

PROPOSED STANDARDS FOR APPELLATE PRACTICE CERTIFICATION

Pursuant to the authority vested in the Louisiana Board of Legal Specialization (the “Board”) by the Supreme Court of Louisiana, the Board, on the recommendation of the Appellate Practice Advisory Commission (the “Advisory Commission”), prescribes the following standards and requirements for Board certification in Appellate Practice in accordance with the Louisiana State Bar Association Plan of Legal Specialization (the “Plan”) and Rules and Regulations of the Louisiana Board of Legal Specialization (the “Rules”).

Section I. DEFINITIONS

- A. The practice of law means full-time legal work performed for the purpose of rendering legal advice or legal representation to the general public, private employers, or governmental agencies.
- B. Full time shall be defined as working a minimum of 35 hours per week.
- C. Appellate Practice is defined as the practice of law involving matters brought before a Louisiana or federal appellate court;
- D. Certification as a specialist shall be effective the date the Board authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

Section II. BASIC REQUIREMENTS

A. Application

Applicants must at the time of initial application for certification:

1. Be an active member in good standing of the Louisiana State Bar Association;

2. Have a minimum of five (5) years of continuous actual practice of law on a full time basis preceding the year of application;
3. Have devoted at least 25% of their professional practice to appellate practice over the course of their professional careers;
4. Regularly devote at least 25% of their full time work schedule in the practice of law to appellate practice;
5. Have served as lead counsel, or had substantial responsibility in, 25 or more appellate matters at the time of application. Applicants who have served on the appellate bench for three (3) or more years preceding the date of application are exempted from this requirement;
6. Have presented at least six (6) oral arguments, one of which must have been to the Louisiana Supreme Court;
7. The Advisory Commission must receive on behalf of an applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) reference statements from practicing attorneys who can attest to the applicant's competence in the specialty field of appellate practice. Of the five (5) references, at least one (1) must be from a Board Certified Appellate Practice Specialist. These submissions shall be subject to the limitations outlined in Section 8.4 of the Rules;
8. Consent to a confidential inquiry by the Board and/or the Advisory Commission, directed to any person who serves as a reference for the applicant, and to other persons regarding the applicant's competence and qualifications to be recognized as an Appellate Practice Specialist. This inquiry and review shall consider information furnished by references and other information that the Advisory Commission deems relevant to whether the applicant has sufficient

competence and proficiency handling the usual matters of appellate practice. This information may include the applicant's work product, ethics, reputation, professionalism, or such other criteria that the Advisory Commission deems appropriate to consider in reaching its recommendations;

9. Comply with the rules and regulations established by the Board as they relate to release of disciplinary action information;
10. Obtain by December 31 of the year of application a minimum of eight (8) hours of continuing legal education (CLE) in the field of appellate law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education and the Advisory Commission. CLE earned in prior years may not be used to satisfy the eight (8) hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption under Rule 7.10 of the LBLB Rules and Regulations in the year of application.
11. Maintain professional liability insurance in the minimum amount of \$1,000,000. Evidence of insurance shall be provided to the Advisory Commission by December 1 of the year of application. Full-time government employees shall be exempted from this requirement upon certification to the Board that they are full-time government employee and do not engage in the private practice of law.
12. Take and pass a written examination;
13. Certify under oath to having met these requirements;
14. Be knowledgeable in the following areas:
 - a. A working knowledge of those portions of the Louisiana Code of Civil Procedure, Louisiana Code of Criminal Procedure, and the Federal Code of Civil Procedure related to appellate proceedings;

- b. A working knowledge of the Uniform Rules—Courts of Appeal, Louisiana Supreme Court Rules, Federal Rules of Appellate Procedure, and the Local Rules and Internal Operating Procedures of the United States Court of Appeals for the Fifth Circuit;
- c. A working knowledge of the various standards of review employed by courts of appeal;
- d. Skill in brief-writing and oral argument focused particularly for appellate courts.

B. Maintenance

Those bar members certified in the Appellate Practice specialty must satisfy the following requirements to maintain their certifications:

1. Be an active member in good standing of the Louisiana State Bar Association;
2. Certify under oath, on a form provided by the Board, that they engage in the actual practice of law on a full time basis;
3. Certify under oath, on a form provided by the Board, that they have devoted a minimum of 25% of a full time work schedule in the practice of law annually in the field of appellate practice, as defined in Section I, C herein.
4. During each year of certification, must attend a minimum of eight (8) hours of approved appellate law continuing legal education programs that comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved appellate law specialization CLE earned in excess of the eight (8) hour minimum required per year will be permitted to carry for-

ward to the subsequent year, but may not be carried forward from the application year.

5. Maintain professional liability insurance in the minimum amount of \$1,000,000, unless waived for good cause by the Board. Proof of insurance shall be provided annually with payment of the annual dues upon request. Full-time government employees shall be exempted from this requirement upon certification to the Board that they are full-time government employee and do not engage in the private practice of law.
6. Pay all fees required by the Rules.

C. Recertification

1. Recertification as a Board Certified Appellate Practice Specialist shall be required every five (5) years from the date of certification or recertification, as the case may be.
2. Each Board Certified Appellate Practice Specialist shall present an application every five (5) years, on a form furnished by the Board, certifying that he or she has met the requirements of Section II B above.

Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS

A. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Appellate Practice Specialist and should be open for attendance by all such attorneys;
2. Programs should be developed by individual(s) qualified in the subject matter;

3. Program content should be current, and 70% or more of the program must be related to appellate practice subjects. No specialization continuing legal education credit will be awarded for attending a program that does not satisfy the 70% requirement.
4. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required), and teaching methods to be used;
5. Instructors or discussion leaders should be qualified with respect to program content and teaching method used;
6. Program sponsors should encourage participation only by individuals with appropriate education and/or experience;
5. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.

B. Program Qualification

1. General Rule

Continuing legal education programs must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) before approval can be granted by the Advisory Commission. The overriding consideration in determining if a specific program qualifies as acceptable continuing legal education is that it be a formal program of learning which contributes directly to the professional competence of an attorney who specializes in the field of Appellate Practice.

2. Program Approval

Programs shall be approved on a case-by-case basis by the Advisory Commission provided the program meets the general standards set forth in Section III. A and B1.

No credit shall be awarded for firm meetings or “in house” CLE programs.

Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT

A. General Rules

1. Any other method of earning specialization CLE credit must be approved by MCLE before approval can be granted by the Advisory Commission, who shall then consider each request on a case-by-case basis.
2. All credit earned shall be calculated by MCLE in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.
3. All requests for CLE credit shall be submitted to MCLE and the Advisory Commission within a reasonable period of time but no later than January 31 of the calendar year following the activity for which CLE credit is being sought.

B. Teaching

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter. If an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not teach in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education. No credit will be given for repetitious presentations of a program.

2. Teaching of academic courses in appellate practice in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.
3. CLE credit may be awarded for teaching an appellate practice course at any seminar, provided the presentation meets all criteria contained in Section III, A and B, other than Section III, A.3.

C. Writing

CLE credit may be awarded for writing articles and other publications directed primarily to attorneys specializing in the field of appellate practice and published in professional periodicals and publications. Credit will not be awarded for authorship of articles and other publications until the writing has been published.

D. Louisiana State Law Institute Committee meetings

CLE credit may be awarded for attendance at Louisiana State Institute Committee meetings pertinent to the field of appellate practice.

Section V. CREDIT HOURS GRANTED

- A. Only credit hours or the equivalent (and not hours dedicated to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instruction with intervening breaks, the number of minutes of instruction is summed for the entire program for which the credit is claimed and then the total number of minutes is divided by 60.

- C. A participant who is not present for an entire program may claim credit only for the portion he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

Section VI. COMPLIANCE

A. General Rule

Specialization CLE credit hours will be computed on a calendar year basis and all attendance information for CLE credits earned shall be delivered to MCLE by January 31 of the following year.

B. Notification

The Board will notify each non-compliant Board Certified Appellate Practice Specialist of the credit hours he or she has earned during the preceding calendar year. The specialist shall have 30 days from the date of notification to appeal the award of credit hours.

A specialization transcript may be obtained from the Board website located at <http://www.lascmcle.org/specialization>

Section VII. ADMINISTRATION

The Advisory Commission may delegate its responsibility to rule on all matters pertaining to appellate practice CLE requirements to a committee consisting of at least three (3) Advisory Commission members. Any such committee shall report to the Advisory Commission, and the Advisory Commission shall, at all times, retain the

right to review, modify, or supersede the decisions of any such committee.