

# Rule 45, Ariz. R. Sup. Ct.

## Rule 45, Mandatory Continuing Legal Education Rules of the Supreme Court of Arizona

Effective January 1, 2019

### **(a) Continuing Legal Education Requirements.**

1. Every active member of the bar, not exempted, shall complete a minimum of fifteen hours of continuing legal education activity in each educational year. An educational year shall begin on July 1 and end on the following June 30.
2. A minimum of three hours of continuing legal education activity each educational year shall be in the area of professional responsibility. Professional responsibility includes instruction in legal and judicial ethics, professionalism, and malpractice prevention, and may include such topics as substance abuse, including causes, prevention, detection and treatment alternatives, attorneys' fees, client development, law office economics and practice, alternatives to litigation for managing conflict and resolving disputes, stress management, and the particular responsibilities of public lawyers, judges, and in-house counsel, to the extent that professional responsibility is directly addressed in connection with these topics.
3. An active member of the bar, not exempted, who serves as an arbitrator under Rule 73, Arizona Rules of Civil Procedure, is eligible for two hours of continuing legal education activity credit in lieu of financial compensation otherwise available under A.R.S. § 12-133(g) or local rule for service as an arbitrator. Such credit shall be included in the maximum number of hours allowed for self-study and shall be awarded under procedures approved by the Board of Governors.
4. An active member of the bar, not exempted, who provides pro bono service to the poor or near poor through an approved legal services organization, as defined in Rule 38(e), is eligible for one hour of continuing legal education credit for every five hours of pro bono service provided, up to a maximum of five hours per educational year of continuing legal education credit. Such credit shall be included in the maximum number of hours allowed for self-study and shall be reported in the attorney's annual affidavit of compliance.
5. An active member of the bar, not exempted, who serves as an arbitrator for a fee dispute resolution under the auspices of the State Bar Fee Arbitration Committee is eligible for one hour of continuing legal education activity credit for each hearing actually conducted, up to a maximum of two hours credit in any one educational year. This credit shall be applied to the required three hours of activity in the area of professional responsibility mandated for that educational year.

### **(b) Exemptions.**

1. *Inactive and Retired Members.* An inactive or retired member of the bar shall be exempt from the requirements of section (a), if the lawyer is inactive or retired during the entire educational year. An active member who transfers to inactive or retired status is exempt during the educational year in which the transfer occurs.

2. *Court Personnel: Retired Judges Subject to Assignment To Judicial Service.* Court administrators, court clerks, and other court personnel who are active members and who are also subject to the educational requirements of the Council on Judicial Education and Training (COJET), will be deemed to have complied with the requirements of section (a) upon the filing of an affidavit of compliance as required in section (c). Retired judges subject to assignment to judicial service pursuant to A.R.S. § 38-813 who are active members and do not maintain an office separate from their residence, and no substantial part of whose activities consists of the active representation of clients outside the judge's family, will be deemed to have complied with the requirements of section (a) upon the filing of an affidavit of compliance with the educational requirements of COJET.

3. *Active Members at Least 70 Years Old Before January 1, 2009.* An active member who both has been admitted to practice in Arizona and has attained the age of 70 before January 1, 2009, shall be exempt from the requirements of section (a).

4. *New Admittees.* A lawyer newly admitted between January 1 and June 30 need not comply with the requirements of section (a) for that educational year. A lawyer newly admitted between July 1 and December 31 shall comply with the requirements of section (a) for that educational year by completing two-thirds of the requirement.

5. *Out-of-State Compliance.* An active member of the bar who resides in another MCLE jurisdiction, and who is subject to and complying with the MCLE requirements for that jurisdiction, shall be exempted from the requirements of section (a) for the educational year in question. However, any member exempted under this section must satisfy the requirements of section (c).

6. *Other Exemptions.* Upon application and showing of undue hardship, the CEO/ED of the state bar or his or her designee may exempt an active member from the requirements of section (a) or extend the deadline for compliance for a period of not more than one year. Any consideration for additional time past one year based on a continuing hardship, would require a new application. Any denial of a request made pursuant to this rule shall be reviewed by the board.

### **(c) Affidavit of Compliance.**

On or before September 15 of each calendar year, every member who was active during the educational year, and not otherwise exempted, shall file with the board a completed affidavit or certification of compliance demonstrating full compliance with this rule. As an alternative to filing a written certificate, the board may allow certification to be filed electronically in a method and form as approved by the board. The affidavit will be considered timely received if the envelope in which it is mailed is postmarked on or before September 15, or if the affidavit is date-stamped received by State Bar personnel on or before the close of business September 15.

**(d) Delinquent Compliance Fee and Delinquent Affidavit Filing Fee.**

1. *Delinquent Compliance Fee.* A member who was active during the educational year and not otherwise exempted and who fails to complete the requirements of section (a) by the end of the educational year shall be deemed delinquent. Failure to obtain the required 15 hours of continuing legal education credit by the June 30 deadline will result in assessment of a delinquency fee per a delinquency fee schedule established by the board with the consent of this Court. Such fees shall be in addition to any fee for delinquent filing of the affidavit required by section (c) as set forth below in sub § 2. Failure to complete the requirements of section (a) by September 15 may result in a motion for summary suspension pursuant to section (i) of this rule.

2. *Delinquent Affidavit Filing Fee.* An affidavit not filed when due under sections (b)(5) or (c) shall be deemed delinquent. A member who was active during the educational year and not otherwise exempted shall be subject to assessment of a delinquency fee per a delinquency fee schedule established by the board with the consent of this Court.

Failure to file the affidavit by December 15 may result in a motion for summary suspension pursuant to section (i) of this rule.

**(e) Status Changes.**

1. *Return from Inactive or Retired Status to Active Status.* Before a member will be permitted to change status from inactive or retired to active, that member must show completion of hours of continuing legal education activity equivalent to those required in section (a) of this rule for each of the last two years for which the member was on inactive or retired status.

2. Any inactive, retired, or judicial member who transfers to active status shall comply with the educational requirements of section (a) of this rule in effect for the educational year in which such transfer occurs.

**(f) Records.**

Every active member, not exempted, shall maintain records (as defined in Regulation 101(j)) evidencing participation in continuing legal education for each education year. The lawyer shall preserve these records for two years after the filing of the affidavit.

**(g) Audits of Compliance.**

Each year the board shall randomly select a designated number of active members, except those exempt under section (b)(2) of this rule, to audit for compliance with this rule.

**(h) Regulation Authority.**

The administration of the continuing legal education requirements and the audits of compliance as provided by this rule shall be in accordance with regulations established by the board.

**(i) Summary Suspension.**

Upon notice of the state bar pursuant to Rule 62, any member who fails to comply with this rule for any educational year in which he or she was an active member and not otherwise exempted may be summarily suspended by order of the board, provided that a notice by certified mail, return receipt requested, of such noncompliance shall have been sent to the member, mailed to his or her last address of record in the State Bar office, at least 30 days prior to such suspension. The member may be reinstated upon completion of the continuing legal education activity requirements for each educational year in which the member was suspended with proof of cure, payment of a reinstatement fee as established by the board with consent of this Court, and payment of all delinquency fees pursuant to section (d) of this rule and in accordance with Rule 64(f) of these rules.

**(j) Confidentiality of Records.**

Unless otherwise directed by the board, the file, records, and proceedings, as they relate to or arise out of any failure of any active member to satisfy the requirements of the rule, shall be deemed confidential to the same extent as bar disciplinary proceedings and shall not be disclosed except in furtherance of the duties of the board or upon the request of the active member affected or as they may be introduced in evidence or otherwise produced in proceedings under the rule.

**(k) Immunity from Civil Suit.**

Communications to the court, state bar, or committee thereof relating to compliance with this rule and testimony given in compliance proceedings shall be absolutely privileged conduct, and no civil action predicated thereon may be instituted against any witness. Members of the board, volunteers, and staff shall be immune from suit for any conduct in the course of their official duties to the extent permitted by law.