

**PROPOSED REVISIONS TO THE RULES FOR MINIMUM CONTINUING LEGAL
EDUCATION
PROPOSAL 2023-024**

June 30, 2023

The State Bar of New Mexico has recommended amendments to Rule 18-201 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 website at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before July 31, 2023, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

18-201. Minimum educational requirements.

A. **Hours required.** Every member of the state bar in active status, beginning in the first full year following the date of admission, shall complete twelve (12) hours of CLE during each year as provided by these rules. One (1) hour of CLE is equivalent to sixty (60) minutes of instruction. This rule sets forth the requisite hours and categories of CLE. Rule 18-204 NMRA sets forth the means by which the hours may be acquired.

B. **Legal substantive credits.** ~~Ten (10)~~ Nine (9) 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 licensing year;
second, to the next licensing year as carry-over ethics and professionalism credits; and
third, to the next licensing year as carry-over general credits, subject to the limitations set forth in Paragraph ~~[D]~~ E of this rule.

D. **Equity in justice credits.** At least one (1) hour of the twelve (12) hours shall be devoted to board approved subjects dealing with equity in justice. Excess equity in justice credits shall be applied as follows:

first, to any deficit in general credits in the current licensing year;
second, to the next licensing year as carry-over equity in justice credits; and
third, to the next licensing year as carry-over general credits, subject to the limitations set forth in Paragraph E of this rule.

~~[D.]~~E. Carry-over. Any member may carry up to twelve (12) hours of excess credits earned in one (1) licensing year over to the next licensing year only. Only two (2) hours of ethics and professionalism credit may be carried over as part of the twelve (12) hours of credits. Only one (1) hour of equity in justice credit may be carried over as part of the twelve (12) hours of credits. Excess ethics, ~~[and]~~ professionalism, and equity in justice credits can be converted to be used toward the substantive (general) requirement. Only four (4) self-study credit hours may be carried over as part of the twelve (12) hours of credits. No credit may be carried over for more than one (1) licensing year.

~~[E.]~~F. Judges. Judges, retired judges, and other judicial officers who are members of the state bar on active status shall be required to complete the same number of hours of CLE as other bar members in active status. The means by which these individuals may satisfy their CLE 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; as amended by Supreme Court Order No. 20-8300-015, effective December 31, 2020; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021; as amended by Supreme Court Order No. _____, effective _____.]

Committee commentary. —

Equity in Justice Education

[1] Equity in Justice content focuses on ensuring that all persons will be treated fairly under the laws of New Mexico and promotes full and equal participation by all in the profession through identifying and eliminating the effects of prejudice, bias, and racism. Addressing topics on race, gender, national origin, sexual orientation, disability, and other issues of disparity and inequity will underscore and define how shortfalls can be addressed and dismantled. The practice of law is a profession in service to others and members of the Bar must have a clear understanding of the changes that are needed to truly be in service to others. The result of these changes will be equitable access to justice for the community and a more equitable Bar.

[2] Equity in Justice CLEs can incorporate topics that are relevant to the practice of law such as: implicit and explicit bias, systemic and structural oppression; equal access to justice; competent representation of diverse populations; diversity and inclusion initiatives in the legal profession; recognition, mitigation, or elimination of bias in the legal profession or the legal system; anti-racism; cultural competency in the practice of law or the administration of justice; and the historical and contemporary context of all of the preceding issues. Effective CLE content will include education as well as promote discussion and reflection. Instructors or lecturers must be either attorneys or judges with content expertise or other experts in the subject area based on their education and background.

Professionalism Education

[3] Lawyer professionalism includes basic compliance with the Rules of Professional Conduct, such as acting with competence and diligence, effectively communicating with clients, maintaining client confidences, and safeguarding client property. Professionalism also includes acting with honor, integrity, honesty, dignity, and objectivity. It involves a commitment to upholding the rule of law and the legal system, promoting fairness and just results, respecting courts, clients, other lawyers, witnesses, and self-represented persons. It means demonstrating a commitment to serving others, promoting the public good, and striving to provide all persons, regardless of their means, backgrounds, or beliefs with equal access to the law and the justice system.

[4] Professionalism CLE topics can include: mentoring; practicing with civility; the tension between client duties, duties to courts, and duties to the profession and the public; how to effectively work with opposing counsel in highly emotional or contentious matters; use and misuse of the discovery process; the intersection of lawyer well-being and effective advocacy; incorporating cultural competency in client representation and interactions with counsel and courts; the importance of pro bono and low bono representation in providing access to justice; and the challenges and rewards of representing unpopular clients or causes. Effective CLE content will include education as well as promote discussion and reflection. Instructors or lecturers must be either attorneys or judges with content expertise or other experts in the subject area based on their education and background.

[Adopted by Supreme Court Order No. _____, effective _____.]



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

[rules.supremecourt-grp] Rule Proposal Comment Form, 06/30/2023, 2:28 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Fri, Jun 30, 2023 at 2:28 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your
Name: Richard Branch

Phone
Number: 5058418475

Email: richard.branch@dws.nm.gov

Proposal
Number: 2023-024

Comment: Thank you for soliciting comments related to this issue.

The topic of equity is being discussed a lot these days, so it is important to address it in some way. I am not convinced that making it an MCLE requirement is the right way to go. There are differing views on what equity means in the context of the legal profession and individual rights and responsibilities. Some view equity as crucial to the continuing fight to remove barriers that have existed for a long time for many people. Others are of the opinion that equity has been hijacked by groups with an agenda who are hellbent on curtailing free expression and imposing financial and other burdens on individuals despite the fact that equity as a matter of right has no basis in our Constitution and other laws. Indeed, some equity proposals seemingly fly in the face of time-honored American values of hard work, private property, and limited government. Both views have merit. Imposing an MCLE requirement related to equity could lead to a clash between the two factions and create divisions where none existed previously. It might foster resentment by attorneys who feel their positions on equity are not represented or respected by the facilitators or Bar leadership. The goal of addressing equity in a reasonable fashion would thus be thwarted. Again, the issue ought to be addressed, but not via a mandatory MCLE requirement, at least not without strong assurances that the content of these courses will be fair, balanced, and not steeped in controversial political dogma. There are many attorneys with legitimate concerns about the concept of equity as it relates to the legal profession who are reluctant to voice their views out of fear of being "canceled" or otherwise subjected to censure. Thank you for the opportunity to provide input on this proposed rule change.



[rules.supremecourt-grp] 18-201

Richard Glassman <richard@catronlaw.com>

Wed, Jul 5, 2023 at 8:34 AM

Reply-To: richard@catronlaw.com

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

I object to being required to learn about equity in justice. The terminology draws from a political point of view, and requiring me to learn that is an affront to my first amendment rights. This is not legal education. It is dogma, and political at that, and I object as strongly as I can. It is actually unbelievable to me that the State Bar is imposing this as standard learning fare. My name is Richard S. Glassman

Richard S. Glassman



[nmsupremecourtclerk-grp] Public Comment in Support of Mandatory Diversity CLE Requirement, 2023-024

1 message

Leon Howard <lhoward@aclu-nm.org>

Wed, Jul 5, 2023 at 1:15 PM

Reply-To: lhoward@aclu-nm.org

To: "nmsupremecourtclerk@nmcourts.gov" <nmsupremecourtclerk@nmcourts.gov>

Dear New Mexico Supreme Court:

I am writing to submit a public comment in strong support of the proposed rule requiring mandatory diversity CLE programs. As the Deputy Director of the ACLU-NM and former Co-Chair of the State Bar's Committee on Diversity in the Legal Profession for approximately seven years, I have witnessed firsthand the urgent need for increased diversity and inclusion within our profession.

To supplement this comment, I have included a link to our Diversity Committee's Ten Year Report, which outlines our comprehensive findings and recommendations. In the 2019 report, on pages 68-69, a recommendation was made for our State Bar to adopt a mandatory diversity CLE requirement. <https://www.sbnm.org/Portals/NMBAR/PubRes/Reports/StatusMinorityAttys2019.pdf?ver=le3xBOrH-XGOvAFFdOy-Mw%3D%3D>

I urge you to review this section for a more detailed exploration of the benefits and rationale behind such a requirement.

The legal profession, despite its crucial role in upholding justice and safeguarding the rights of all individuals, remains one of the least diverse professions in the country. *See generally* <https://www.abajournal.com/web/article/law-firm-leaders-are-still-mostly-white-and-male-aba-diversity-survey-says#:~:text=The%20ABA%20report%20showed%20that,depending%20on%20the%20firm's%20size>.

It is imperative that we take proactive measures to address this disparity and create a more inclusive legal community. Implementing mandatory diversity education through CLEs will help equip legal professionals with the necessary tools to provide compassionate and holistic representation to a diverse range of clients.

By requiring diversity CLEs, we can foster cultural awareness, sensitivity, and competence among legal practitioners. These programs will help attorneys better understand the unique challenges faced by marginalized communities and promote a more equitable legal system. By prioritizing diversity education, we demonstrate our commitment to dismantling systemic biases and ensuring equal access to justice for all individuals, regardless of their background.

Thank you for your attention to this important matter. Should you require any further information or assistance, please do not hesitate to contact me. I look forward to the progress that can be achieved through our collective efforts in advancing diversity and inclusion within the legal profession.

Leon Howard
(he/him/his)

Deputy Director | ACLU of New Mexico
cell: 505-550-2331
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COMMITTEE ON DIVERSITY'S RECOMMENDATIONS

Fighting Discrimination and Increasing Awareness:

- The State Bar of New Mexico should work with the New Mexico Disciplinary Board and the New Mexico Judicial Standards Commission to ensure that attorneys are educated on New Mexico Rule of Professional Conduct 16-804(G) and Code of Judicial Conduct Rule 21-203. Rule 16-804(G) states it is professional misconduct for a lawyer to:

engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, or marital status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline, or withdraw from a representation in accordance with Rule 16-116 NMRA. This paragraph does not preclude legitimate advice or advocacy consistent with these rules.

The Committee Commentary to the Rule further states that “discrimination and harassment by lawyers in violation of Paragraph G undermine confidence in the legal profession and the legal system. *Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others.*” (Emphasis added.)

Code of Judicial Conduct Rule 21-203(B) states:

[a] judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, religion, color, national origin, ethnicity, ancestry, sex, sexual orientation, gender identity, marital status, spousal affiliation, socioeconomic status, political affiliation, age, physical or mental handicap or serious medical condition; and shall not permit court staff, court officials, or others subject to the judge's directional control, to do so.

- In addition to education on Rule of Professional Conduct 16-804(G) and Code of Judicial Conduct Rule 21-203(B), the State Bar of New Mexico should work with the New Mexico Disciplinary Board and the New Mexico Judicial Standards Commission to encourage attorneys and judges to comply with the mandatory reporting requirements in the Rules of Professional Conduct and Code of Judicial Conduct if they experience or witness discrimination that violates Rules 16-804(G) and 21-203(B).
- The State Bar of New Mexico should recommend and advocate for a change to the Rules for Minimum Continuing Legal Education, and specifically, Rule 18-

201, to require some portion of annual or biannual credit requirements be devoted to subjects dealing with diversity, inclusion, cultural competency, and elimination of bias. Several states already have such a requirement, including California, Florida, Minnesota, Illinois, Missouri, New York, and West Virginia. To support this rule change, the State Bar of New Mexico should offer CLE programming throughout the year, to include programming during its Annual Meeting, on diversity, inclusion, cultural competency and elimination of bias topics. The State Bar of New Mexico already offers some CLEs on these topics, including the Committee on Diversity in the Legal Profession's annual symposium on diversity topics. Many other local and national organizations, such as the American Bar Association, also offer this type of programming throughout the year making it feasible for attorneys to obtain and fulfill this credit.

- In light of the survey findings showing that more than 20 percent of respondents feel judges view work from racial/ethnic attorneys differently than white attorneys, the State Bar of New Mexico should also collaborate with and support any efforts by the New Mexico Judicial Education Center to provide ongoing trainings and legal education programming on diversity, inclusion, cultural competency, and elimination of bias to the state judiciary.
- The State Bar of New Mexico should encourage the New Mexico Supreme Court to adopt a system for compiling information on litigants, such as gender, race/ethnicity, LGBTQ status, and case outcome to determine whether there are disparities in outcomes for these groups.

Increasing Diversity: As the report shows, despite New Mexico being a majority minority state, attorneys of color remain underrepresented in the New Mexico Bar. The following are recommendations to address this disparity.

- The State Bar of New Mexico should continue to support the Committee on Diversity in the Legal Profession's bar exam coaching program, which matches diverse applicants with licensed attorneys in New Mexico who serve as the applicants' coaches as they prepare for the bar exam. Coaches do not teach the bar exam, but rather offer support and hold applicants accountable to their study plans. This program has been in effect since February 2017, and data on applicant pass rates reflects success with respect to bar passage. For example, in February 2020, 100% of the repeat applicants who participated in the coaching program passed the bar exam. 70% of the applicants who participated in the program, including first timers and repeaters, passed the exam. The Committee on Diversity in the Legal Profession should engage in a thorough review of the coaching program to determine how to expand the program and assist more applicants, as well as improve program effectiveness.
- The State Bar of New Mexico's Committee on Diversity in the Legal Profession should continue to work with the Board of Bar Examiners, the UNM School of Law, and other stakeholders, to explore alternative paths to admission to the bar. This should be done to address the disparities in pass rates for people of color, and

Law firm leaders are still mostly white and male, ABA diversity survey says

BY AMANDA ROBERT

MAY 16, 2022, 2:35 PM CDT



Image from [Shutterstock](#).

White male attorneys continue to constitute the highest percentages of equity partners, non-equity partners and associates at law firms, according to an ABA report released Monday.

The [2021 Model Diversity Survey](#), conducted by the Commission on Racial and Ethnic Diversity in the Profession, collected data from 287 law firms with a total of more than 100,000 attorneys nationwide in 2020, according to an [ABA press release](#). It is the second ABA report on diversity, equity and inclusion in law firm practice.

The first report was released in 2019 and based on three years of data. It stemmed from a [2016 resolution](#) that urged legal service providers to create opportunities for diverse attorneys and buyers of legal services to direct a greater percentage of their legal spending toward diverse attorneys.

According to the latest survey's examination of law firm demographics, white attorneys made up 81% to 93% of equity partners across all firms in 2020. White attorneys made up about 70% to 90% of non-equity partners and 70% to 79% of associates.

Asian attorneys represented the next highest number of equity partners in larger firms, although these percentages only ranged from about 2.9% to 4%. Other racial categories did not consistently report above 1% of equity partners across firms, the report said.

Asian attorneys also represented the second highest number of non-equity partners and associates within firms in 2020. According to the report, they made up about 3.5% to 9.3% of non-equity partners and 3% to 11% of associates.

Meanwhile, both Black and Hispanic attorneys constituted between 2% and 3% of non-equity partners and 4% to 6% of associates within firms.

The ABA report showed that male attorneys constituted about 80% of equity partners and 70% of non-equity partners in 2020. Male and female representation was closer to even at the associate level, with male attorneys constituting about 43% to 55% of associates, depending on the firm's size.

LGBTQ+ attorneys made up about 1.6% to 3.8% of equity partners; about 1.6% to 5.3% of non-equity partners; and about 0.5% to 4% of associates across all firm sizes in 2020, according to the report. However, between 2019 to 2020, LGBTQ+ associates showed the largest gains in small firms, increasing from 0.37% to 2.28% of associates.

The report noted that the number of equity partners with disabilities remained "very low, approximately one half of one percent." It showed a slight increase in 2020, as medium, large and extra-large firms increased their average percentage of equity partners with disabilities to about 0.65%. Similarly, the average percentage of non-equity partners and associates with disabilities was less than 1% across all law firms.

Other significant findings include:

- In 2020, Black and Asian attorneys experienced the greatest attrition from law firms at 23% and 19%, respectively. White attorneys reported the lowest attrition at 12%.
- Most law firms did not hire a single attorney who self-identified as Native American, Pacific Islander, LGBTQ+ or having a disability in 2020.
- White attorneys were nearly twice as likely to be hired into partnership positions as other racial groups in 2020.

- In 2020, the percentage of male attorneys hired as equity partners was 6%, while the percentage of female attorneys hired as equity partners was 2%. But at the associate level, female attorneys were hired at a rate of 53% and male attorneys were hired at a rate of 47%.
- LGBTQ+ attorneys were less likely to be hired into partnership positions compared to non-LGBTQ+ attorneys in 2020.
- The representation of both racially and ethnically underrepresented groups and white female attorneys as hiring partners and on compensation committees and firm-wide committees declined in 2020. It substantially increased for white male attorneys in all three categories.



**New Mexico
Courts**

Amy Feagans <supajf@nmcourts.gov>

[rules.supremecourt-grp] Rule Proposal Comment Form, 07/06/2023, 11:47 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Thu, Jul 6, 2023 at 11:47 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Shammara Henderson

Phone Number: 5057676134

Email: coashh@nmcourts.gov

Proposal
Number: 2023-024

Comment: I am in favor of this amendment. I believe it will lead to a bar that is more competent and compassionate towards the population it represents.

Thank you.



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

[rules.supremecourt-grp] Rule Proposal Comment Form, 07/07/2023, 8:22 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Fri, Jul 7, 2023 at 8:22 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: David

Phone
Number: (915) 546-2059

Email: D.Vandenberg@epcounty.com

Proposal
Number: 2023-024

Comment: I am licensed in NM, TX, and MO. I avoid taking CLEs in NM and the ones I have taken in NM were inferior because of this incessant belief that justice is not justice in NM. This rule would codify the inferiority of the NM bar in relation to other states. I practiced as an ADA in Santa Fe for a year and one half and for about a year as a staff attorney at the Third District Court in Las Cruces.

I moved to Texas to avoid the socialist programming of the NM Bar, cf. this proposed rule. When I review the CLE offerings of the NM Bar vis-a-vis the ones offered in other jurisdictions, TX, DC, or nationally. I see hard law being taught, while in NM many CLEs are offered for well being, mental health, equity, etc.

Were the NM Bar to focus on the law and move away from lawyer well being, all NM attorneys would benefit. NM attorneys would be better trained in the law, better able to serve their clients, and make a better living.

This proposed rule would codify NM's race to the bottom in most every category. Just yesterday, I read an article about the economies of states relative one to the other. The South and Texas have increased their economies greatly since COVID, while states like NM, CA, and most NE states have lost economic vigor.

If NM is to prosper, it must focus on the business of law and the law itself. This rule is another misguided attempt that will further devalue a NM law license. This is serious stuff and until the NM Bar and the judicial conference right their direction, which would include not codifying an overly broad rule that cannot be meaningfully defined, my time in NM and my license will become even more seriously degraded.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/17/2023, 12:23 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Mon, Jul 17, 2023 at 12:23 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Timothy White

Phone Number: 5053318916

Email: tim@valdezwhite.com

Proposal
Number: 2023-024

Comment: the proposal to require continuing education on these DRE topics are pushing a Marxist agenda that I want no part of.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/17/2023, 12:30 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Mon, Jul 17, 2023 at 12:30 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Barry Green

Phone
Number: 505/989-1834

Email: BarryGreenLaw@msn.com

Proposal
Number: 2023-024

Comment: With respect, i think this proposed amendment is ill advised because it could be included in the Ethics requirement and that would leave 10 full credits for substantive law.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/20/2023, 11:44 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Thu, Jul 20, 2023 at 11:44 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your
Name: Maria Sanchez
Phone
Number: (505) 266-5915, Ext. 1004
Email: msanchez@aclu-nm.org
Proposal
Number: 2023-024

Comment: I write in strong support of Proposal 2023-024 – MCLE Requirement for Equity in Justice and Professionalism. It is no secret that incidents of racism, homophobia, transphobia, and anti-Semitism are on the rise in our country. And while the legal profession cannot necessarily control that increase in hateful conduct and rhetoric, we can, at the very least, provide members of our profession with tools to assist them in identifying bias, illuminating blind spots in our thinking about these issues, and understanding the historical antecedents that have led to structural and institutional inequities in our justice system with an eye towards dismantling those inequities. I have been a member of the New Mexico Bar for fifteen years and have witnessed countless incidents of overt discrimination or more subtle biases against both my clients and myself. Some members of the Bar allege that a mandatory CLE on diversity/equity is a covert attempt at introducing politics into legal education. Such views are misguided. Racism and all the other “isms” are not political. They are a reality to many of us who practice in this profession and to many of the people we represent. A one-hour, once a year CLE on matters related to equity in our profession is the very least we can do to address these systemic problems. I respectfully urge the Court to adopt this rule.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/20/2023, 11:49 am

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Thu, Jul 20, 2023 at 11:49 AM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your
Name: Lalita Moskowitz

Phone
Number: 5052665915

Email: lmoskowitz@aclu-nm.org

Proposal
Number: 2023-024

Comment: I strongly support the proposed change to MCLE requirements. Equity and justice should be central concepts in our profession. Like any topic important to our work, many of us need continued learning in order ensure we do not replicate old, unjust modes of practice. This requirement would not only help the legal profession become more accessible and less hostile to attorneys from marginalized groups, but it would undoubtedly help us all provide better representation to our clients, who come from all backgrounds and walks of life. It would be a proud day for New Mexico to join the other state bars that have already implemented such a sensible CLE requirement.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/21/2023, 8:37 am

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Fri, Jul 21, 2023 at 8:37 AM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your
Name: Michael Schwarz

Phone
Number: 505-988-2053

Email: ms@nmbarrister.com

Proposal
Number: ms@nmbarrister.com

Comment: The first question I ask when there is a proposed rule change is why? What is the purpose of the rule and what is it trying to achieve. When there was a rule change on requiring "professionalism", what was the problem and did it address it? I recall having to take courses on what is my color for the professionalism credit I thought this was an interesting approach. Did the professionalism credit achieve its goals? The requirement sort of fell by the wayside because I don't think that the courses met the objective.

If professionalism courses are to instill integrity, how one conducts him/herself, and how to handle conflict, teaching these traits will be a significant challenge. It involves a sense of knowing of what is right and wrong. Regrettably, today's political shenanigans has migrated over to the legal profession by being so creative that it bounds on the absurdity. It is incumbent upon the judges to stop this nonsense. If the judges took a more active role in letting counsel know certain conduct is unacceptable, maybe those few members of the Bar will get the message.

Being sensitive to implicit bias is something I, as an employment lawyer, come across on a regular basis. People have certain ideas subliminally when they see or encounter a person who is different from themselves. You see a homeless person, you form certain opinions about that person subconsciously. We all have them and the question is not only recognizing those subliminal perceptions but also how to address them. Is there a course to teach us that? I know there are some courses which help us recognize implicit bias. However, I am not knowledgeable whether there is a course which will in that area but don't know if such a course requirement would address the problem. I know that the National Institutes of Health have several online modules on the subject. <https://diversity.nih.gov/sociocultural-factors/implicit-bias-training-course>.

It would seem to me that many employment law seminars address these proposed rule topics.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/21/2023, 9:10 am

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Fri, Jul 21, 2023 at 9:10 AM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Rod Baker
Phone Number: 505-286-9700
Email: rdbaker@swcp.com
Proposal Number: 2023-024
Comment: See attached letter
Upload: [LetRe2023-024.pdf](#)



LetRe2023-024.pdf

1014K

LAW OFFICE OF ROD D. BAKER

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21 July 2023

Elizabeth A. Garcia
Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, NM 87504-0848

RE: Comment on NMRA rule Proposal 2023-024

Dear Ms. Garcia:

I write in earnest opposition to the proposed amendment to Rule 18-201, NMRA, regarding “MCLE Requirements for Equity in Justice and Professionalism.” The State Bar’s Proposal 2023-024 was a subject of your email to the Bar dated 30 June 2023.

This proposal is a solution in search of a problem. Members of the New Mexico Bar already are required to take at least two hours of continuing legal education devoted to “board approved subjects dealing with legal ethics or professionalism.” Why is this not sufficient? It seems plain to me that any perceived need for CLE regarding “equity in justice” – whatever that expression means – can be addressed within the provisions of the existing rule. From time to time, members desiring to do so can elect to attend an “equity in justice” themed CLE when such are offered, and have it credit toward the current professionalism requirement.

Moreover, is there any significant evidence that “equity in justice” is a growing problem in New Mexico that needs such an intensely focused rulemaking effort? After more than two decades of laudable effort and outreach by the Bar to promote opportunities for women and minorities in our profession, needed goals in that regard have largely been realized. With the probable exception of Native Americans – for whom programmatic and legal assistance and encouragement presently exist – women and racial/ethnic and other minorities are no longer significantly underrepresented in the Bar.

To the extent “equity in justice” refers to due process and/or bias in the operative judicial system, forcing attorneys to listen to problems in that regard will do almost nothing to solve those problems. Challenges in that realm transcend imposing yet another CLE requirement.

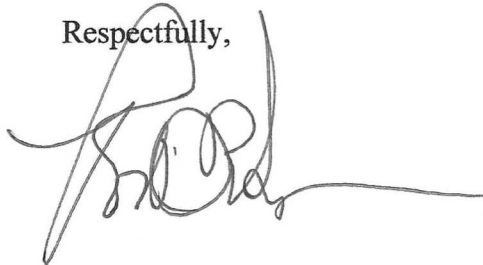
Finally, I am gravely concerned that this “equity in justice” proposal is an attempt to smuggle critical race theory into our mandatory CLE regime. Indeed, much of the Committee Commentary No. [2] to the proposed amendment contains jargon commonly encountered in critical race theory propaganda.

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
21 July 2023
Page 2

Critical race theory is rooted in Marxist political thinking, and its fundamental philosophies undermine, rather than promote, bedrock American ideals of individual dignity and *equality* under law. I will not extend the length of this letter by detailing why critical race theory is counterproductive to a free society generally and a fair legal system specifically. There is vigorous ongoing public debate on this, and the debate should remain in the political policymaking forum, not injected into compulsory legal education. Nearly all New Mexico attorneys already and genuinely support a legal system and Bar that promote individual freedom, equality under the law, and colorblind public policy. Those few attorneys who do not won't be persuaded by an hour per year of listening to opinions on "equity in justice." Rather, if it is what I suspect it will be, the mandatory "equity" CLE will, in my estimation, only further divide us, and is of questionable First Amendment constitutionality. Compelling attorneys to pay money to "learn" about "equity in justice" will motivate those members of the New Mexico Bar who detest subsidizing ideological speech to wonder how much longer they should tolerate being required to be members of an integrated bar.

Thank you for your attention. I respectfully urge the Court to NOT adopt the State Bar of New Mexico's rule Proposal 2023-024.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rod D. Baker', with a long horizontal flourish extending to the right.

Rod D. Baker

RDB/



[rules.supremecourt-grp] Proposal 2023-024 – MCLE Requirements for Equity in Justice and Professionalism

1 message

Edward M. Anaya <edward@anayalawllc.com>

Fri, Jul 21, 2023 at 5:56 PM

Reply-To: edward@anayalawllc.com

To: rules.supremecourt@nmcourts.gov

I am a New Mexico attorney. I OPPOSE the new proposed "equity" mcle requirement. I have reviewed the proposed topics, which include "transgender cultural fluency," "racial microaggressions," "LGTBQ," and several other purely sex, gender and race-based topics.

This new proposal appears to be politically motivated. It appears to be a consequence of recent political and ideological forces advocating for a vision of our society that is based on sex, gender, and racial lines, as opposed to a society based on merit, ethics, and competency.

I am part-hispanic and part-native american. Nonetheless, I would still oppose mcle classes on those very topics. While those topics are fine for study in other contexts, they are irrelevant to the practice of law, and should also not be mandatory or forced onto people.

The law should not be political. The law should be based on the facts, law, and neutral and qualified judges. This mcle requirement has nothing to do with any of those aims.

Please reconsider your proposal. Thank you for your time.

Edward M. Anaya



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/25/2023, 8:04 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Mon, Jul 24, 2023 at 8:04 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Arne Leonard

Phone Number: 5052431443

Email: aleonard@rothsteinlaw.com

Proposal Number: 2023-024

Comment: Comment attached.

Upload: [2023-07-24_A.-Leonard-Cmt.-on-Proposal-2023-024.pdf](#)



2023-07-24_A.-Leonard-Cmt.-on-Proposal-2023-024.pdf

495K

July 24, 2023

Via Electronic Submission

Elizabeth A. Garcia
New Mexico Supreme Court
P O Box 848
Santa Fe, New Mexico 87504-0848
nmsupremecourtclerk@nmcourts.gov

Re: Proposal 2023-0024 – MCLE Requirements for Equity in Justice and Professionalism

Dear Ms. Garcia:

I proudly submit these comments in support of the State Bar of New Mexico's recommended amendments to Rule 18-201 NMRA posted on the Court's website. Based on my experience practicing law in New Mexico for over 25 years, including my prior service as deputy disciplinary counsel and my current service as Chair of the Code of Professional Conduct Committee, I believe the proposal to require one hour of continuing legal education per year on "equity in justice" subjects accords with the Court's proactive approach to promoting compliance with the Rules of Professional Conduct and the Creed of Professionalism of the New Mexico Bench and Bar.

Rule 16-804(G) NMRA states that it is professional misconduct for a lawyer to "engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, or marital status in conduct related to the practice of law." The Committee Commentary to this rule further provides that: "The substantive law of antidiscrimination and anti-harassment statutes and case law may guide application of Paragraph G." The Creed of Professionalism states that lawyers should "not use litigation, delay tactics, or other courses of conduct to harass the opposing party or their counsel." CLE courses can help us to better understand these rules and comply with them.

As evidenced by some of the public comments posted on the Court's website before I submitted this letter, subjects such as "equity in justice" and "antidiscrimination" are often misunderstood, and there are emerging areas of substantive law concerning them. Far from imposing a particular political ideology or dogma, education on this topic allows us to evaluate emerging viewpoints more critically and see how much we have in common despite our differences. These skills, in turn, allow us to practice our profession with greater civility, courtesy, and compassion.

Sincerely,

/s/ Arne Leonard

ARNE LEONARD
Attorney



[rules.supremecourt-grp] diversity CLE programs

1 message

Frances Crockett Carpenter <frances@francescrockettlaw.com>

Tue, Jul 25, 2023 at 11:24 AM

Reply-To: frances@francescrockettlaw.com

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

To Whom it may Concern,

I write this to inform the rules committee that I am in strong support of the proposed rule requiring mandatory diversity CLE programs. I have been practicing for almost 20 years and there is no question in my mind that this is needed within our profession regardless of what type of law you practice. Thank you.

Frances Crockett Carpenter

Law Office of Frances Crockett

925 Luna Circle NW

Albuquerque, NM 87102

p:505.314.8884 / f:505.835.5658

frances@francescrockettlaw.com

www.francescrockettlaw.com

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[rules.supremecourt-grp] Diversity CLE Requirement

1 message

Alexandra Smith <asmith@smith-law-nm.com>

Tue, Jul 25, 2023 at 11:34 AM

Reply-To: asmith@smith-law-nm.com

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

I support diversity education through CLEs in New Mexico. I believe that it is very important that people in the legal profession learn about the impact of diversity within our field. Because legal professionals are in the unique position to promote inclusiveness and justice through both their work and their own workplaces, it is important that the bar ensure that we learn about diversity. Thank you for your consideration.

Alexandra Freedman Smith

(she/her)

Law Office of Alexandra Freedman Smith

925 Luna Cir. NW

(505) 200-2331

asmith@smith-law-nm.com

www.smith-law-nm.com

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[rules.supremecourt-grp] Rule Proposal Comment Form, 07/25/2023, 11:55 am

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Tue, Jul 25, 2023 at 11:55 AM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Tiffany

Phone
Number: 5055066217

Email: tiffmccree@yahoo.com

Proposal
Number: 1

Comment: I write in strong support for the adoption of Proposal 2023-024 – MCLE Requirement for Equity in Justice and Professionalism. Acts of racism and discrimination occur at an alarming rate in this country and I believe that education and information are critical in progressing equity in not only the legal profession, but across the globe. Thank you for your time, and I respectfully request that the Court adopt this rule.



[nmsupremecourtclerk-grp] Diversity CLEs

1 message

richard rosenstock <richard.rosenstock@gmail.com>

Tue, Jul 25, 2023 at 11:56 AM

Reply-To: richard.rosenstock@gmail.com

To: nmsupremecourtclerk@nmcourts.gov, rules.supremecourt@nmcourts.gov

Dear Ms. Garcia,

Attached please find a letter regarding the above matter.

Thank you for your attention to this important subject.

Richard Rosenstock



Dear New Mexico Supreme Court.pdf

71K

Richard Rosenstock, Attorney at Law
1121 Paseo de Peralta
Santa Fe, NM 87501
505-988-5324 (voice) 505-989-4844 (fax)
Richard.Rosenstock@gmail.com

July 25, 2023

Via Electronic Submission
New Mexico Supreme Court
% Elizabeth A. Garcia
P O Box 848
Santa Fe, New Mexico 87504-0848

nmsupremecourtclerk@nmcourts.gov
rules.supremecourt@nmcourts.gov

Re: Proposal 2023-0024 – MCLE Requirements for Equity in Justice and Professionalism

Dear Ms. Garcia:

I am writing to submit a public comment in strong support of the proposed rule requiring mandatory diversity CLE programs. Having practiced law in New Mexico for almost fifty years, I have witnessed firsthand the urgent need for increased diversity and inclusion within our profession.

To supplement this comment, I have included a link to the Diversity Committee's Ten Year Report, which outlines the Committee's comprehensive findings and thoughtful recommendations. In the 2019 report, on pages 68-69, a recommendation was made for our State Bar to adopt a mandatory diversity CLE requirement. <https://www.sbnm.org/Portals/NMBAR/PubRes/Reports/StatusMinorityAttys2019.pdf?ver=Ie3xBOrH-XGOvAFFdOy-Mw%3D%3D>

I urge you to review this section for a more detailed exploration of the benefits and rationale behind such a requirement.

Sadly, the legal profession, despite its crucial role in upholding justice and safeguarding the rights of all individuals, remains one of the least diverse professions in the country. There is a critical need for us to take proactive measures to address this disparity and create a more inclusive legal community. Implementing mandatory diversity education through CLEs will help equip legal professionals with the necessary tools to provide compassionate and holistic representation to a diverse range of clients.

By requiring diversity CLEs, we can foster cultural awareness, sensitivity, and competence among legal practitioners. These programs will help attorneys better understand the unique challenges faced by marginalized communities and promote a more equitable legal system. By

prioritizing diversity education, we demonstrate our commitment to dismantling systemic biases and ensuring equal access to justice for all individuals, regardless of their background.

Thank you for your attention to this important matter. Should you require any further information or assistance, please do not hesitate to contact me.

Sincerely,

Richard Rosenstock
Attorney at Law



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/25/2023, 3:18 pm

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Tue, Jul 25, 2023 at 3:18 PM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your
Name: Susan E. Page

Phone
Number: 505-217-6507

Email: susanpageabq@gmail.com

Proposal
Number: 2023-24

Comment: I am writing in support of the Equity in Justice Amendment to NMLA 18-201 to shift one credit hour of CLE from general subjects to Diversity, Equity and Inclusion. This addition is long overdue. When I became a lawyer in 1981 and was hired as the only woman lawyer in the Fifth Judicial District Attorney's office in Southeast New Mexico, my boss asked me how I expected to dominate the courtroom, as a good prosecutor should. I said, "Sheer personality!" These kind of demeaning conversations continue as recently as today when I went to buy a new car at a local dealership and found myself called, "Love" by a young saleswoman, and "Honey" by an older salesman. Since I am now in Albuquerque, I have choices, and will take my \$40,000 to a different dealership. But, when we face similar conduct in the legal system, we don't have that luxury. Neither does the public.

I was actively involved with the State Bar for many years, serving on the Women and the Legal Profession Committee, the Legal Services and Programs Committee and the Lawyers Assistance Committee. I was active for several years in the Senior Lawyers Division, serving as Chair for one year. In all that time, I saw very little evidence of the State Bar serving its second stated purpose, "serving the public." For that matter, we do a poor job of serving the legal profession, our first stated purpose, since we model our view of the profession as lawyers working in firms, leaving out the substantial part of our membership that works for the government and non-profits. Passing this rule will help the bar be inclusive of its own members and of the public we serve in this majority-minority state.

I retired from the practice of law this year after the latest addition was required; that every lawyer have a formal succession plan. That requirement came with mandatory CLE and did not exempt lawyers like myself. I carried no caseload and performed only advice and brief services for ten years, practicing exclusively as a volunteer legal services attorney.

I read the borderline racist and sexist comments forwarded to me in my capacity as Third Vice President of the New Mexico Black Lawyers Association. I was shocked! Especially when I saw that I knew some of these people. They made me think of a favorite quote from English Professor John Ottenhoff, who wrote, "political correctness seems to be a term applied to definitions not favored by those who feel the power of definitions slipping away."

So, I implore you, Members of the New Mexico Supreme Court, to pass this rule, accepting your responsibility to the public and the legal community.



[rules.supremecourt-grp] Support for proposed rule change regarding mandatory diversity CLE

1 message

Kelly Stout Sanchez <kellys@osolawfirm.com>

Tue, Jul 25, 2023 at 9:56 PM

Reply-To: kellys@osolawfirm.com

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

Dear New Mexico Supreme Court:

I am writing in support of the propose rule change requiring mandatory diversity CLE programs for the New Mexico Bar. While our Bar is likely quite diverse compared to other states, I nonetheless believe that it is crucial for our members to have regular education and exposure to cultural awareness, competency and sensitivity. Education as set forth in the proposed rule would be a benefit to our Bar's representation of their clients as well as improve the ability to interact and communicate with one another in a respectful and professional manner.

Thank you for your consideration.



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[rules.supremecourt-grp] Rule Proposal Comment Form, 07/26/2023, 7:07 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Wed, Jul 26, 2023 at 7:07 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Aja Brooks
Phone Number: 5052494702
Email: ajabrooks@gmail.com
Proposal Number: 2023-024
Comment: Comment Attached
Upload: [Proposal-2023-024-Equity-in-Justice-CLE.pdf](#)



Proposal-2023-024-Equity-in-Justice-CLE.pdf

182K



PO Box 607, Albuquerque, NM 87103 | (505)249-4702 | ajabrooks@gmail.com

July 26, 2023

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848

RE: Proposal 2023-024, Equity in Justice CLE Credit

Dear Honorable Justices of the New Mexico Supreme Court,

The first sentence of the Lawyer's Preamble states, "as a lawyer, I will strive to make our system of justice work fairly and efficiently." Requiring an Equity in Justice CLE credit will help us achieve this promise by educating members of our profession about the inequities embedded within our legal system, which will better equip us to make our justice system fairer. Understanding the way our legal system functions and the affects it has on diverse populations it is just as important as learning about substantive areas of law and professionalism. It is also incumbent upon us to understand the inequities that we face as lawyers working within the system. The need for this type of legal training does not come from a place of politicking or from CRT; it comes from hard data that has been studied and compiled by the State Bar of New Mexico for years.


Beginning in 1989, the State Bar's Committee on Diversity in the Legal Profession (which has changed names over the years) started producing decennial reports on the Status of Minority Attorneys in New Mexico. The latest 2019 report was a joint effort between the Committee on Diversity and the Committee on Women and the Legal Profession, although the reports have always investigated and documented the experiences of women. A part of the 2019 report included recommendations on ways the State Bar could begin to tackle some of the inequities the report details; recommendations fell into three main categories: 1) Fighting Discrimination and Increasing Awareness; 2) Increasing Diversity and 3) Fostering Inclusivity. One of the "Fighting Discrimination and Increasing Awareness" recommendations was to "advocate for a change to the MCLE rules to require some portion of annual or biannual credit requirements be devoted to subjects dealing with diversity, inclusion, cultural competency, and elimination of bias." The recommendation mentions that several states already have a similar requirement, which is mirrored nationally as well; in April 2022, the American Bar Association adopted a CLE policy that calls for all CLE programs that it sponsors or co-sponsors to meet the objectives of Goal III- to "promote full and equal participation in the association, our profession, and the justice system by all persons" and to "eliminate bias in the legal profession and the Justice System."

The Commission on Equity and Justice was created around the same time that the 2019 report was being compiled. In part, its mission is "to study issues related to race and bias in the state's justice system." The Commission has been instrumental to ensuring that the Committee on Diversity's recommendation did not

fall by the wayside. The work of both the Committee and the Commission has been instrumental to bringing this much needed proposal to fruition.

Lastly, New Mexico is not immune to discrimination, racism, sexism, homophobia, etc., and neither is our legal profession. I have witnessed and experienced many situations that speak to the fact that we need this type of Equity in Justice training, and some of the comments in opposition only reinforce this belief. If we cannot even agree that this system is broken and unfair, how can we come together to fix it? An Equity in Justice CLE will help us understand these inequities and issues and how we as lawyers can work together to change them. I am in full support of the proposal.

Sincerely,

A handwritten signature in black ink that reads "Aja Brooks". The signature is written in a cursive, flowing style. It is positioned above a thin horizontal line.

Aja Brooks

Board of Bar Commissioners, Second Judicial District

Past President, New Mexico Black Lawyers Association

Committee on Diversity in the Legal Profession member



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/26/2023, 10:35 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Wed, Jul 26, 2023 at 10:35 AM

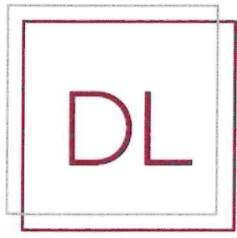
Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Nicholas Davis
Phone Number: 505-242-1904
Email: nick@davislawnm.com
Proposal Number: 2023-024
Comment: Comment attached.
Upload: [2023-07-26-Ltr-to-NMSC-re-CLE-requirements.pdf](#)



2023-07-26-Ltr-to-NMSC-re-CLE-requirements.pdf
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DAVIS LAW
NEW MEXICO

NICHOLAS T. DAVIS
nick@davislawnm.com

July 26, 2023

VIA ONLINE SUBMISSION

<http://supremecourt.nmcourts.gov/open-for-comment.aspx>

Elizabeth A. Garcia
Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848

RE: Input on Diversity Requirement for CLEs

Dear New Mexico Supreme Court:

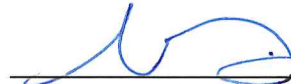
I am writing to submit a public comment in support of the proposed rule requiring mandatory diversity CLE programs. I am a lawyer who litigates predominately in the arena of civil rights. My clients include every single inmate at the Bernalillo County Metropolitan Detention Center and every single inmate under the New Mexico Corrections Department, as well as an array of New Mexico citizens who have suffered an abuse of power. My clients' backgrounds span the social and economic spectrum. My nearly ten years' experience, more if you consider my exposure to these issues through the litigation and experiences of Phil Davis since I was young, have shown me that exposure to these diverse experiences, cultures, and the perspectives all of these bring to those who interact with the law are important for us as practitioners to understand or of which to be aware.

Our CLE requirements influence the Bar. Not only what practitioners are expected to know, but also the culture of the expectation of that body. I agree with Leon Howard that "Implementing mandatory diversity education through CLEs will help equip legal professionals with the necessary tools to provide compassionate and holistic representation to a diverse range of clients." Let us be a progressive Bar. Let us uphold our own state constitution that throughout recognizes the diversity of this state and the intended inclusivity of its governance. That includes those of us who deal in its laws.

Thank you for your attention to this important matter. Should you require any further information or assistance, please do not hesitate to contact me.

New Mexico Supreme Court
July 26, 2023
Page Two

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicholas T. Davis", is written over a horizontal line.

Nicholas T. Davis

NTD:kmt



[rules.supremecourt-grp] Proposal 2023-024 - Strongly support

1 message

Elinor Rushforth <erushforth@aclu-nm.org>

Wed, Jul 26, 2023 at 3:21 PM

Reply-To: erushforth@aclu-nm.org

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

Good afternoon,

I write in strong support of the proposed amendment requiring mandatory Equity in Justice CLE programs. I am licensed in New Mexico, California, and Virginia. I share two points: 1) Education and understanding of the principles of equity improves the quality of legal services and provision of pro bono services and 2) It is our duty to understand and address barriers to equity and it is dangerous to ignore these important principles.

As of June 2022, there are nearly twice as many lawyers for every person in California than in New Mexico. California includes "specialty credits" including 4 hours of ethics credit; 1 hour of competency issues credit; and 2 hours of elimination of bias in the profession credit (at least 1 of which must be implicit bias), per reporting period.

1. California: 195,000 meaning there is 1 attorney for every 200 people.
2. New Mexico has 5, 634 meaning there is 1 attorney for every 375 people.

This proposed CLE requirement means twice the impact of the increased education of our attorneys on, not only, the importance of diversity and equity in the legal profession but the opportunity to dramatically improve the provision of legal services to our clients and encourage the provision of pro bono legal services to address our concerning lack of access to justice. Early in my career, I was fortunate enough to work both in direct legal services and in the pro bono space, helping to draft best practices for pro bono guides in collaboration with some of the most effective legal services providers and some of the largest law firms in the country, I oversaw and managed pro bono legal clinics, and worked with complex and diverse clients and managed rapid response to emergency legal situations. A basic understanding of diversity, equity, belonging, and bias turns out to be one of the most important factors when attorneys decide to dedicate their time to pro bono efforts. Not only will an increased understanding of equity serve the Bar's interests in improving the profession but will make us all better, more respectful, and effective advocates. Plainly, without an understanding of equity and equality there can be no justice and without justice there can be no confidence in the legal system.

Our responsibilities are plainly stated in the preamble of the rules of professional conduct:

"A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the **quality of justice**...As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be **mindful of deficiencies in the administration of justice** and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time

and resources and use civic influence to ensure **equal access to our system of justice** for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest."

It is not only the right thing, but the required thing to ensure that those of us charged and entrusted to uphold the tenants of our democracy understand the dangers of helping create and develop law without an understanding of how the actual impact of the law will be experienced by individuals historically and intentionally kept from such a powerful profession and system. It may be obvious to say, but we live at a critical point for our democracy. Those of us with the power and education to fight the rising tide of hate, fascism, racism, anti-LGBTQ+ vitriol, misogyny, anti-Semitism, xenophobia must be equipped with the basic tools to identify such threats and address them in turn. Our communities deserve quality legal services that are consistent with the inclusive and respectful New Mexican values we work so hard to protect every time we take on a client, enter a courtroom, or the policy arena. I include a copy of a 2016 ABA article addressing the importance of diversity in the legal profession.


Respectfully, I urge the Court to adopt the proposed rule.

Thank you,

Ellie Rushforth (she/her/hers)
Managing Attorney - Reproductive Rights and Gender Equity
American Civil Liberties Union
P.O. Box 566. Albuquerque, NM 87103
505.266.5915 ex.1010 / erushforth@aclu-nm.org
aclu-nm.org



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 **Diversity in Law_ Who Cares_.pdf**
217K

April 30, 2016

ARTICLES

Diversity in Law: Who Cares?

Why Justice John Roberts's implications were wrong.

Share:



"I'm just wondering what the benefits of diversity are in [the classroom]," United States Supreme Court Chief Justice John Roberts pondered during oral arguments in *Fischer v. University of Texas at Austin* pending before the U.S. Supreme Court. Too often people pose a similar question about the benefits of diversity in the legal profession.

Historically, the legal profession has been one of the least diverse professions in the nation. It continues to be so, according to a recent survey produced by the American Bar Association (ABA). Some may think why it even matters for the profession to be diverse. What is diversity? What are the benefits of diversity in law?

The ABA defines diversity as "the term used to describe the set of policies, practices, and programs that change the rhetoric of inclusion into empirically measurable change."

Diversity includes more than just racial or ethnic diversity. The concept of diversity encompasses all persons of every background, gender, race, sexual orientation, age, and/or disability.

Diversity has a different meaning to everyone, posits Chasity H. O'Steen, chair of the Florida Bar Diversity and Inclusion Committee Diversity. "People's experiences and exposure to different situations inform their perspectives, perceptions, and beliefs. Fundamentally, people want to belong, be heard, and be understood," says O'Steen.

According to the ABA, "racial and ethnic diversity in the legal profession is necessary to demonstrate that our laws are being made and administered for the benefit of all persons. Because the public's perception of the legal profession often informs impressions of the legal system, a diverse bar and bench create greater trust in the rule of law." And negative perceptions of the legal profession impacts the "public confidence in our system," says Thomas W. Ross,

Professor of Public Law and Government at University of North Carolina at Chapel Hill. As such, enhancing diversity and inclusion is one of the ABA's primary goals.

Again, the nagging question: Why does diversity matter? Beyond the public perception and confidence in our system, diversity affects "the quality of legal services and judicial decisions," argues the ABA. "A diverse legal profession is more just, productive and intelligent because diversity, both cognitive and cultural, often leads to better questions, analyses, solutions, and processes."

Further, the need for fair representation of citizens in the legal system is crucial and begins with a diverse population of attorneys and judges, says 2015–2016 ABA President Paulette Brown. "A demonstrated commitment to diversity and inclusion can be a key aspect of a law firm's competitive advantage when it comes to recruiting and retaining talent and pitching certain clients. Clients receive the highest quality service when their legal teams are drawn from professionals mirroring the diversity of the marketplace," says Tiffani Lee, partner at Holland & Knight, LLP.

The other rationale for promoting diversity in the profession is that the nation's leaders typically come from the population of lawyers and judges, points out Justice O'Connor (Ret.). "In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity," continues O'Connor.

Beyond the perception of the justice system and representation of the public in the system, is the benefit of being able to "come up with more creative solutions," argues Robin Wofford of Wilson Turner Kosmo LLP, who also serves as chair of the National Association of Minority & Women Owned Law Firms. "Their unique backgrounds help to ensure that a 360-degree approach is used to analyze each issue," continues Wofford. "Having a diverse legal team helps to eliminate the possibility of bias affecting your final decision."

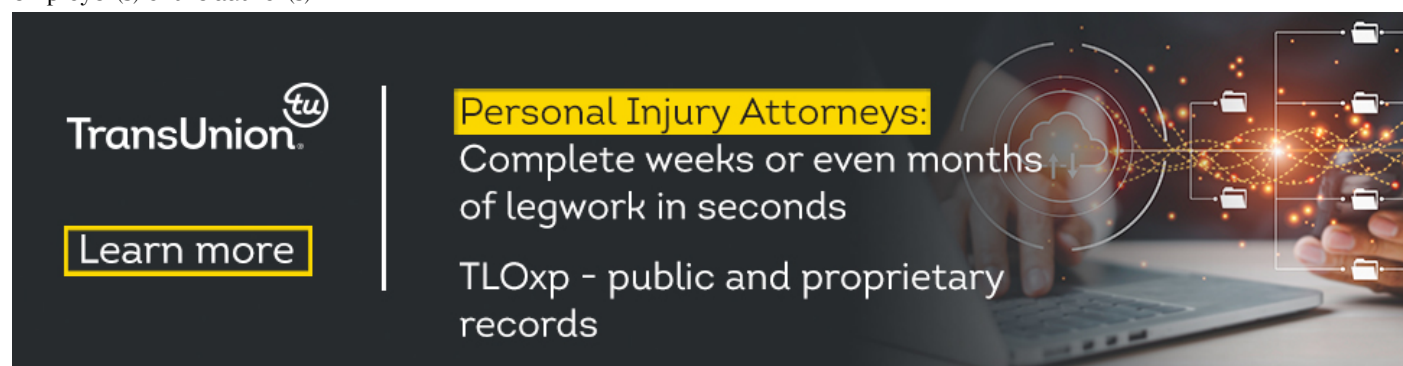
Moreover, "a group of diverse people working together to identify, analyze, and resolve issues ensures that those collective perspectives, perceptions, and beliefs are voiced, considered, and represented as part of any proposed solution," states O'Steen. "This collaborative effort, though at times challenging or even contentious, builds confidence within the legal community that diverse opinions, thoughts, and proposals are respected, appreciated, and desired, which in turn

encourages others to become involved and perpetuates an inclusive and cooperative environment within which members of the legal community can work and feel valued instead of feeling that their perspectives, beliefs, and perceptions, and those of the individuals and entities that they represent and serve, are not worthy of consideration and are not wanted.”

Knowing the value and benefits of diversity in the legal profession is important, but *how* can we achieve diversity in the profession? The ABA suggests that law schools must implement diversity plans, in which school leaders participate in the plan. “Diversity and inclusion education and training needs to start while future attorneys are in law school and continue during the practice of law. Legal organizations and associations need to continue to make diversity and inclusion a priority and promote efforts to encourage diversity and inclusion within their organizations, in legal practice, and in the judiciary,” argues O’Steen.

Despite the implication of questions similar to Chief Justice Roberts’s question about the benefits of diversity, there are countless benefits to having diversity in the legal profession.

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A dark-themed advertisement banner for TransUnion. On the left, the TransUnion logo is displayed above a yellow-bordered button that says "Learn more". To the right of the button, the text "Personal Injury Attorneys:" is highlighted in yellow, followed by "Complete weeks or even months of legwork in seconds" and "TLOxp - public and proprietary records". The background features a hand interacting with a laptop, overlaid with a glowing digital interface showing a cloud, a target, and a network of nodes and lines.

TransUnion
Learn more

Personal Injury Attorneys:
Complete weeks or even months
of legwork in seconds
TLOxp - public and proprietary
records

ABA American Bar Association |

[/content/aba-cms-dotorg/en/groups/litigation/committees/diversity-inclusion/articles/2016/spring2016-0416-diversity-in-law-who-cares](https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2016/spring2016-0416-diversity-in-law-who-cares/)



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/27/2023, 11:35 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Thu, Jul 27, 2023 at 11:35 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Terri Nikole Baca

Phone Number: 505-459-5272

Email: tn.baca@gmail.com

Proposal
Number: 2023-024

Comment: I support the adoption of Proposal 2023-024 – MCLE Requirement for Equity in Justice and Professionalism.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/27/2023, 4:39 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Thu, Jul 27, 2023 at 4:39 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Michael Avery

Phone
Number: 617-335-5023

Email: mavery@suffolk.edu

Proposal
Number: 2023-024

Comment: I am not a member of the New Mexico bar. I am admitted in Massachusetts, but reside in New Mexico. I heartily urge the Court to adopt the proposed diversity CLE rule. This is an essential subject matter for lawyers.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/27/2023, 4:44 pm

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Thu, Jul 27, 2023 at 4:44 PM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Sarah Gallegos

Phone
Number: 505604880

Email: sarah.gallegos@lopdnm.us

Proposal
Number: Proposal 2023-024

Comment: I strongly support the adoption of Proposal 2023-024 – MCLE Requirement for Equity in Justice and Professionalism. I believe this would greatly benefit our practitioners by strengthening our ability to understand and communicate with each other, our clients, and the community at large. Thank you!



[rules.supremecourt-grp] Comment on 2023-024

1 message

Carolyn M. 'Cammie' Nichols <cmnichols@rothsteinlaw.com>
Reply-To: cmnichols@rothsteinlaw.com
To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

Thu, Jul 27, 2023 at 10:50 PM

Good evening!

I tried to use the website to upload my comment, but I could not get the attachment to load.

So, I am sending it by email instead! My name and phone number are in the footer of this email, and my letter/comment is attached.

Thank you! Have a good Friday and an even better weekend.

Cammie



Carolyn M. "Cammie" Nichols

(she/her)
Attorney

505.243.1443 t [Albuquerque, New Mexico](#)
505.242.7845 f 500 4th Street NW, Suite 400
[RothsteinLaw.com](#)87102

[website](#) | [bio](#) | [map](#) | [email](#)

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2023-07-26_Letter in Support of Amendments to Rule.pdf

166K

July 27, 2023

Via Electronic Submission

Elizabeth A. Garcia
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848

Re: Proposal 2023-0024 – MCLE Requirements for Equity in Justice and Professionalism

Dear Ms. Garcia:

As a young attorney, I was often confronted by less than professional conduct, and I learned to remain focused on the goal at hand, picking my battles with the best interests of my clients as the focus. As a person who gravitates towards representation of the underdog, I knew I would always be fighting the uphill battle, so to speak, but it was made an even steeper slope by the unprofessional conduct of some fellow members of the bar. I had to prove myself over and over to earn the respect that came for others as a matter of course.

And I had it easy in comparison to the inherent barriers facing many, including many of my peers and many of the people I represent.

Setting aside an hour every year to reflect upon "equity in justice" seems like a reasonable requirement, and folks may be surprised what they discover if they approach such an hour with an open mind.

My colleagues Leon Howard and Arne Leonard have made much more eloquent pitches for the rationale behind this requirement, explaining how it flows from the rules already in place, and is a tool for implementation of those existing rules, not a political ploy. I agree with them. I too support the proposed MCLE requirement. I hope it succeeds and that we succeed, as a bar, in listening to one another, truly listening, without our defenses engaged, without an agenda, and with the intention to nurture an environment where equity and justice, and equity in justice, can take root and thrive, with our active awareness and engagement in the process, as colleagues.

Sincerely,

/s/ Cammie Nichols

CAROLYN M. "CAMMIE" NICHOLS
Attorney

CMN/el



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/28/2023, 5:53 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Fri, Jul 28, 2023 at 5:53 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Eva Gonzalez Estrada

Phone
Number: 5057167009

Email: eaimeeg@gmail.com

Proposal
Number: 2023-024

Comment: I write in support of Proposal 2023-024. As a woman of color licensed in this profession, not only are these courses needed but they certainly should be required. We must learn to be aware of situations that violate our rights and that of our clients, and we should have the training to know how to deal with these situations when they happen, and this CLE mandate would provide those tools to the profession. Please consider passing this proposal for the benefit of all.



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/28/2023, 9:52 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Fri, Jul 28, 2023 at 9:52 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Richard Wellborn

Phone
Number: 575-649-5974

Email: stickeresq@gmail.com

Proposal
Number: 2023-024

Comment: For the love of God, please do not require us to endure equity in justice indoctrination programs. You will succeed only in sowing division and resentment -- among both those who buy into the ideology and those who don't. Please. Let the controversial subjects remain voluntary.



[nmsupremecourtclerk-grp] Public Comment in Support of Proposal 2023-024

1 message

Torri Jacobus <torrijacobus@gmail.com>

Sat, Jul 29, 2023 at 3:19 PM

Reply-To: torrijacobus@gmail.com

To: nmsupremecourtclerk@nmcourts.gov

Dear New Mexico Supreme Court,

I am writing in support of the Proposed Revisions to The Rules For Minimum Continuing Legal Education.

The New Mexico Bar and its service to the state and people of New Mexico will be improved by the inclusion of Equity in Justice training. Addressing topics on race, gender, national origin, sexual orientation, disability, and other issues of disparity and inequity will underscore and define how shortfalls can be addressed and overcome. The practice of law is a profession in service to others, members of the Bar must have a clear understanding of the changes that are needed to truly be in service to others. The intentional work of the New Mexico Supreme Court, regarding equity and justice matters, ensures that this change will benefit our community. The result of this change will be equitable access to justice for the community and a more equitable Bar.

Thank you for the opportunity to comment on the proposed rules.

Torri A. Jacobus

pronouns: she/her/hers



[nmsupremecourtclerk-grp] New Mexico Black Lawyers Association Comments re Proposed Rule 18-201

1 message

Hope Pendleton <hpendleton333@gmail.com>

Mon, Jul 31, 2023 at 3:20 PM

Reply-To: hpendleton333@gmail.com

To: nmsupremecourtclerk@nmcourts.gov

Good afternoon,

Please see the attached comments by the New Mexico Black Lawyers Association (NMBLA) in regard to proposed rule 18-201.

Thank you,
Hope Pendleton
President
New Mexico Black Lawyers Association



Support for Rule 18-201 NMRA (1).docx

15K

The New Mexico Black Lawyers Association (“NMBLA”) board writes to express our support of the proposed 1-hour Equity in Justice CLE requirement. As attorneys in a state with a particularly diverse population, it is important that New Mexico legal professionals are educated on the issues related to equity in justice in our communities. This topic is not a political issue or personal agenda item, it is a pertinent issue with significant effects on the people of our state. We as professionals should strive to provide legal services that exemplify civility and compassion. Germane to this goal is educating our bar on issues that effect equity in justice for those in the profession, for those who have experienced inequality in attempting to enter the profession, and for those attempting to maneuver through our legal system.

Our country has experienced significant divisions in the past few years. Evidenced by both the comments submitted in support and in opposition of this proposed rule change, the legal profession is no exception to this divide. A training requirement that forces us to look to the provision of equity in our justice system would serve to educate each of us on how these divides affect our profession. As a profession that claims to strive for justice for all that we serve, it is significant that we have an understanding of what that looks like. A CLE focusing on equity in justice will not resolve all of the divide and inequalities in the justice system, but it does make a statement that we are willing to address them. This is a step that the NMBLA can stand behind and we strongly support the State Bar of New Mexico’s recommended amendments to Rule 18-201 NMRA.

Sincerely,

New Mexico Black Lawyers Association Board



[nmsupremecourtclerk-grp] Letter in support of Proposal 2023-0024 – Equity in Justice in Justice and Professionalism CLE Requirements

1 message

Kristin Greer Love <KGLove@aclu-nm.org>

Mon, Jul 31, 2023 at 3:53 PM

Reply-To: kglove@aclu-nm.org

To: "nmsupremecourtclerk@nmcourts.gov" <nmsupremecourtclerk@nmcourts.gov>



July 31, 2023

Via electronic submission to:

Elizabeth A. Garcia, Chief Clerk of Court

New Mexico Supreme Court

Re: Letter in support of Proposal 2023-0024 – Equity in Justice in Justice and Professionalism CLE Requirements

Dear Ms. Garcia:

I enthusiastically support the State Bar of New Mexico's recommended amendments to Rule 18-201 NMRA, requiring one hour of Equity in Justice continuing legal education for New Mexico attorneys. As the ACLU of New Mexico's Senior Civil Liberties Attorney, a member of the State Bar's Committee on Diversity in the Legal Profession, a former UNM Law Library Postdoctoral Fellow, and a pro bono lawyer, I have collaborated with attorneys and law students throughout New Mexico and have observed the urgent need for equity in justice education. All lawyers must understand diversity, equity, and inclusion to zealously represent and counsel their clients, mentor new attorneys, and comply with the Rules of Professional Conduct and the Creed of Professionalism.

The Equity in Justice CLE requirement will advance professionalism in our state bar by helping to ensure attorneys act with care, integrity, and competence. Our professionalism rules require attorneys to refrain from engaging "in conduct that [they] know[] or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, or marital status" "related to the practice of law." Rule 16-804 NMRA. Equity in justice education addressing "race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, or marital status" is vital for ensuring that attorneys comply with this rule.

Some comments that state bar members have submitted opposing this proposed requirement misunderstand and misstate what equity in justice is. Equity in justice is not "Marxist." (The writers would benefit from reading Marx before making such claims!) Instead, equity in justice continuing legal education is about *practicing law effectively* in a pluralistic and vibrant state with a pluralistic and vibrant state bar. In other words, lawyers need to know how to respectfully and effectively communicate with clients and lawyers whose identities and life experiences differ from theirs while recognizing and honoring that we all share a common humanity. Just as we diligently research new statutes, rules, and cases to use them effectively in our briefs, we also need to engage in equity in justice education to avoid perpetuating racism, sexism, transphobia, and other harms that damage our society, our state bar, and our relationships with clients and other lawyers.

Consider these examples. Suppose an attorney representing a transgender client fails to use their client's correct name or pronouns—or wrongly assumes their client's gender identity based on sexist stereotypes. The attorney will erode trust with their client, harming the client's legal interests and imperiling the representation. With equity in justice education about effectively representing transgender people, the attorney will avoid using harmful and transphobic language and assumptions in their practice and effectively represent clients regardless of their gender identity. Suppose a white attorney represents a client of color who has survived trauma *because* of their identity—such as racism. Many white attorneys, like me, were socialized *not* to talk about race; some describe themselves as “colorblind” or someone who “doesn’t see race.” While many of these lawyers are well-meaning, their “colorblindness” or refusal to “see race” harms their ability to represent their clients. For example, in failing to talk about race and racism, attorneys may miss crucial information in client interviews—such as failing to understand what happened during a police stop, before a workplace firing, or in a marriage or contract negotiation—harming their ability to zealously represent their client. Attorneys need equity in justice education to *strengthen* their client interviewing and counseling practices to ensure effective representation.

Fundamentally, equity in justice education is about having the curiosity and humility to understand that we can never fully know someone else's identity or lived experiences. Still, we can begin to understand them, treat them respectfully, and represent them more effectively if we *listen better*. Equity in Justice education will help us do that.

Thank you for considering these comments.

Sincerely,

/s/ Kristin Greer Love

Kristin Greer Love

Senior Civil Liberties Attorney

American Civil Liberties Union of New Mexico

(505) 460 0513

kglove@aclu-nm.org



2023_07_31 Kristin Greer Love Letter in Support of Equity in Justice CLE.pdf
165K



July 31, 2023

Via electronic submission to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court

Re: Letter in support of Proposal 2023-0024 – Equity in Justice in Justice and Professionalism CLE Requirements

Dear Ms. Garcia:

I enthusiastically support the State Bar of New Mexico's recommended amendments to Rule 18-201 NMRA, requiring one hour of Equity in Justice continuing legal education for New Mexico attorneys. As the ACLU of New Mexico's Senior Civil Liberties Attorney, a member of the State Bar's Committee on Diversity in the Legal Profession, a former UNM Law Library Postdoctoral Fellow, and a pro bono lawyer, I have collaborated with attorneys and law students throughout New Mexico and have observed the urgent need for equity in justice education. All lawyers must understand diversity, equity, and inclusion to zealously represent and counsel their clients, mentor new attorneys, and comply with the Rules of Professional Conduct and the Creed of Professionalism.

The Equity in Justice CLE requirement will advance professionalism in our state bar by helping to ensure attorneys act with care, integrity, and competence. Our professionalism rules require attorneys to refrain from engaging "in conduct that [they] know[] or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, or marital status" "related to the practice of law." Rule 16-804 NMRA. Equity in justice education addressing "race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, or marital status" is vital for ensuring that attorneys comply with this rule.

Some comments that state bar members have submitted opposing this proposed requirement misunderstand and misstate what equity in justice is. Equity in justice is not "Marxist." (The writers would benefit from reading Marx before making such claims!) Instead, equity in justice continuing legal education is about *practicing law effectively* in a pluralistic and vibrant state with a pluralistic and vibrant state bar. In other words, lawyers need to know how to respectfully and effectively communicate with clients and lawyers whose identities and life experiences differ from theirs while recognizing and honoring that we all share a common humanity. Just as we diligently research new statutes, rules, and cases to use them effectively in our briefs, we also need to engage in equity in

justice education to avoid perpetuating racism, sexism, transphobia, and other harms that damage our society, our state bar, and our relationships with clients and other lawyers.

Consider these examples. Suppose an attorney representing a transgender client fails to use their client's correct name or pronouns—or wrongly assumes their client's gender identity based on sexist stereotypes. The attorney will erode trust with their client, harming the client's legal interests and imperiling the representation. With equity in justice education about effectively representing transgender people, the attorney will avoid using harmful and transphobic language and assumptions in their practice and effectively represent clients regardless of their gender identity. Suppose a white attorney represents a client of color who has survived trauma *because* of their identity—such as racism. Many white attorneys, like me, were socialized *not* to talk about race; some describe themselves as “colorblind” or someone who “doesn’t see race.” While many of these lawyers are well-meaning, their “colorblindness” or refusal to “see race” harms their ability to represent their clients. For example, in failing to talk about race and racism, attorneys may miss crucial information in client interviews—such as failing to understand what happened during a police stop, before a workplace firing, or in a marriage or contract negotiation—harming their ability to zealously represent their client. Attorneys need equity in justice education to *strengthen* their client interviewing and counseling practices to ensure effective representation.

Fundamentally, equity in justice education is about having the curiosity and humility to understand that we can never fully know someone else's identity or lived experiences. Still, we can begin to understand them, treat them respectfully, and represent them more effectively if we *listen better*. Equity in Justice education will help us do that.

Thank you for considering these comments.

Sincerely,

/s/ *Kristin Greer Love*

Kristin Greer Love
Senior Civil Liberties Attorney
American Civil Liberties Union of New Mexico
(505) 460 0513
kglove@aclu-nm.org



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/31/2023, 3:58 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Mon, Jul 31, 2023 at 3:58 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Max Brooks

Phone
Number: 6179717321

Email: mbrooks@aclu-nm.org

Proposal
Number: 2023-024

Comment: Dear New Mexico Supreme Court:

I am writing in support of the proposed rule requiring mandatory diversity CLE programs.

I am proud to be practicing law in a state with a strong reputation for collegiality and professionalism. However, even in a place like New Mexico, discrimination, bias, and harassment are all too common in the legal profession.

It is crucial to do all we can to create as inclusive a legal community as possible. Requiring CLEs on diversity, equity, and inclusion will help ensure that practitioners have the skills they need to meet clients' needs, treat colleagues with respect, and uphold our state's welcoming reputation.

Thank you for your attention to this issue.

If you need any further information from me, please do not hesitate to contact me.

Sincerely,

Max Brooks
Staff Attorney, ACLU of New Mexico



[rules.supremecourt-grp] Proposal 2023-0024 – MCLE Requirements for Equity in Justice and Professionalism

1 message

Carey Bhalla <cbhalla@rothsteinlaw.com>

Mon, Jul 31, 2023 at 4:04 PM

Reply-To: cbhalla@rothsteinlaw.com

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

Dear Ms. Garcia,

Please find attached my comments on the rule proposal.

Thank you for your consideration. If you have any problems opening my email or the attachment, please let me know.

Thanks again,

Carey Bhalla



2023-07-31_DEI Requirement Final.docx
53K

July 27, 2023

Via Electronic Submission

Elizabeth A. Garcia
New Mexico Supreme Court
P O Box 848
Santa Fe, New Mexico 87504-0848 nmsupremecourtclerk@nmcourts.gov

Re: Proposal 2023-0024 – MCLE Requirements for Equity in Justice and Professionalism

Dear Ms. Garcia:

Thank you for providing me with the opportunity to support the requirement for equity in justice. I have had the opportunity to review some of the other comments and I was surprised at the polarization of opinions. This Country has suffered greatly at the rift between beliefs and the inability to discuss and resolve difficult topics. Learning about what diversity means and how it benefits us as a society is the best way to bridge these viewpoints and to bring awareness and education to a topic that has become political rather than intelligent.

Learning about systemic oppression and how we as lawyers and judges have played a part in that, both historically and presently, is a step toward understanding and evolving which is, in my view, necessary for the survival of the legal profession itself.

For example, I grew up in Mississippi and attended school there. At my private high school, there were 3 or 4 students of color in the entire high school, despite the black population outnumbering the white population. It was the same for all my friends attending other private schools. At the public schools, almost all students were black. That's how I came to understand the concept of *De jure* vs *De facto* and saw the destruction of segregated schools. It didn't matter that schools were no longer segregated; the fact was the segregation remained. That's how systemic oppression works. It is not intentional, but a natural byproduct of laws that were meant to subjugate and control the ability of someone else to succeed.

Those same hurdles exist in many other institutions. Do any of us feel proud reading the Supreme Court Opinion in *Korematsu*? We must question how those decisions were reached and how we can avoid making such disastrous mistakes moving forward, while at the same time trying to account for the mistakes of the past in a meaningful way that promotes justice and equity in the law.

Equity in training is not about quotas or forcing an agenda, it's about educating all of us on the importance of understanding how our institutions were founded, the unintended consequences of those institutions, and how we can correct and change moving forward in a way that supports the growth and possible achievements of our fellows.

Increasing diversity in the legal profession allows those who have been marginalized from the laws that govern them a seat at the table-to discuss and question the validity of those laws, the integrity of the institutions, and the way those laws are shaped and challenged. Having a myopic viewpoint leaves us open to blindness and short-sightedness, things that will diminish and discredit the profession and our system of justice. I see only benefits from the continuing education requirement and believe that greater education on what diversity means and why it is important are critical to representing our clients and the community we serve.

Sincerely,

/s/Carey C. Bhalla

CAREY BHALLA
Attorney at Law



[rules.supremecourt-grp] Rule Proposal Comment Form, 07/31/2023, 5:14 pm

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Mon, Jul 31, 2023 at 5:14 PM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your
Name: Mitchel Jofuku
Phone
Number: 505-363-1993
Email: msjofuku@gmail.com
Proposal
Number: Proposal 2023-024

Comment: I respectfully object to making this change to the professionalism/ethics credits requirements for the annual mcle requirements. I believe as a fundamental point that all persons, regardless of gender, race, creed, national origin, sexual orientation, gender, or disability, must be treated equally, that is, each must receive just consideration on the person's own merit regarding any opportunity present in our society. I as a believer in Jesus Christ do not agree with the choice of a person who opts for a LGBT lifestyle, but that person is still fully entitled under our laws to just treatment regarding, for example, any business or job opportunity, or housing opportunity, and not having any violence directed against the person because of their lifestyle. All persons are created equal I believe by God, and we all prosper best when we honor each other, believing the best for each other. I am not confident that mandating an mcle on equity in justice is an effective means of promoting positively just treatment of all individuals. Respectfully, I object, and humbly suggest just access to justice and a fair and just legal profession, regarding ALL persons, constitute fundamental points/aspirations of our society already, which we all need to promote actively within existing means, especially in living our lives each day, including our present ethics and professionalism mcle requirements in the NM Bar.

The above comments are strictly my own personal comments, and I do not intend them as speaking for any other person or entity.