

**NEW JERSEY STATE BAR ASSOCIATION**  
**COMMENTS ON**  
**THE SUPREME COURT AD HOC COMMITTEE**  
**ON CONTINUING LEGAL EDUCATION'S**  
**DRAFT REPORT AND RECOMMENDATIONS**

The New Jersey State Bar Association would like to thank the Supreme Court's Ad Hoc Committee on Continuing Legal Education ("SCC") for the opportunity to review the Committee's draft Report and Recommendations dated May 20, 2008, and comment on same. The NJSBA had previously submitted recommendations to the SCC that encouraged the development of a program that is fair, flexible, reasonable and time and money-conscious. The NJSBA was and is concerned with carefully balancing the goal of ensuring well-informed, updated attorneys are serving the public against the concerns of attorneys that MCLE requirements will be overly burdensome or difficult to meet.

As the NJSBA has publicly stated, we believe the SCC had those same goals in the forefront in the drafting of its report and recommendations. We are pleased that the SCC adopted many of our original recommendations. We now offer the following comments aimed at the specific recommendations contained in the SCC's draft report:

**SCC Recommendation 1:** The Committee recommends the following credit hour parameters:

A. Basis for 1.0 Credit Hour should be 50 minutes of instruction;

***NJSBA Response:*** *The NJSBA agrees with this recommendation, as it realistically provides time for breaks in each course. We would, however, recommend that credit be extended to time spent by attendees for those courses that require extensive advance preparation for performance and participation in that course. By way of example, we are advised that several training programs through the Office of Attorney General require students to prepare for a mock trial or moot court presentation outside of the actual seminar time. We believe the time spent on such preparation is just as, if not more important, than the time spent in the actual course, and greatly enhances the educational value of the course. Therefore, we would recommend adding the phrase, "and/or preparation to participate in approved interactive courses."*

B. Twenty-four credits should be required every two years (biennial cycle);

***NJSBA Response:*** *The NJSBA accepts as reasonable the twenty-four credits, however we express two concerns: (1) requiring 12 hours as opposed to 10 hours requires that an attorney must spend two full days from his or her practice or family at CLE programs; and (2) the requirement for 24 credits over two years, or 12 credits per year, may begin to diminish the value of the certification status afforded to certified attorneys, who are required to obtain 15 credits per year.*

C. Four hours of ethics/professionalism credits should be required during each biennial cycle; there should be no additional core requirements.

***NJSBA Response:*** *The NJSBA agrees that a certain number of ethics credits should be required each cycle; however, the NJSBA recommends that two hours of ethics per biennial cycle be the standard, as it is in Pennsylvania. This would lend itself to inclusion of ethics in other substantive courses, which would provide context to the ethical dilemmas presented. To require more than one hour per year would require a separate ethics course which, in our opinion, would not be as beneficial as connecting ethics to a particular practice area.*

D. Except for ethics/professionalism credits, which should be completed each biennial cycle, and subject to limits on credits earned by full time and adjunct law professors, the Court should allow up to 6 credit hours to be carried over to the next cycle;

***NJSBA Response:*** *The NJSBA agrees that credits should be permitted to be carried over from the previous cycle, particularly because outside factors, such as health problems or family emergencies, during one cycle may affect an attorney's ability to obtain all of the required credits in one cycle. We believe, however, that up to half of the required credits (12 credits per cycle) should be permitted to be carried over, not just one-quarter. The ability to carry over up to 12 credits will encourage participation by attorneys in intensive advanced courses, such as week-long trial advocacy and the 40 hour mediation training.*

E. There should be no blanket rule regarding whether credits can be earned for courses conducted during a meal -- this matter should be left to the discretion of accredited providers; and,

***NJSBA Response: Agreed.***

F. All alternative verifiable learning formats should be permitted and encouraged, including but not limited to: writing, audiotape, videotape, teleconference, video conference, satellite simulcast, and the Internet. The use of alternative learning formats should be limited to 12 credit hours per cycle for formats that are not “live” or “interactive” as defined by the MCLE regulator.

***NJSBA Response: The NJSBA agrees that as many methods of delivery as possible be approved and utilized for attorneys to meet their MCLE requirements. In addition, credit should be permitted for instruction that is not strictly legal in nature but pertains to an attorney’s specialty and meets the approval of the MCLE Regulator. By way of example, personal injury and workers’ compensation attorneys benefit from attending medical courses. The Criminal Bar benefits from learning about DNA and forensic science. The NJSBA believes these courses can be just as important and beneficial as traditional legal courses. The monitoring and approval of credit for these courses can be handled in the same manner as used for certified attorney credits.***

**SCC Recommendation 2:** The Committee recommends that MCLE credits be awarded for teaching on a 2:1 basis per two-year cycle and for writing on a 1:1 basis. Teaching credit should be earned only once for the same course during a cycle. The exact parameters of what would qualify for teaching and writing credits should be detailed in the Court’s MCLE regulations and guidelines. As for writing, hours earned for writing should be counted toward, and limited by, the 12-credit limit provided under Recommendation 1F. Teaching should not be so limited. As noted later in this Report, the Committee recommends that the existing Board on Attorney Certification be designated as the MCLE regulator. [See Recommendation 6 for additional proposals as they would apply to law school professors.]

***NJSBA Response: The NJSBA agrees that enhanced credits should be available for teaching a course; however, the NJSBA recommends that credit should be awarded on a 3:1 basis, in recognition of the amount of time needed to research and prepare written materials for courses that are taught. At least ten other***

*states give triple credit for teaching, and some give even more. Furthermore, it is not clear from the SCC's recommendation whether credit would be available for subsequent presentations of the same material (although the comments indicate credit would be available). The NJSBA agrees with the comments that, while the enhanced teaching credit should only be earned once during a cycle, 1:1 credit should be given for any subsequent presentations of the same course during a cycle. This recognizes many courses are offered several times in different areas of the state.*

**SCC Recommendation 3:** Subject to approval regulations set forth in Recommendation 9 and the other requirements offered in this Report, all attorneys should receive 1:1 credit for courses taken in accordance with the requirements of any other jurisdiction. As part of reciprocity, the Committee recommends that certified attorneys also receive 1:1 credit for their attendance at their approved courses.

***NJSBA Response:** The NJSBA agrees that reciprocity for courses taken in other jurisdictions should be available to New Jersey attorneys. Reciprocity enhances the educational opportunities for New Jersey attorneys and increases the convenience for attorneys licensed in other jurisdictions. We also note this is consistent with most other jurisdictions.*

**SCC Recommendation 4:** The Committee recommends that attorneys participating in approved Inns of Court programs receive full credit towards MCLE requirements for hours of instruction up to 24 credit hours each biennial cycle.

***NJSBA Response:** The NJSBA agrees that participation in approved Inn of Court programs should be eligible for CLE credit, as the Inns of Court offer intensive supervision and instruction, and are time-consuming for all participants.*

**SCC Recommendation 5:** The Committee recommends that the Supreme Court consider, after initial implementation of MCLE, whether it should grant credit to attorneys for *pro bono* work supervised by an accredited provider or for any other educational activity. These areas can be incorporated into the MCLE rules and regulations after implementation of the initial program.

***NJSBA Response:** While the NJSBA had previously recommended that *pro bono* work, generally, be considered eligible for MCLE credit, it understands the SCC's hesitation to make such a blanket*

*recommendation. The NJSBA urges the SCC to recognize the importance of pro bono work at the outset of MCLE implementation and to encourage lawyers to engage in pro bono work. The goals of MCLE can be met and pro bono activity can be simultaneously encouraged by focusing on the educational component of pro bono work. The NJSBA recommends that courses given by Court-approved providers be eligible for MCLE credit without the need for providers or attendees to pay fees. Furthermore, the NJSBA recommends that attorneys attending the courses not be given credit for the course unless they then take a pro bono case. This would provide an additional incentive for attorneys, generally, to participate in pro bono work, and would offer an avenue to those attorneys who have limited funds to fulfill their requirements in exchange for helping to meet the public's unmet legal needs.*

*Furthermore, the NJSBA recommends service on a District Ethics Committee and service on a Fee Arbitration Committee be eligible for credit. In recognition of the time required for service and the amount of research and preparation necessary, we recommend that 1:1 credit be given for each hour of service, up to 12 hours per year, with the attorney self-certifying the number of hours of service.*

*Additionally, attorneys participating in mock trial or moot court programs offered through approved and accredited elementary schools, high schools, colleges, law schools and other post-graduate programs should receive credit. All of these programs meet the educational goals of MCLE for their participants, as well as provide laudable services to various segments of the community.*

*The NJSBA recommends that 3 CLE credits be given for coaching a mock trial or moot court team and 2 credits be given for judging a competition.*

**SCC Recommendation 6:** All licensed New Jersey attorneys, both plenary and limited license in-house, should comply with the CLE requirements, including judges, law school professors, and in-house corporate counsel. Law school professors should receive two hours of CLE credit for every hour of law school instruction that they give to students, and one hour of credit for every hour of published writing, up to a

combined total of 12 credits per cycle. Credit for this type of activity should not be banked or carried forward to a successive cycle. Consistent with Rule 1:28-2(b) (Payment to the New Jersey Lawyers' Fund for Client Protection Exemptions), only attorneys who have been admitted to practice in New Jersey for fifty years or more, those on full-time active duty in the military, VISTA, or Peace Corps, and those retired completely from the practice of law should be exempted from the MCLE requirement. Hardship waivers should be available on a case-by-case basis by application to the Court's MCLE regulator.

***NJSBA Response:*** *The NJSBA generally agrees that all licensed attorneys should be subject to MCLE requirements. In fact, the NJSBA had previously recommended that MCLE requirements be applied uniformly to any individual with an active license to practice law in New Jersey, including judges, law professors, all private and public sector practitioners and all in-house and corporate counsel. However, the NJSBA also agrees there may be limited circumstances where exceptions are warranted. Therefore, the NJSBA offers the following comments:*

*(a) The NJSBA recommends that there be three categories for attorney classification with respect to MCLE status: active, inactive and senior status. Active attorneys should be required to fulfill their MCLE requirements. Inactive attorneys, as defined in (b) below, should be excused from MCLE requirements. Senior status attorneys, defined as those who have maintained an active license for 40 years or more, should be required to complete 50% of the MCLE requirements of active attorneys.*

*(b) Rule 1:28-2(b) exempts from payments to the Lawyers Fund for Client Protection those attorneys who have retired completely from the practice of law and are considered in all respects inactive New Jersey attorneys (referred to as "inactive" attorneys in this report). The MCLE requirements should address MCLE as it relates to those attorneys and if their status changes. The NJSBA recommends that an inactive attorney who reinstates his/her license is responsible for MCLE for the reporting period in which the reinstatement occurs. For example, if the reporting period is two years and an attorney reinstates with six months remaining in their two year reporting period, the attorney would have to complete all of the MCLE requirements of the period within that six months (plus any permitted extensions). The reinstated attorney would not be responsible for MCLE requirements from a*

*prior reporting period that had elapsed. For example, if an attorney was inactive for three years, and an entire reporting period elapsed during the period of inactivity, the attorney would not be responsible for making up the MCLE from period that elapsed. The attorney would only have to complete the MCLE that was required for the period in which the re-activation occurred. The only exception to this would be in the case of an attorney who had failed to complete their MCLE requirements for the period prior to their inactive status.*

*(c) While the NJSBA recognizes that some attorneys work part-time, such attorneys will still be required to keep current in their respective fields through MCLE. Therefore, the NJSBA recommends that there be no “part time status” classification. Attorneys should be regarded as either active or inactive.*

*(d) With respect to “hardship waivers,” the NJSBA recommends that the term “hardship” be defined. It is also urged that such waivers only be given in extraordinary circumstances and for reasons that generally relate to an attorney becoming either physically or mentally incapacitated. Ultimately, hardship will have to be decided on a case-by-case basis. There should be no hardship waiver for financial reasons as there will presumably be outlets for inexpensive MCLE, or scholarship opportunities available.*

*(e) The NJSBA agrees that law school professors should receive CLE credit for instruction given to students. The NJSBA further recommends, however, that any attorney-instructor (including full professors, adjunct professors, part time professors or other category of instructor), receive MCLE credit for teaching any approved post-secondary school course. This classification includes any approved law related course that will earn a student of the course credit towards an associate, bachelor or graduate degree, or licensing or professional certification.*

*(f) The NJSBA agrees that judges be permitted to fulfill their MCLE requirements through their required educational programming, if such meets the credit requirements and approval process. It should generally be the policy of the overall MCLE scheme that MCLE requirements be filled in the most expeditious fashion possible, provided that the courses meet the approved guidelines and requirements for media type. It is the NJSBA’s*

*hope that judges continue to be active participants in substantive programs and seminars as their attendance and participation is beneficial to the relationship between the bench and the bar.*

*(g) The NJSBA agrees that in-house or staff counsel should be required to fulfill all applicable MCLE requirements. If an attorney is licensed and actively practicing law (whether they hold a plenary or limited license), regardless of the manner in which they are practicing, CLE requirements should be applicable.*

*(h) The NJSBA agrees that those on full-time active duty in the military, VISTA, or Peace Corps should be exempt from MCLE.*

**SCC Recommendation 7:** The Skills and Methods Program should be discontinued. Newly admitted attorneys should be subject to the same MCLE requirements as all other attorneys, including a core ethics requirement. Beyond such a program, the Committee sees no need for additional bridge-the-gap requirements.

***NJSBA Response:** The NJSBA agrees that there is widespread acknowledgment amongst newly admitted attorneys that little is gained from the current Skills and Methods Program. Instead of eliminating any attempt at a “bridge the gap” program however, the NJSBA recommends that a “101 Series Program” be adopted. In order for a service provider to be approved, they should be required to provide a given number of 101 Series courses which is proportionate to the overall number of courses that they offer. The 101 Series courses should be designated as such, and focus on teaching the most basic elements of a given substantive practice area. The cost to attend such courses should be significantly reduced so that they are affordable for newly admitted attorneys.*

*The NJSBA recommends that 75% of newly admitted attorneys’ MCLE credit hours be 101 Series courses in their first biennial reporting period. The courses should be designated as fulfilling the credits of a particular substantive practice area. The entity that is established to oversee the approval of courses should establish the substantive areas for the courses. Attorneys subject to these requirements should be required to take two (2) credit hours of a 101 Series course in three (3) substantive areas of law. This is to require attorneys to take courses in areas outside their particular practice area if they are specialists. The remainder of their 101 Series credits may be filled through any 101 Series course.*

*It is the position of the NJSBA that MCLE requirements be implemented to ensure efficient, expeditious and easy attorney compliance. It is, therefore, recommended that “extended CLE courses,” those taking place over several days, be permitted to satisfy multiple substantive areas, provided that the approved provider demonstrate during the approval process that the course will educate the attending attorneys in more than one substantive area. For example, if a three day course covers two (2) hours of evidence, two (2) hours of criminal law and two (2) hours of civil law, then the newly admitted attorney could fulfill their 101 Series requirements through this intensive course. It is anticipated, based upon trends in NJSBA’s Young Lawyers Division and county bar association educational programming, that practical and inexpensive 101 Series type MCLE will be widely offered.*

**SCC Recommendation 8:** CLE providers in New Jersey should seek prior approval from the MCLE regulator in order for their course offerings to qualify for MCLE credit. A provider should be entitled to seek either “approved service provider” status or seek credit for individual courses. It is recommended that the following be eligible to seek “approved service provider” status from the MCLE regulator: local, state, and specialty bar associations; for profit and non-profit legal education providers; Inns of Court; educational institutions, including but not limited to accredited law schools; and in-house providers, including law firms, profit and non-profit corporations, and governmental entities. Providers seeking approved service provider status or individual course accreditation should meet the course approval requirements as defined in Recommendations 9 and 10.

***NJSBA Response:** The NJSBA agrees that the MCLE program should establish an “approved service provider” (“ASP”) status that authorizes multiple service providers in the private, public, for-profit and not-for-profit areas to provide legal education to New Jersey attorneys. However, as detailed in recommendations 9-11, there must be strict controls and ongoing accountability required of the entities that seek and are granted such status. Regulation of ASPs must balance the critical underlying basis for the establishment of the MCLE program – “assuring the competence and professionalism of...practitioners in our rapidly changing and complex legal world” – against the need for diverse*

*educational opportunities to be provided to lawyers from all walks of life and ideological, cultural and other backgrounds.*

**SCC Recommendation 9:** a) To obtain approved service provider status, the CLE provider-applicant should demonstrate that in the two years prior to applying for such status, the provider has offered at least five separate courses that comply with all requirements for course approval. The provider should be able to demonstrate a history of quality programming through a list of previously accredited courses. An approved provider's courses should be consistent with the standards created by the regulator for course content.

b) Approved provider status should carry with it presumptive approval of courses offered by the provider for a two-year period.

c) Providers should seek renewal of approved provider status every two years. Regulations should provide for the revocation of approved provider status for failure to comply with MCLE rules and regulations. In addition, the MCLE regulator should have discretion to decline approval of a specific course offered by the approved provider, regardless of any general presumptive approval of courses, such disapproval to apply prospectively and not to affect courses already given.

d) Approved providers should notify the MCLE regulator regarding all courses offered no later than 30 days after course date and include information on course content and method of presentation, date and location, faculty, a calculation of the credit hours, and any necessary contact information. Any advertising of credits should be in a manner recommended by the MCLE regulator.

e) Within 30 days of the course offering, approved providers should pay all required fees and report attendance to the MCLE entity. The provider should keep records of course approval and attorney attendance for three years. The provider should obtain attorney signatures on certificates of attendance for each course and keep these records for three years.

f) A service provider, such as a county bar association, in-house provider, etc., that has not previously offered a CLE course or the requisite number of courses indicated in subsection (a) should be eligible to become an approved service provider in accordance with regulations to be created. It is expected that the provider's courses will be able to be accredited on an individual basis until such time as the provider is granted approved provider status. Service providers that do not wish to seek approved provider status should be permitted to seek accreditation for individual

courses; approval should be obtained not less than 30 days prior to the course offering.

g) Individual attorneys should be permitted to seek accreditation for teaching, writing, distance learning, web, audio, video and DVD courses and out-of-state courses. If certificates of attendance are available, the attorney should keep them for his or her records for three years following the completion of the cycle.

h) Retroactive credit or late submission for course accreditation should be considered on a case-by-case basis, subject to late fees.

***NJSBA Response:*** *The NJSBA believes the general criteria proposed by the SCC represent a good start toward the establishment of a sound regulatory program for the successful implementation of a strong MCLE program. We agree that an ASP should be required to demonstrate a history of delivery of satisfactory, compliant programming in order to achieve ASP status; however, the NJSBA also recommends that the requirements for individual course providers (non-ASP) be liberally construed to provide for the maximum amount of quality legal education possible, with appropriate safeguards. Providers should be considered so as to allow for smaller niche programming and diversity of programming that may be attractive to individual practitioners, but that may not attract large crowds or be profitable to larger for-profit or other established programming entities. Such a mechanism would provide, for example, exploration of cutting edge issues and educational opportunities on legal topics of concern in various minority communities. Indeed, providers should be encouraged to offer a certain amount of educational programming that promotes the public good and welfare.*

**SCC Recommendation 10:** The Committee recommends that the Court adopt the language and approach utilized by many MCLE states requiring providers to offer courses of intellectual content that are at least broadly related to the legal profession, provided in a suitable setting, conducted by adequate and competent faculty. Providers also should offer, as appropriate, quality written materials on or before the course offering. The approved service provider should provide, prior to the course offering, information on the course to be offered, including faculty, name and purpose of course, time-specific agenda, date, time and location, and the calculation of credit hours. Industry-wide forms should be accepted. A service provider seeking

course accreditation should apply for credit for MCLE purposes as well as for accreditation of the course toward specialty certification: civil, criminal, workers compensation and matrimonial law. In accordance with regulations to be established, a provider denied course accreditation or approved service provider status should have the opportunity to appeal the regulator's decision. Course approval obtained by providers who are not pre-approved providers should be valid for one full year. Courses should be a minimum of one hour in length as defined by approved regulations to receive CLE credit.

***NJSBA Response:*** *The NJSBA agrees with this recommendation; however, it should be noted that faculty is sometimes replaced or installed in a program at the time of a program in the days before and the regulations governing MCLE programming should provide for such replacement where the advertised and approved faculty is equal or nearly equal to the replacement faculty.*

*The NJSBA strongly urges consideration be given to "grandfathering" educational programs offered between the time MCLE is announced and implementation actually begins. For example, if MCLE is to become effective January 1, 2010, the Court should validate CLE credits for practitioners who attend CLE programs (approved in other jurisdictions) in 2009 and credit same to the practitioners for prospective requirements that will be mandated in 2010. That is, CLE credits received in 2009 should be carried over so there is no negative impact on CLE providers and attendees.*

*Finally, the MCLE Regulator should solicit input from the Board on Attorney Certification to ensure consistency and that the goals of MCLE and attorneys are met.*

**SCC Recommendation 11:** The Supreme Court should establish a fee schedule for MCLE. The Committee recommends the following fees: service providers applying for approved service provider status should pay a \$100 application fee. Approved service provider status should be valid for two years. Approved service provider status should be renewed every two years at the same \$100 fee. In addition, all providers, including approved service providers, should pay \$1 to \$2 per credit, per course, for each New Jersey attorney attending the course. Attorneys seeking individual accreditation for courses or other educational activities not connected with a New Jersey approved provider should pay \$1 or \$2 per credit hour obtained. The income generated should attempt to fully fund the MCLE program. Unless good cause is

shown, failure by a provider to submit attendance information on a course offering within thirty days of the date of the course should result in the assessment of a \$50 late fee. A provider submitting a late request for course accreditation should be subject to the assessment of a \$50 late fee. To address concerns regarding costs of CLE courses, approved service providers should be required to offer scholarships when practical, based on need. CLE providers are also encouraged to follow the model in Florida, where free video courses are offered each year and are able to be viewed in centralized locations.

***NJSBA Response:*** *The NJSBA believes the fee schedule, as presented, is reasonable and will not be cost-prohibitive to the majority of providers and users; however, the NJSBA is concerned that the fees, as proposed, will not cover the costs of administration of the program. The NJSBA is advised, for example, that, in Pennsylvania, which has a similar number of attorneys, 13 staff members are necessary to monitor the CLE program. This is considerably more than the number estimated in the Committee's recommendations. The NJSBA questions the source of start-up funds, as well, and questions what funding would be available should there be a shortfall in the projections. The NJSBA is concerned that, while the fees as proposed appear to be reasonable, those fees will be increased in the near future to meet the actual costs of the program and will, at some point, become prohibitive to most of the practicing bar.*

*With regard to scholarships, the NJSBA agrees that the provision of scholarships or financial assistance to those who have demonstrated need, including law students and those who service disenfranchised communities, is paramount to the success of the MCLE program and should be an integral component of its central values. Scholarship guidelines should be established and liberally construed, and ASP and individual providers should be required to offer a definite amount of programming to people who demonstrate both interest and financial need for programming that may provide particular benefit to public good and welfare. As stated earlier, financial hardship should not be a reason for exemption from MCLE; rather, the Court should work with providers to ensure access to affordable CLE is available for all.*

**SCC Recommendation 12:** A comprehensive and user friendly, on-line database system should be offered, similar to those offered in Pennsylvania, Tennessee, Florida and Texas, which enables an attorney to view courses being offered, to report CLE attendance, and to verify CLE compliance. The system also should enable the providers to report course offerings and CLE attendance, and seek course accreditation on-line. The on-line system should also facilitate the on-line payment of fees.

***NJSBA Response:*** *The NJSBA recommends that a self-reporting and self-monitoring model be established, as is used in New York, where attorneys are responsible for tracking their own CLE activity and submitting certifications of compliance to the MCLE Regulator. This model eliminates the need for the database system recommended by the SCC.*

**SCC Recommendation 13:** It is recommended that New Jersey adopt the method of reporting compliance that requires attorneys and service providers to report course attendance to the MCLE regulator. The service provider should report attendance for any attorney taking its approved course. The attorney should self-report educational activities taken through any other approved format.

***NJSBA Response:*** *As noted in the NJSBA response to Recommendation 12 above, the NJSBA recommends that a self-reporting and self-monitoring model be established, as is used in New York, where attorneys are responsible for submitting certifications of compliance with MCLE requirements.*

**SCC Recommendation 14:** The two-year compliance period should be divided into four “compliance groups,” with two groups reporting each year. For example, if the first compliance group were required to report compliance in 2011, those born in January through March would report by June 30, 2011; those born in April through June would report by December 31, 2011; those born July through September would report by June 30, 2012; and those born October through December would report by December 31, 2012. New admittees’ compliance reporting period would not begin to run until January 1 of the year following admission to the New Jersey Bar. It is further recommended that any MCLE program not start before 2010 to allow for adequate transition.

***NJSBA Response:*** *The NJSBA recommends that in alternate years commencing in 2012 the Court include a self reporting form in the same mailing as the Client Security Fund.*

**SCC Recommendation 15:** It is recommended that a compliance report be sent to an attorney 90 days prior to the expiration of his or her compliance period. It is further recommended that an attorney receive a notice of non-compliance within 30 days after the original compliance deadline and be assessed a \$75 late fee and be given an additional 60 days to come into compliance. At the end of that 60 days, the attorney should be assessed an additional \$100 late fee and be given a final 60 days to comply. Should the attorney fail to comply, procedures for administrative suspension should be started after notice to the lawyer. If the attorney is administratively suspended by the Court, a reinstatement fee should also be assessed of no more than \$250.

***NJSBA Response:*** *In recognition of the NJSBA recommendation for self-reporting and self-monitoring, compliance reports will not be necessary. Attorneys who fail to timely submit their compliance certifications shall be subject to the notices and fees suggested. An attorney who knowingly falsely certifies shall be subject to discipline.*

**SCC Recommendation 16:** For good cause shown, including illness or other special circumstances, attorneys should be given reasonable extensions of time to comply. Such applications should be reviewed on a case-by-case basis.

***NJSBA Response:*** *Agreed.*

**SCC Recommendation 17:** Rule 1:39 and regulations of the Board on Attorney Certification (BAC) provide for a hearing and petition process that should be amended to include and address the due process needs of any MCLE program.

***NJSBA Response:*** *Agreed.*

**SCC Recommendation 18:** Rule 1:39 and regulations of the Board on Attorney Certification (Board of BAC) should be amended to include any MCLE program. The Board should be designated as the combined regulator that oversees the Court's MCLE and attorney certification programs.

***NJSBA Response:*** *Agreed.*

**SCC Recommendation 19:** The Committee estimates that New Jersey’s MCLE and specialization program would need a combined staff of between 6 to 8 people. As recommended earlier, in regard to funding the program, the Committee recommends a fee structure that is straightforward and user-friendly, assessing a fee for approved service provider status as well as the \$1 or \$2 per credit, per course, per attorney paid by the service provider or the attorney depending on who is seeking the course credit and the funding requirements of the regulator. In addition, late fees and non-compliance fees should be assessed as suggested in Recommendation 15.

***NJSBA Response:*** *The NJSBA believes that self-reporting will greatly diminish the administrative burdens and costs and make a combined staff of 6 to 8 people feasible. The most current figures from the Office of Attorney Ethics reveal 82,893 lawyers admitted to practice in this State. Of this number it is reasonable to expect a large percentage will be subject to MCLE.*

*The NJSBA agrees with the recommendation of a simple straightforward fee structure.*

**SCC Recommendation 20:** The Supreme Court should evaluate the MCLE program midway through the second biennial cycle; i.e., three years from program inception to determine whether it is achieving its goals and operating as intended.

***NJSBA Response:*** *Agreed.*