publication actually occurs.

(3) The maximum number of credits an attorney can earn for a publication is ten (10) general credits.

F. **Other attorney reporting procedures.** An attorney wishing to obtain approval for a program, for which the provider has not sought accreditation or has not properly reported attendees, shall comply with the practices and procedures established by the board.

G. **Judges.**

(1) In addition to other means set forth in this rule, judges, retired judges who are active licensed members of the state bar, domestic violence special commissioners and domestic relations hearing officers may satisfy the continuing legal education requirements of Paragraph F of Rule 18-201 NMRA by attending judicial education programs

(a) provided by the Judicial Continuing Education Committee;

(b) approved by the Minimum Continuing Legal Education Board;

(c) provided by the Judicial Education Center; or

(d) approved by the Administrative Office of the Courts pursuant to the Rules Governing Judicial Education.

(2) Annual training for metropolitan, district and appellate court judges, domestic violence special commissioners and domestic relations hearing officers shall include appropriate training in understanding domestic violence, as determined by the Judicial Continuing Education Committee.

[Approved by Supreme Court Order No. 06-8300-033, effective January 1, 2007; as amended by Supreme Court Order No. 11-8300-020, effective May 1, 2011, for compliance year ending December 31, 2011, and subsequent compliance years; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]



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## Rule Proposal Comment Form

1 message

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mailservices@sks.com <mailservices@sks.com>

Sun, Mar 22, 2020 at 2:03 PM

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov

Your Name  
Judith Durzo

Phone Number  
5057978540

Email  
jdurzo@mac.com

Proposal Number  
Proposal 2020-008

Comment  
Proposal 2020-008  
Amendments to Rules 18-201 and 18-204 NMRA

I strongly support this change! Attorneys who do hands on work on Bar Committees, like the Medical Legal Committee and the Rules Committee deserve credit for their hard work...much more valuable educational experience than viewing a video. And, you know the attorney actually did the work...unlike the folks who attend a CLE and do office work, etc. instead of listen to the speakers.

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SUPREME COURT OF NEW MEXICO  
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MAR 23 2020

## Proposal 2020-008

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Susan Page <susanpageabq@gmail.com>

Mar 30, 2020 7:05 AM

Posted in group: **nmsupremecourtclerk**

I am writing in support of this proposal, and with a request that it be made more specific. I was on the Continuing Legal Education Board in the past, and was the training director for the Second Judicial District Attorney's Office for ten years. I also received the Pro Bono Award from the State Bar last year.

I was approached about this rule change by Judy Durzo in regards to the Medical Legal Panel. I am glad to see that she has been successful in making this change. The concern I have about the amendment as proposed is that it is unclear to anyone reading it what kind of legal activities might be approved by the Board of Bar Commissioners, sitting as the MCLE Board. I have been involved in many Bar activities, and I estimate that I do close to 200 hours of pro bono work per year. I would like to see the Rule state what kind of "legal activities" might qualify for this credit, and perhaps even sketch out some form of process for asking for a legal activity to be approved by the BBC, either before or after it is done (there is a process to do this for courses not submitted by the provider for CLE approval). I would be happy to help in designing forms, and helping rewrite the amendment. Thank you.

SUPREME COURT OF NEW MEXICO  
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MAR 30 2020

A handwritten signature in black ink, appearing to be "CPA" followed by a horizontal line.

## Fwd: Comments for Proposal 2020-008: Self-Study Credit for Participating in Approved Legal Activities

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Aja Brooks <albdanb@nmcourts.gov>

Apr 3, 2020 10:26 AM

Posted in group: **nmsupremecourtclerk**

Dear Mr. Moya,

Please see my comments below for Proposal 2020-008 - Self-study credit for participating in approved legal activities:

I would like to write in support of Proposal 2020-008. As the former Pro Bono Coordinator for New Mexico Legal Aid's Volunteer Attorney Program, I know that many people in the Access to Justice community have been trying to get this rule or something like it passed for years. I am hoping that pro bono work will be considered a "legal activity" that would be deserving of CLE credit under this rule.

In 2018, the members of the State Bar of New Mexico participated in a nation-wide report on pro bono conducted by the ABA's Standing Committee on Pro Bono and Public Service entitled "Supporting Justice: A Report on the Work of America's Lawyers."

[https://www.americanbar.org/content/dam/aba/administrative/probono\\_public\\_service/lb\\_pb\\_supporting\\_justice\\_iv\\_final.pdf](https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/lb_pb_supporting_justice_iv_final.pdf). The results found that when asked about factors that would motivate an attorney to engage in pro bono work, attorneys indicated that being given CLE credit was the third most motivating factor. In New Mexico, CLE credit has not been offered to folks doing pro bono work yet, however the work has been done nonetheless. Obtaining CLE credit would be an additional perk to those who already do pro bono, but could also entice those who have not done this essential work to participate.

Most attorneys who do pro bono work do not do it for praise or acknowledgment. They do it because they genuinely want to help people, which is the reason most of us entered this profession in the first place. Doing pro bono work is extremely rewarding; it is so important that in our "Lawyer's Preamble" each lawyer "commits to a contribution of voluntary and uncompensated time for those persons who cannot afford adequate legal assistance." A recognition that pro bono work is deserving of CLE credit would be a recognition of the importance of this work and those that do it.

I believe that with the correct reporting process, this could increase the amount of pro bono done around the state. If a form is created and made available to legal service providers like the Volunteer Attorney Program, those providers can then submit pro bono activities to the board for approval as qualifying "legal activities." That way, the board doesn't have to worry about being overloaded with requests from individual attorneys to have their activity qualify.

I am so happy that our Bar is taking the steps to encourage these legal activities. I have seen the difference that pro bono makes in the lives of our citizenry, and I am proud that we are considering this important amendment.

Sincerely,  
Aja Brooks



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## Rule Proposal Comment Form

1 message

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**mailservices@sks.com** <mailservices@sks.com>

Thu, Apr 16, 2020 at 10:09 AM

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov

Your Name

Benjamin Cross

Phone Number

5757427539

Email

[clodbsc@nmcourts.gov](mailto:clodbsc@nmcourts.gov)

Proposal Number

2020-008

Comment

I submit this comment in support of Proposal 2020-008. I wish to echo the comments made by Aja Brooks in her April 3, 2020 correspondence. I believe that allowing CLE credit for those participating in pro bono activities will have a beneficial impact in our communities. Each year, in the 9th Judicial District, we host an Ask-A-Lawyer event where attorneys volunteer their time to assist members of our community. It would be great to reward the attorneys' efforts with CLE credit. And I believe more attorneys will volunteer if able to receive credit.

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## Comment on Proposal 2020-008

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**Melanie Fritzsche** <MelanieF@nmlegalaid.org>

Apr 17, 2020 2:31 PM

Posted in group: **nmsupremecourtclerk**

Dear Mr. Moya:

This correspondence is submitted in support of Proposal 2020-008 on behalf of the Volunteer Attorney Program (VAP), a Program of New Mexico Legal Aid.

The VAP requests additional clarification to ensure that pro bono work, such as providing legal advice at legal fairs and clinics, be considered a “legal activity” under the rule.

VAP Pro Bono Coordinator, Ms. C. Tattiana Kinahan, is confident that the amount of pro bono work done by attorneys will increase significantly if CLE credit is available. Many attorneys who volunteer their time find that it is the most rewarding part of their careers, however, the reality is that the current caseloads for most attorneys hinder their ability to find time to volunteer. This rule would allow attorneys to use the time usually set aside for CLE courses to help the disadvantaged and impoverished members of our community, while still receiving the mandatory CLE credits needed to remain in good standing with the State Bar of New Mexico.

I see the need in New Mexico to provide legal services to those who cannot afford legal representation. The ability to offer CLEs for providing legal advice in legal fairs and clinics will help increase the number of volunteer attorneys and, in turn, more New Mexicans will benefit in receiving legal assistance.

Thank you,

**Melanie P. Fritzsche, Esq.**

*VAP Director*

New Mexico Legal Aid

301 Gold Avenue SW

P.O. Box 25486

Albuquerque, NM 87125

Direct: (505) 814-6719

Fax: (505) 227-8712

MelanieF@nmlegalaid.org

## comment to proposal 2020-008

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**Kasey Daniel** <taodkrd@nmcourts.gov>

Apr 17, 2020 3:19 PM

Posted in group: **nmsupremecourtclerk**

Dear Mr. Moya,

I write this email in support of proposal 2020-008, if pro bono activities are included in the definition of "various legal activities that have been approved by the board."

Based on my years of experience as a staff attorney and program coordinator at New Mexico Legal Aid and other legal nonprofit entities, I can say without hesitation how critically important the pro bono efforts of private attorneys are in addressing the legal needs of people experiencing poverty. In addition, local attorneys' pro bono efforts make possible the pro bono legal fairs throughout the state, which are very popular and well-attended by members of the local communities. This proposed change (if it includes pro bono activities) would reward attorneys for their pro bono efforts, as well as encourage more lawyers to do pro bono work.

I lived in Colorado for 3 years and they had a similar rule. The mechanism they had for tracking the CLE hours was simple: after working a pro bono event the attorney filled out a state bar form which was provided at the event. The form included the date and hours worked, the name of the event, the attorney's signature certifying the hours worked and the signature of a staff person from the court or non-profit also certifying the attorney's presence for the specified number of hours. The staff person submitted all the completed forms to the state bar association so the attorneys received the CLE credit.

I am glad to see New Mexico considering this change to our CLE rules.

Sincerely,

Kasey Daniel