

VIRGINIA:

**IN THE SUPREME COURT OF VIRGINIA
AT RICHMOND**

**IN THE MATTER OF
PROPOSED CHANGES TO
PARAGRAPH 17 OF
PART 6, §IV OF THE RULES OF COURT
GOVERNING THE VIRGINIA STATE BAR**

PETITION OF THE VIRGINIA STATE BAR

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TO THE HONORABLE CHIEF JUSTICE AND THE JUSTICES OF THE
SUPREME COURT OF VIRGINIA:

NOW COMES the Virginia State Bar (VSB), by its president and executive director, pursuant to Part 6, § IV of the Rules of this Court, and requests review and approval of changes proposed by the VSB Diversity Conference to Paragraph 17(C) of Part 6, § IV of the Rules of the Supreme Court of Virginia governing the Virginia State Bar.

The Diversity Conference was established in 2010 to bring together Virginia State Bar members interested in promoting diversity and inclusion in the legal profession and in ensuring that Virginia meets the legal needs of an increasingly diverse population. Council approved the creation of the Diversity Conference in June 2009, and the Supreme Court of Virginia entered an order creating the conference in 2010.

I. History of the Proposed Rule Change¹

In 2020, the VSB Diversity Conference proposed an amendment to Paragraph 17(C).² The purpose of the amendment was to add elimination of bias as an approved CLE topic, eligible for specialized ethics or professionalism credit. On April 14, 2021, a “friendly amendment” was offered for consideration by Immediate Past Chair Chidi I. James on behalf of the Diversity Conference, which provided as follows (underlining indicates new language; stricken language is proposed to be deleted) :

- (1) All active members of the Virginia State Bar shall annually complete and certify attendance at a minimum of twelve (12) credit hours of approved Continuing Legal Education courses of which at least two (2) hours shall be in the area of legal ethics or professionalism, which may include elimination of bias, except those lawyers expressly exempted from the requirement by this Rule or by decision of the Continuing Legal Education Board; provided, however, that for the period July 1, 2001 through October 31, 2002, active members shall complete and certify attendance at a minimum of fifteen (15) credit hours of approved Continuing Legal Education courses of which at least two (2) hours shall be in the area of legal ethics or professionalism, except those lawyers expressly exempted from the requirement by this rule or by decision of the Continuing Legal Education Board. Each active member shall complete the required Continuing Legal Education courses each year during the period November 1 through October 31 of the following year; provided, however, the next completion period following June 30, 2001, shall be July 1, 2001 through October 31, 2002.

¹ This history relies in large part on the April 14, 2021 letter of Chidi I. James, a member of the Diversity Conference and an Executive Committee and Council member. Mr. James' letter and its three attachments are attached at the front of the comments provided with this petition. These materials were provided to the Executive Committee and Council for consideration on this matter.

² The Diversity Conference also proposed an amendment to the MCLE regulations, however, that amendment was withdrawn prior to the April 2021 Executive Committee and Council meetings.

(2) In order to provide flexibility in fulfilling the annual requirement, a one year carryover of credit hours is permitted, so that accrued credit hours in excess of one year's requirement may be carried forward from one year to meet the requirement for the next year. A member may carry forward a maximum of twelve (12) credit hours, two (2) of which, if earned in legal ethics or professionalism, may be counted toward the two (2) hours required ~~in legal ethics or professionalism by (C)(1).~~

Council extensively debated the Diversity Council proposal on April 21, 2021 at its virtual meeting. The original language to amend Paragraph 17(C)(1) added the phrase “which may include elimination of bias programming.” During the debate, the proposed language was amended to delete the word “programming.” The proposal, as amended, was then approved by a vote of 63 to 2.

Accordingly, the VSB respectfully requests that the Court amend Paragraph 17(C)(1) to read as follows in pertinent part:

All active members of the Virginia State Bar shall annually complete and certify attendance at a minimum of twelve (12) credits hours of approved Continuing Legal Education course of which at least two (2) hours shall be in the area of legal ethics or professionalism, which may include elimination of bias,

And that Paragraph 17(C)(2) be amended to read:

In order to provide flexibility in fulfilling the annual requirement, a one year carryover of credit hours is permitted, so that accrued credit hours in excess of one year's requirement may be carried forward from one year to meet the requirement for the next year. A member may carry forward a maximum of twelve (12) credit hours, two (2) of which, if earned in legal ethics or professionalism, may be counted

toward the two (2) hours required in legal ethics or professionalism by (C)(1).

III. Conclusion


The Supreme Court of Virginia is authorized to regulate the practice of law in the Commonwealth of Virginia. The Mandatory Continuing Legal Education Rule is found at Paragraph 17 of Part 6, §IV of the Rules of the Supreme Court of Virginia. The proposal seeks to have the Court amend Paragraph 17(C) to include language to provide that courses on elimination of bias are approvable in the area of ethics or professionalism by the MCLE Board.

The proposed language was noticed for comment. Over 40 comments were received. Those comments were provided to Council for their review prior to consideration of the rule change, and are provided to the Court with this petition.

THEREFORE, the bar requests that the Court approve the proposed amendments to Paragraph 17(C).

Respectfully submitted,

VIRGINIA STATE BAR



Brian L. Buniva, President

A handwritten signature in black ink, reading "Karen A. Gould". The signature is written in a cursive style with a large, looping flourish at the end of the word "Gould".

Karen A. Gould, Executive Director

Dated this 7th day of May, 2021.