

# Supreme Court of Kentucky

IN RE:  
ORDER AMENDING  
RULES OF CIVIL PROCEDURE (CR)  
RULES OF THE SUPREME COURT (SCR)

2013-12

---

The following rules' amendments shall become effective January 1, 2014.

**A. AMENDMENTS TO THE RULES OF CIVIL PROCEDURE (CR)**

**I. CR 4.01(1)(b) and (c) Summons; issuance; by whom served**

Subsection (b) and new subsection (c) of section (1) of CR 4.01 shall read:

(1)(b) Cause the summons and complaint (or other initiating document), with necessary copies, to be transferred for service to any person authorized, other than by paragraph (a) of this Rule, to deliver them, who shall serve the summons and accompanying documents, and his or her return endorsed thereon shall be proof of the time and manner of service; or

(c) At the request of the initiating party, return the summons and complaint (or other initiating document), with necessary copies, to that party for service.

**II. CR 5.02(1) and (2) Service; how made**

Sections (1) and (2) of CR 5.02 shall read:

(1) Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, which shall not include a warning order attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court. Except as provided in paragraph (2) of this rule, service upon the attorney or upon a party shall be made by delivering a copy to the attorney or party or by mailing it to the attorney or party at the last known address of such person; or, if no address is known, by leaving it with the clerk of the court. Service is complete upon mailing unless the serving party learns or has reason to know that it did not reach the person to be served. Delivery of a copy within this rule means handing it to the attorney or to a party; or leaving it at the office of the attorney or party with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(2) An attorney or party may elect to effectuate and receive service via electronic means to and from all other attorneys or parties in the action by filing a notice of such election with the clerk and serving a copy of such election by personal delivery or by mail as provided for in paragraph (1) of this rule, except that such notice may be sent electronically to any other party or attorney who has already filed and served a notice of election of electronic service hereunder. The notice must include the electronic notification address at which the attorney or party agrees to accept service. Methods of electronic service that may be elected under this rule include electronic mail or telecopy (facsimile). Documents sent through electronic mail shall be sent as an attachment in PDF or similar format unless otherwise agreed by the parties. Once an attorney or party files a notice of election of electronic service and serves the notice on all other attorneys or parties in the case, all other attorneys or parties shall promptly provide the requesting party or attorney with an electronic notification address at which the other attorneys or parties may be served, and shall thereafter serve the requesting attorney or party through electronic means whenever service of a document is required by these rules. Upon motion of an attorney or party and for good cause shown, the court may relieve the attorney or party of the obligation to make or receive service by electronic means. Unrepresented parties who are unable to utilize electronic service methods may continue to serve all other attorneys or parties through any method permitted by these rules. Electronic service of documents that are filed with the clerk shall be made on or before the day they are filed. Service is complete upon electronic transmission, but electronic transmission is not effective if the serving party learns or has reason to know that it did not reach the person to be served. When documents are too large or numerous to be processed electronically by the sender or recipient, the serving attorney or party shall serve them by mail or personal delivery. The signature of an attorney or party on a document served by electronic mail may be represented by “/s/” followed by the typed name of the person signing the document or by a scanned version of an original signature. Signature in such manner is equivalent to a hand-signed original signature for all purposes under these Rules.

### **III. CR 6.05 Additional time after service by mail**

CR 6.05 shall read:

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail or electronic service, 3 days shall be added to the prescribed period. This provision shall not apply to the service of summons by mail under Rule 4.01(1)(a).

### **IV. CR 7.03 (1)(a) Privacy protection for filings made with the court**

Subsection (a) of section (1) of CR 7.03 shall read:

(1) Unless the court orders otherwise, in a civil filing with the court, excluding domestic violence matters, that contains certain personal data, including an individual's social security number or taxpayer-identification number, or birth date, or a financial-account number, an attorney or party making the filing must redact the document so the following information cannot be read:

(a) all but the last four digits of the social-security number or taxpayer-identification number;

**B. AMENDMENTS TO THE RULES OF THE SUPREME COURT (SCR)**

**I. SCR 2.018(1), (3) and (4) Application packets**

Sections (1), (3) and (4) of SCR 2.018 shall read:

(1) All applications for admission to the Kentucky Bar shall be electronically submitted on forms approved by the Board and Committee. Application forms are available on the Kentucky Office of Bar Admissions website, [www.kyoba.org](http://www.kyoba.org).

(3) Any applicant who submits an incomplete application will be notified of the error, and given an opportunity to upload a completed application within 30 days after the notification, and paying therewith a non-refundable fee of \$20.00. No action will be taken by the Office of Bar Admissions upon an incomplete application. The Office of Bar Admissions may, in its discretion, act upon a completed application that is submitted after the said 30 day period.

(4) Before the applicable deadline, the applicant shall, by USPS mail or hand delivery, submit to the Office of Bar Admissions a signed, notarized signature page for the Application attesting to the accuracy of all information contained thereon. All answers on the application form must be completely candid. Lack of candor may result in possible denial of character and fitness certification. Applicants must disclose in writing on the application any circumstances or occurrences that may reflect adversely upon their character or fitness.

**II. SCR 2.022(2) and (7) Application for admission by examination**

Sections (2) and (7) of SCR 2.022 shall read:

(2) **ATTORNEY APPLICANT:** An attorney applicant who is admitted in another jurisdiction must file a complete Application for Admission By Examination form along with a fee of \$775.00 (cashier's or certified check or money order). The filing deadline is October 1 for the February Bar examination and February 1 for the July Bar examination.

(7) An applicant who wishes to withdraw from the Bar examination must notify the Kentucky Office of Bar Admissions, in writing, not later than 5 days prior to the examination date or have a verified excuse, otherwise, the Bar examination fee of \$175.00 shall be forfeited.

**III. SCR 2.110(2) Admission without examination**

Section (2) of SCR 2.110 shall read:

(2) An attorney applying for admission under this Rule shall file with the

Kentucky Office of Bar Admissions, on the form provided for application for admission, such information as shall be requested thereon accompanied by a fee of \$1500.00, no part of which shall be refunded. An applicant shall file with the Character and Fitness Committee such other affidavits, certificates, documents and materials as shall be required to satisfy the Committee of the applicant's good moral character and fitness to be a member of the bar of this state. With respect to character and fitness, the Character and Fitness Committee shall process such applications pursuant to Rule 2.040.

**IV. SCR 2.111(1)(b)(iv), (2), (4)(a) and (c) and (5) Limited certificate of admission to practice law**

Subsection (iv) of (b) of section (1), section (2) and subsections (a) and (c) of section (4) and section (5) of SCR 2.111 shall read:

(1)(b)(iv) He/she will perform legal services in this Commonwealth solely for his employer, its parent, subsidiary, affiliated entities, or on a pro bono basis as permitted under paragraph (4)(c) below.

(2) Such applicant shall pay to the Kentucky Office of Bar Admissions, at the time of submission of such application a fee of \$1,500.00 and shall make payment of the current annual dues or fees to the Kentucky Bar Association, as authorized under SCR 3.040.

(4)(a) Such attorney shall perform legal services in this Commonwealth solely for his employer, its parent, subsidiary, or affiliated entities, and shall not provide legal services in this Commonwealth, to any other individual or entity, except as permitted under paragraph (4)(c) below.

(c) An attorney admitted with a limited practice certificate under this rule is authorized to donate legal services in Kentucky through: [i] a duly organized legal aid program offering pro bono representation to indigent individuals within the Commonwealth of Kentucky, or [ii] a local bar association legal pro bono program or initiative. No fee can be accepted by the attorney with a limited practice certificate for the rendering of any legal services in connection with items [i] and [ii] above. An attorney donating legal services under this rule is subject to all duties and obligations of members admitted under SCR 2.110, SCR 2.120 and SCR 3.661.

(5) The performance of legal services in this Commonwealth solely for such attorney's employer, its parent, subsidiary, affiliated entities, or in connection with a pro bono program contained in paragraph 4(c) following admission to the Kentucky Bar on a limited certificate shall be considered to be the active engagement in the practice of law for all purposes.

V. **SCR 2.112 Limited Admission For Attorney participants in a public defender, legal services programs, or Office of a Commonwealth's or County Attorney**

SCR 2.112 shall read:

(1) **Scope.** This rule applies to an attorney who is not a member of the Bar of this Commonwealth but who, after having completed the study of law in a law school approved by the American Bar Association or by the Association of American Law Schools and having been admitted to practice in the highest Court of another state, wishes to become an employee of an organized public defender program, the office of a Commonwealth's Attorney or County Attorney, or an organized legal services program in this Commonwealth providing legal assistance to indigent persons.

(2) **General Rule.** An attorney to whom this rule applies shall be admitted to practice before the Courts of this Commonwealth in all matters within the professional responsibility of an organized public defender program, the office of a Commonwealth's or County Attorney, or an organized legal services program which program is sponsored, approved or recognized by the Kentucky Bar Association. Admission to practice under this rule shall be limited to the matters specified in the preceding sentence. An application for admission to practice under this rule shall include or be accompanied by:

(a) A certificate of the highest Court or agency of any other state having jurisdiction over admission to the bar and the practice of law stating that the applicant is in good standing at the bar of such Court or in such state.

(b) A statement signed by the Commonwealth's or County Attorney, or a representative of the public defender program or legal services program, that has employed the attorney, showing compliance with paragraph (1) of this rule. Any such statement shall also acknowledge the duty of the office or the program to notify the Clerk of the Supreme Court immediately whenever the attorney ceases to be an employee of such program.

(c) Such other affidavits or materials as shall be deemed necessary by the Character and Fitness Committee in order to satisfy the Committee of the applicant's moral character and fitness to practice before the Courts of this Commonwealth.

(d) Payment of a fee of \$100.00 made payable to the Kentucky Office of Bar Admissions (cashier's or certified check or money order).

(3) **Subscription and Action.** The application for admission shall be subscribed to by a member of the bar of this Commonwealth in good standing. If the application and related documents are in proper order and if the Character and Fitness Committee finds that the applicant has the moral character and fitness to practice before the Courts of this Commonwealth, the Clerk of the Supreme Court shall enter the name of the applicant upon the docket of persons specially admitted to the bar of this Commonwealth subject to the restrictions of this rule and shall issue an appropriate certificate in evidence thereof.

(4) **Expiration of Admission.** When an attorney admitted under this rule ceases to be employed in the program or office for which limited admission was granted a representative of the public defender program or legal services program or office of Commonwealth's or County Attorney shall immediately and in writing, so notify the Clerk of the Supreme Court. Admission to practice under this rule shall expire after 18 months, or upon termination of the attorney's employment with the program or office, whichever shall first occur.

(5) **Rules Governing the Practice of Law.** Except for Rules 2.110 and 3.030(2), the Rules governing the practice of law shall be applicable to an attorney admitted under this rule.

**VI. SCR 2.300(1)(e) and (5) Reinstatement of persons to practice law  
Scope and Purpose of Reinstatement  
Guidelines**

Subsection (e) of section (1) and section (5) of SCR 2.300 shall read:

*(1) Initial Reinstatement Application Process:*

(e) Upon receipt of a Reinstatement Application from the Kentucky Bar Association, the Kentucky Office of Bar Admissions, Character and Fitness Committee will instruct the applicant to electronically file a Character and Fitness Certification for Reinstatement Form in accordance with the instructions contained on it from the Office of Bar Admissions website, [www.kyoba.org](http://www.kyoba.org).

*(5) Formal Recommendation:*

Following the Formal Hearing if there are material factual disputes, the Character and Fitness Committee must resolve them by making findings of fact. Such findings of fact must be supported by the existence or absence of clear and convincing evidence. Such findings will be set forth in a formal recommendation. A formal recommendation will be issued within 60 days of the date of receipt of the hearing transcript.

**VII. [SCR 3.026 Local divisions of the Kentucky Bar Association]**

Delete SCR 3.026

**VIII. SCR 3.030(1), (3), (4) and (5)(a) and (b) Membership, practice by nonmembers  
and classes of membership**

Sections (1), (3), (4) and new subsections (a) and (b) of new section (5) of SCR 3.030 shall read:

(1) All persons admitted to the practice of law in this state shall be, and they are, members of the association.

(3) The association, by its bylaws, may create honorary memberships.

(4) A class of membership is established to be known as "Senior Retired Inactive Member." Any member who reaches the age of 70 years and no longer is actively practicing law and who has met the necessary CLE requirements for inactive status pursuant to SCR 3.666(2), shall upon notification to the Executive Director be classified as Senior Retired Inactive and shall not be required to pay annual dues.

(5)(a) A class of membership is established to be known as "Disabled Inactive Member." An attorney admitted to practice in this state who has been, because of a mental or physical condition, judicially declared to be a person under a legal disability, or for whom probable cause exists to believe that the attorney has a mental or physical condition that substantially impairs his or her ability to practice law shall provide to the Court a detailed written report from a licensed qualified health care provider who has examined the attorney setting out the findings of the health care provider, including the results of all tests made, diagnoses and conclusions. The Court may enter an order transferring the attorney to Disability Inactive Status. An attorney classified under this subsection is not required to pay dues or obtain the annual CLE requirement pursuant to SCR 3.661. This status shall be reflected on the attorney's membership record. No attorney classified under this status may engage in the practice of law in this state until restored to active status by the Court. Any disciplinary proceedings against the attorney shall be stayed while he/she is on disability inactive status. Any report and supporting records from a health care provider regarding the treatment of the attorney shall be confidential and sealed.

(b) An attorney transferred to disability inactive status may file a petition with the Court for restoration to active status. A copy of the petition shall be served on Bar Counsel, who shall have 20 days to file a response to the petition. If Bar Counsel objects to the petition, the matter shall be referred to the Character and Fitness Committee to conduct proceedings under SCR 2.300. If Bar Counsel has no objection to the petition the Court may enter an order restoring the attorney to active status with or without conditions. If an attorney is restored to active status, any disciplinary proceedings that have been stayed will be resumed.

#### **IX. SCR 3.040(4) Dues: date of payment and amount**

Section (4) of SCR 3.040 shall read:

(4) Unless the member has been classified under Senior Retired Inactive Member pursuant to SCR 3.030(4) or Disabled Inactive Member pursuant to SCR 3.030(5), the member may apply in writing to the Kentucky Bar Association to be relieved of the payment of dues by reason of undue hardship arising from disability, sickness or financial condition. The application shall be copied to the Governors from the district in which the attorney lives, who may or may not recommend in writing to the President that such relief be granted, giving the reasons therefor. Thereupon the President shall have the authority to rule on the application and to notify the Treasurer by written order that the attorney is relieved of the payment of dues. The President shall file the order with the registrar along with the recommendation(s) of the Governor(s).

**X. SCR 3.060(1)(h),(i) and (j) Records to show status of members**

Subsections (h), (i) and (j) of section (1) of SCR 3.060 shall read:

(1)(h) Disciplinary complaints filed pursuant to Rule 3.160(1) against attorneys that have been dismissed by the Inquiry Commission shall be maintained for a period of 1 year after final disposition of the complaint.

(i) Those records which are disciplinary complaints against attorneys that have resulted in discipline of attorneys shall be maintained until 5 years after the death of the attorneys.

(j) At the end of the period stated in paragraphs (h) and (i) of this rule, the described complaints and/or records shall be destroyed.

**XI. SCR 3.070 The board; functions and membership**

SCR 3.070 shall read:

The Board is the governing body of the Association and the agent of the Court for the purpose of administering and enforcing the Rules. It shall consist of the President, the President-Elect, the Vice President, the immediate Past President, the Chair of the Young Lawyer's Division, and 2 attorneys elected from the membership of the Association in each appellate district of the state as presently existing or hereafter created.

**XII. SCR 3.120(1) and (10) Fiscal provisions**

Section (1) and deletion of section (10) of SCR 3.120 shall read:

(1) The dues and bar registration fees prescribed in Rule 3.040 shall constitute a general fund to provide for the ordinary and necessary expenses of the operation of the Kentucky Bar Association, including, as appropriate, compensation of employees; expenses of the Board and officers; publications; maintenance of the client's security fund and the bar center fund and the discharge of the disciplinary, educational and other functions specified by these rules. Other fees, subscriptions, and contributions authorized by these Rules or approved by the court shall constitute a special fund or funds to provide for the specific purpose or purposes of each such collection including the annual conventions and other undertakings for which specific collections are authorized. Excesses in the special fund may be transferred to the general fund on order of the Board. Voluntary section or division funds or contributions may be retained by the sections or divisions annually with the approval of the Board.

[(10) Printing and purchasing shall be regulated by procedures established through the Administrative Office of the Courts.]



**XIII. SCR 3.130(1.15)(b) and (c) Safekeeping property**

Sections (b) and (c) of SCR 3.130(1.15) shall read:

(b) Upon receiving funds or other property in which a client has an interest, a lawyer shall promptly notify the client. Except as stated in this Rule or otherwise permitted by law or by agreement with the client a lawyer shall promptly deliver to the client any funds or other property that the client is entitled to receive and, upon request by the client, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of funds or other property in which the lawyer and client claim interests and are not in agreement regarding those interests, the funds or other property in dispute shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property in which the interests are not in conflict.

**XIV. SCR 3.130(3.4)(g)(1) Fairness to opposing party and counsel**

Subsection (1) of section (g) of SCR 3.130(3.4) shall read:

(1) the person is a relative or agent who supervises, directs or regularly consults with the client concerning the matter or has authority to obligate the client with respect to the matter; and

**XV. SCR 3.130(7.02)(1)(a) and (f) Definitions**

Subsections (a) and (f) of section (1) of SCR 3.130(7.02) shall read:

(1)(a) A professional card of a lawyer identifying the lawyer by name and giving the lawyer's address(es), telephone number(s), fax number(s), e-mail address(es), website, jurisdictions in which the lawyer is licensed to practice, foreign language skills, office hours, additional office location(s), length of time practicing, photograph of lawyer with no accompanying scene in the background, and the designation of a law firm as a "debt relief agency" but no other information. A professional card of a law firm may also give the names of members and associates, and jurisdictions in which the lawyers are licensed to practice.

(f) A letterhead of a lawyer or law firm containing addresses, telephone numbers, fax numbers, email addresses, website, the name of the law firm, associates, and the jurisdictions in which the lawyers are licensed to practice. A letterhead of a law firm may also give the names of members and associates, and names and dates relating to deceased and retired members. A lawyer may be designated "Of Counsel" on a letterhead if there is a continuing relationship with a lawyer or law firm, other than as a partner or associate. A lawyer or law firm may be designated "General Counsel" or by similar professional reference on stationery of a client if the lawyer or the firm devotes a substantial amount of professional time in the representation of that client. The letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

**XVI. SCR 3.130(7.06)(2) Advisory opinions**

Section (2) of SCR 3.130(7.06) shall read:

(2) If a lawyer has received an advisory opinion that an advertisement complies with the Advertising Rules and Advertising Regulations, that lawyer shall not be disciplined for any use of that advertisement, except as otherwise provided in SCR 3.130(7.06)(4).

**XVII. SCR 3.130(7.09) Comment (3) Direct contact with potential clients**

Section (3) of the Supreme Court Commentary to SCR 3.130(7.09) shall read:

**Supreme Court Commentary**

(3) The rule's subsection (3) permits solicitations otherwise prohibited by the rule where the solicitation is not significantly motivated by the lawyer's pecuniary gain, in compliance with *In re Primus*, 436 U.S. 412 (1978); *Ohralik v. Ohio State Bar Ass'n*, 436 U.S. 447 (1978); and *NAACP v. Button*, 371 U.S. 415 (1963). There is far less likelihood that a lawyer would engage in abusive practices in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Also, subsection (3) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to its members or beneficiaries.

**XVIII. SCR 3.130(7.20)(3), (5) and Comment (6) Advertising**

Sections (3) and (5) of SCR 3.130(7.20) and new section (6) of the Supreme Court Commentary of SCR 3.130(7.20) shall read:

(3) Any communication made pursuant to these Rules shall include: the name of at least 1 lawyer licensed in Kentucky; or the name of a law firm any of whose partners, or lawyers with an ownership interest are licensed in Kentucky. The lawyer or lawyers licensed in Kentucky shall be responsible for the content of the advertisement.

(5) If a lawyer or a law firm advertises legal services and a lawyer's name or image is used to present the advertisement, the lawyer must be the lawyer who will actually perform the service advertised unless the advertisement prominently discloses that the service may be performed by other lawyers. If the lawyer whose name or image is used is not licensed to perform the services in Kentucky, such fact shall be disclosed in the advertisement. If the advertising lawyer or firm is advertising for clients for the purpose of referring the client to another lawyer or firm, that fact must be disclosed prominently in the advertisement.

**Supreme Court Commentary**

(6) Pursuant to SCR 3.130(5.1), it is the responsibility of partners, lawyers with an ownership interest in the firm and lawyers who possess managerial authority in the

firm, to ensure that the firm has measures in place to assure conformance with the Rules of Professional Conduct.

**XIX. SCR 3.160(3)(C) Initiation of disciplinary cases**

Subsection (C) of section (3) of SCR 3.160 shall read:

(3)(C) After review and such preliminary investigation as may reasonably be necessary, the Office of Bar Counsel may attempt informal resolution and subsequently close the Complaint. If the acts or course of conduct complained of merit referral under 3(A)(ii)-(vi), and do not warrant a greater degree of discipline, the Office of Bar Counsel may issue a warning letter, which will be maintained in the investigative file of the Office of Bar Counsel but not be considered as discipline, or it may recommend remedial ethics, related legal or management education programs, fee arbitration, or KYLAP, completion of which would result in the complaint being dismissed.

**XX. SCR 3.175(1)(b), (c), (d), (e) and (3) Efficient enforcement; notice of attorney's address**

Subsections (b), (c), (d) and (e) of section (1) and section (3) of SCR 3.175 shall read:

(1)(b) maintain with the Director a valid email address and shall upon change of that address notify the Director within 30 days of the new address, except however, that "Senior Retired Inactive" members and "Disabled Inactive" members shall not be required to maintain an email address;

(c) include his or her 5 digit member identification number in all communications to the Association including, but not limited to, any and all communications relating to his or her membership status, membership record, dues obligations, compliance with continuing legal education requirements or disciplinary proceedings in which he or she is a respondent.

(d) If the member provides a Post Office address, he or she must also provide a current address for service of process.

(e) Failure to maintain a current address which allows for physical service of process with the Director may be prosecuted in the same manner as a violation of the Rules of Professional Conduct.

(3) After July 1, 2004, the Association may reject any communication to the Association which fails to comply with paragraph (1)(c) of this Rule 3.175, provided that a member's failure to include his or her member identification number in a document shall not result in a default in any disciplinary proceeding.

**XXI. SCR 3.210(2), (3) and (4) Processing cases of default, admissions of violations or answers raising only issues of law**

Sections (2), (3) and (4) of SCR 3.210 shall read:

(2) After entry of the order of submission, the Board may rule on Motions to file late answers for good cause shown as set forth in CR 6.02. The Office of Bar Counsel shall have an opportunity to file a response. The entire Board shall rule on the Motion. If the Motion is granted, the Board shall return the entire record to the Disciplinary Clerk for further proceedings. If the Motion is overruled, the matter shall stand submitted to the Board.

(3) If the parties agree that the answer raises only issues of law, or the Respondent admits the violation, the case shall be submitted directly to the Board. Bar Counsel may file a brief within 20 days, and the Respondent may file a brief within 20 days, thereafter. After briefs are filed, or the time within which briefs may be filed has expired, the record and briefs shall be forwarded to the President for assignment to a member of the Board for a report.

(4) The Board, by a vote of a majority of the Board present and voting, may return the entire record to the Disciplinary Clerk for appointment of a Trial Commissioner pursuant to SCR 3.230 to conduct an evidentiary hearing, which proceeding will be confidential pursuant to 3.150.

**XXII. SCR 3.225 Appointment of Trial Commission**

SCR 3.225 shall read:

The Chief Justice shall appoint, subject to the approval of the Supreme Court, from among the membership of the Bar Association, a Trial Commission and shall designate a chair from the Commission. The Trial Commission shall consist of no more than 15 members. Members of the Trial Commission shall be lawyers licensed in the Commonwealth who possess the qualifications of a Circuit Judge. To the extent practicable, the Chief Justice shall, with the consent of the Court, appoint Trial Commissioners from each appellate district. Such Trial Commissioners shall serve 1 or more 4 year terms.

**XXIII. SCR 3.240(1) and (2) Notice of appointment of Trial Commissioner and hearing**

Sections (1) and (2) of SCR 3.240 shall read:

(1) Upon the appointment of a Trial Commissioner, the Disciplinary Clerk shall notify the parties of his/her name and address. The Trial Commissioner shall fix the time and place of the hearing and the Disciplinary Clerk shall give notice thereof to the parties. Such hearing shall occur not less than 30 days, nor more than 180 days, after the date of the notice, but for good cause shown, said time may be extended by the Trial Commissioner for a period not to exceed an additional 180 days.

(2) Any time, not later than 20 days after the appointment of a Trial Commissioner or at such point in the proceeding that facts become known sufficient for

such challenge, the Respondent or Bar Counsel may, by motion, challenge for cause the Trial Commissioner. If the challenge is such as might disqualify a Circuit Judge, the Chief Justice shall relieve the challenged member and direct the Disciplinary Clerk to immediately fill the vacancy.

**XXIV. SCR 3.320 Procedure where an attorney has been convicted of a misdemeanor or a felony**

SCR 3.320 shall read:

Any member of the Association who is convicted of a felony or class "A" misdemeanor, shall within 10 days following the plea of guilty, finding of guilt by a judge or jury, or upon the entry of judgment, whichever occurs first, file a copy of the judgment with Bar Counsel. The prosecuting attorney shall also file a copy of said judgment with Bar Counsel for action under SCR 3.160. Bar Counsel shall submit copies of the judgment to the Inquiry Commission which may take action under SCR 3.165.

**XXV. SCR 3.330 Order of proceedings and burden of proof**

SCR 3.330 shall read:

The Trial Commissioner shall determine and regulate the order of proceedings at the hearing. Upon the application of a party or upon direction of the Trial Commissioner, the Disciplinary Clerk shall issue subpoenas for the attendance of witnesses or the production of evidence at the hearing. Prehearing discovery shall proceed in accordance with this rule as directed by the Trial Commissioner rather than by the Kentucky Rules of Civil Procedure. If reasonably necessary to prepare the case for hearing, the Trial Commissioner may allow the taking of depositions and require the production of documents. The burden of proof shall rest upon the Association in a disciplinary proceeding, and the facts must be proven by a preponderance of the evidence. In reinstatement hearings the burden shall rest upon the Applicant, and he/she must demonstrate by clear and convincing evidence his/her suitability for reinstatement. Before submission the Trial Commissioner may direct such oral argument as he/she deems appropriate and may allow briefs, not to exceed 30 pages, from all parties, which shall be filed simultaneously within 30 days after the record is filed with the Disciplinary Clerk. The trial commissioner shall have discretion to extend the page limit of briefs.

**XXVI. SCR 3.350 Electronic Record**

SCR 3.350 shall read:

The proceedings before the Trial Commissioner shall be electronically reported and immediately filed with the Disciplinary Clerk.

**XXVII. SCR 3.360(2), (4) and (5) Trial Commissioner to file report with Disciplinary Clerk**

Sections (2), (4) and (5) of SCR 3.360 shall read:

(2) The Trial Commissioner's report shall constitute a part of the record in the case. The report shall be advisory.

The Trial Commissioner shall file the report with the Disciplinary Clerk within 30 days after the record has been filed with the Disciplinary Clerk or after any briefs have been filed with the Disciplinary Clerk, whichever is later. Said deadline may be extended by agreement of the parties or by the President upon verified motion by the Trial Commissioner. If an extension is sought by the Trial Commissioner, a verified motion stating with particularity the grounds for the extension of time shall be filed with the Disciplinary Clerk, with service on parties. The President may grant up to a 60 day extension of time for the Trial Commissioner to file the report. If the Trial Commissioner fails to timely file the report or a verified motion for extension of time, the Board shall request the Supreme Court to issue a show cause order to the Trial Commissioner.

(4) Within 30 days after the filing with the Disciplinary Clerk of: (a) the report, (b) an order ruling on a motion under SCR 3.360(3), or (c) an amended report, whichever is later, either party may file a notice of appeal with the Disciplinary Clerk. If no notice of appeal is timely filed, the entire record shall be forwarded to the Court for entry of a final order pursuant to SCR 3.370(9).

(5) Upon finality of the report, the Trial Commissioner shall return to the Disciplinary Clerk the entire record and such papers as may have been filed and are in the possession of the Trial Commissioner.

**XXVIII. SCR 3.370(1) and (5)(c) Procedure before the Board and the Court**

Section (1) and subsection (c) of section (5) of SCR 3.370 shall read:

(1) Thirty days after the filing of the notice of appeal, the Appellant shall file a brief supporting his/her position on the merits of the case. Fifteen days thereafter, the Appellee shall file his/her brief. Briefs shall not exceed 30 pages. No reply brief shall be permitted.

(5)(c) Each roll call vote under (5)(a) or (b) shall be agreed upon by 11 or 3/4 of the members of the Board present and voting on the proceedings, whichever is less.

**XXIX. SCR 3.450(1), (2) and (3) Recovery of Costs**

Sections (1), (2) and (3) of SCR 3.450 shall read:

(1) In any case to be submitted to the Court, the Disciplinary Clerk shall file with the Court the entire record of the proceedings together with a certified bill of the costs incurred in connection with the investigation and prosecution of the matter.

(2) Every final order of the Court which adjudges the Respondent guilty of unprofessional conduct shall provide for the recovery of costs, which shall include the costs and expenses that a prevailing party in a civil action may recover pursuant to CR 54.04, and such other costs, including postage, certified mailing fees, service of process fees, and videographer charges, as may be ordered by the Supreme Court. Immediately upon the effective date of the order, the Clerk shall furnish a bill for said costs to the Respondent. If the bill is not satisfied within 10 days thereafter, upon which date the order is final, the Clerk shall notify the Director of the Association. The award set forth in the order and any costs shall bear interest at the judgment rate set forth in KRS 360.040.

(3) An order of the Court assessing costs as referenced above shall be enforceable in the same manner and by the same means as any civil judgment.

**XXX. SCR 3.480(2) Withdrawal from the association; negotiated sanctions**

Section (2) of SCR 3.480 shall read:

(2) The Court may consider negotiated sanctions of disciplinary investigations, complaints or charges prior to the commencement of a hearing before a Trial Commissioner under SCR 3.240. Any member who is under investigation pursuant to SCR 3.160(2) or who has a complaint or charge pending in this jurisdiction, and who desires to terminate such investigation or disciplinary proceedings at any stage of it may request Bar Counsel to consider a negotiated sanction. If the member and Bar Counsel agree upon the specifics of the facts, the rules violated, and the appropriate sanction, the member shall file a motion with the Court which states such agreement, and serve a copy upon Bar Counsel, who shall, within 10 days of the Clerk's notice that the motion has been docketed, respond to its merits and confirm its agreement. The Disciplinary Clerk shall submit to the Court within the 10 day period the active disciplinary files to which the motion applies. The Court may approve the sanction agreed to by the parties, or may remand the case for hearing or other proceedings specified in the order of remand.

**XXXI. SCR 3.500(2)(d), (3)(d) and (4) Restoration to membership**

Subsection (d) of section (2), subsection (d) of section (3) and section (4) of SCR 3.500 shall read:

(2)(d) Upon the filing of the foregoing items, the Office of Bar Counsel shall present the matter to the Board at its next meeting, or, if not contested, at any time by mail or electronic means. Within 30 days of its review of the complete application materials, the Board may restore the applicant to membership or refer the matter to the Character and Fitness Committee of the Kentucky Office of Bar Admissions for proceedings pursuant to SCR 2.040 and SCR 2.011, and subsequent review by the Supreme Court. If the matter is referred to the Character and Fitness Committee, the applicant shall pay a fee of \$450.00 to the Kentucky Office of Bar Admissions. Upon completion of its review, the Character and Fitness Committee shall submit its recommendation to the Board for its action and recommendation to the Court.

(3)(d) Upon the filing of the foregoing items, the Director shall refer the

application to the Character and Fitness Committee of the Kentucky Office of Bar Admissions for proceedings pursuant to SCR 2.040 and SCR 2.011. An additional fee of \$750.00 shall be paid to the Kentucky Office of Bar Admissions. Upon completion of its review, the Character and Fitness Committee shall submit its recommendation to the Board of Governors for its action and recommendation to the Court.

(4) All costs incurred in excess of the filing fee shall be paid by the Applicant. Upon referral to the Character and Fitness Committee, a cash bond in the amount of \$2500.00 to secure the costs to be incurred shall be paid to the Office of Bar Admissions by the Applicant.

**XXXII. SCR 3.505(3) Character and Fitness Committee; reinstatements**

Section (3) of SCR 3.505 shall read:

(3) The Applicant or Bar Counsel shall have the right to a hearing before the Character and Fitness Committee prior to the issuance of its decision. The hearing shall be held within 60 days from the request. The formal recommendation of the Committee shall be filed within 60 days of the filing of the record.

**XXXIII. SCR 3.510(1), (2), (3) and (4) Reinstatement in case of disciplinary suspension**

Sections (1), (2), (3) and (4) of SCR 3.510 shall read:

(1) No former member of the Association who has been suspended for a disciplinary case for more than 180 days shall resume practice until he/she is reinstated by order of the Court. Application for reinstatement shall be on forms provided by the Director and Continuing Legal Education Commission, filed with the Director, and shall be accompanied by a filing fee of \$250.00 which shall be made payable to the Kentucky Bar Association. An additional filing fee of \$1500.00 shall be made payable to the Kentucky Office of Bar Admissions. The Director shall not accept an application for filing unless all costs incurred in the suspension proceeding have been paid by the former member, the Office of Bar Counsel has certified to the Applicant that there is no pending disciplinary file, and the costs in the reinstatement proceeding (whether costs of the Association or of the Character and Fitness Committee or of the Kentucky Office of Bar Admissions) have been secured by the posting of a cash bond of \$2500.00. Any additional costs will be paid by Applicant. The Director shall refer the application to the Continuing Legal Education Commission within 10 days of receipt for certification under Rule 3.675. The Continuing Legal Education Commission shall make its certification within 20 days of the referral which shall be added to the record in the reinstatement proceedings.

(2) If the period of suspension has prevailed for 180 days or less, the suspension shall expire by its own terms upon the filing with the Clerk and Bar Counsel of an affidavit of compliance with the terms of the suspension, which must include a certification from the CLE Commission that the Applicant has complied with SCR 3.675. The Registrar of the Association will make an appropriate entry in the records of the Association reflecting that the member has been reinstated; provided, however, that such suspension shall not expire by its own terms if, not later than 10 days preceding the time the suspension would expire, Bar Counsel files with the Inquiry Commission an



opposition to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character. A copy of such objection shall be provided to the Character and Fitness Committee, to the member concerned, and to the Registrar. If such an objection has been filed by Bar Counsel, and is not withdrawn within 30 days, the Character and Fitness Committee shall conduct proceedings under SCR 2.300. In cases where a suspension has prevailed for 180 days or less and the reinstatement application is referred to the Character and Fitness Committee, a fee of \$1500.00 shall be made payable to the Kentucky Office of Bar Admissions.

(3) If the period of suspension has prevailed for more than 180 days, the matter shall be referred to the Character and Fitness Committee for proceedings under SCR 2.300. The Character and Fitness Committee will determine whether the application of a member who has been suspended 180 days or less but whose termination of suspension has been objected to, or a member who has been suspended for more than 180 days, should be approved. The Character and Fitness Committee shall file with the Director and the Clerk the entire record, including a written report and recommendation by the Character and Fitness Committee. Thirty days after the filing of the report, Bar Counsel and the applicant may each file briefs, not to exceed 30 pages in length. No further briefs may be filed. Upon motion of the parties or upon the Board's own motion, oral arguments may be scheduled before the Board. The Board shall review the record, report and briefs and recommend approval or disapproval of the application to the Court. The Court may enter an order reinstating the Applicant to the practice of law or deny the application.

(4) If the period of suspension has prevailed for more than 5 years, the Director shall refer the application to the Character and Fitness Committee for proceedings under SCR 2.300. The Committee shall file a written report and recommendation with the Director and the Clerk. Thirty days after the filing of the report, Bar Counsel and the applicant may each file briefs, not to exceed 30 pages in length. No further briefs may be filed. Upon motion of the parties or upon the Board's own motion, oral arguments may be scheduled before the Board. The Board shall review the record, report and briefs and recommend approval or disapproval of the application to the Court. If the Committee and the Board recommend approval of the application, the Committee shall refer the application to the Board of Bar Examiners for processing in accordance with Rule 3.500(3) and shall file the entire record with the Clerk, including the written report and recommendation of the Committee. The Board of Bar Examiners shall certify the results of the examination to the Director and the Court. If the Applicant successfully completes the examination, the Court may, at its discretion, enter an order reinstating the suspended member to the practice of law. However, if the Applicant fails to pass the examination, the Court shall enter an order denying the application.

#### **XXXIV. SCR 3.600 Continuing legal education definitions**

SCR 3.600 shall read:

As used in SCR 3.605-3.695, the following definitions shall apply unless the context clearly requires a different meaning:

(1) "Approved activity" is a continuing legal education activity that meets the requirements set forth in SCR 3.650 and has been approved for credit by the CLE Commission.

(2) "Attorney Identification Number" is the 5 digit number assigned to each member of the Association upon admission.

(3) "Award" is the Continuing Legal Education Award.

(4) "Commission" is the Continuing Legal Education Commission.

(5) "Continuing legal education," or "CLE," is any legal educational activity which is designed to maintain or improve the professional competency of practicing attorneys and is accredited by the Commission.

(6) "Credit" is a unit for measuring continuing legal education.

(7) "Educational year" is the reporting period for mandatory continuing legal education and runs from July 1st each year through June 30th of the successive year.

(8) "Ethics, professional responsibility and professionalism" is the category by which "ethics credits" shall be earned and includes programs or seminars or designated portions thereof with instruction focusing on the Rules of Professional Conduct independently or as they relate to law firm management, malpractice avoidance, attorneys fees, legal ethics, and the duties of attorneys to the judicial system, the public, clients and other attorneys.

(9) "In-house activity" is an activity sponsored by a single law firm, single corporate law department, or single governmental office for lawyers who are members or employees of the firm, department or office.

(10) "Legal writing" is a publication which contributes to the legal competency of the applicant, other attorneys or judges and is approved by the Commission. Writing for which the author is paid shall not be approved.

(11) "Non-compliance" means not meeting continuing legal education requirements set forth in SCR 3.645 and SCR 3.640 and includes both lack of certification and lack of completion of activities prior to established time requirements.

(12) "Technological transmission" is a CLE activity delivery method other than live seminars and includes video tape, DVD, audio tape, CD-ROM, computer on-line services, or other appropriate technology as approved by the Commission.

#### **XXXV. SCR 3.605 The commission; functions and membership**

New rule SCR 3.605 shall read:

The Continuing Legal Education Commission shall consist of 7 attorneys, 1 of whom shall be from each appellate district of the Commonwealth as presently existing or hereafter created. Under the policy direction of the Court and the Board, the

Commission shall be responsible for the administration and regulation of all continuing legal education programs and activities for the members of the Association.

**XXXVI. [SCR 3.610 The commission; functions and membership]**

Deletion of SCR 3.610.

**XXXVII. SCR 3.610 Selection and tenure of the Commission; filling vacancies on the Commission**

New rule SCR 3.610 shall read:

The Court shall appoint all members of the Commission from a list consisting of 3 times the number to be appointed submitted to the Court by the Board. A chairman shall be designated by the Court for such time as the Court may direct. Of the members first appointed, 3 shall be appointed for 1 year, 2 for 2 years and 2 for 3 years. Thereafter, appointments shall be made for a 3 year term. Members may be reappointed but no member shall serve more than 2 successive 3 year terms. Each member shall serve until a successor is appointed and qualified. Vacancies occurring through death, disability, inability or disqualification to serve or by resignation shall be filled for the vacant term in the same manner as initial appointments are made by the Court. Members of the Commission shall serve without compensation but shall be paid their reasonable and necessary expenses incurred in the performance of their duties. The Association shall have the responsibility of funding the Commission and any necessary staff who shall be employees of the Association.

**XXXVIII. SCR 3.615 Commission member qualifications**

New rule SCR 3.615 shall read:

Each Commission member must be a citizen of the United States, licensed to practice law in the courts of this Commonwealth and have been a resident in the appellate district from which nominated for 2 years immediately preceding the appointment.

**XXXIX. [SCR 3.620 Selection and tenure of the commission, filling vacancies on the commission]**

Deletion of SCR 3.620.

**XL. SCR 3.620 Commission quorum**

New rule SCR 3.620 shall read:

A quorum consisting of at least 4 Commission members is required for conducting the business of the Commission.

**XLI. SCR 3.625 Commission staff**

New rule SCR 3.625 shall read:

The Commission shall be provided with a Director for Continuing Legal Education and sufficient administrative and secretarial assistants as are from time to time required. Selection and qualifications of the Director for Continuing Legal Education shall be determined by the Board except that the person selected shall be an attorney licensed to practice law in the courts of this Commonwealth. The Director for Continuing Legal Education shall be responsible to the Commission for the proper administration of the rules applying to the Commission and any regulations issued by the Commission.

**XLII. [SCR 3.630 Commission member's qualifications]**

Deletion of SCR 3.630.

**XLIII. SCR 3.630 Commission duties**

New rule SCR 3.630 shall read:

The Commission shall be responsible for the administration of these continuing legal education rules, subject to policy approval and other direction by the Board and the Court. In discharging this responsibility, the Commission shall:

- (1) Encourage and promote the offering of high quality continuing legal education.
- (2) Conduct, sponsor, or otherwise provide high quality continuing legal education, specifically including, but not limited to, one 12 credit seminar in each Supreme Court District each year.
- (3) Encourage and promote quality legal writing.
- (4) Approve or deny promptly all applications provided for by these rules.
- (5) Establish standards, procedures, and forms to evaluate applications made pursuant to these rules.
- (6) Promulgate rules and regulations for the administration of the mandatory continuing legal education program subject to approval of the Board and the Court.
- (7) Report annually, on or before September 15, and as otherwise required, to the Board and the Court on the status of continuing legal education in the Commonwealth. Such report shall include recommended changes to these rules and regulations and their implementation.
- (8) Submit to the Board annually, on or before November 1, a recommended budget for the succeeding year with any recommended changes in annual membership dues to cover costs of administering these rules.

(9) Perform such other acts and duties, not inconsistent with these rules, as are necessary and proper to improve the continuing legal education programs within the Commonwealth. When in the course of undertaking the duties set forth above, the Commission receives information which may raise questions regarding a member's competence to represent clients or to otherwise practice law as defined at SCR 3.020, or which may raise any of the issues covered at SCR 3.165(b), the Commission has an affirmative duty to report such information to the Office of Bar Counsel for review by the Inquiry Commission.

**XLIV. [SCR 3.635 Commission quorum]**

Deletion of SCR 3.635.

**XLV. SCR 3.635 Kentucky Law Update seminars in each appellate district**

New rule SCR 3.635 shall read:

(1) Each educational year, the Commission shall conduct a 12 credit continuing legal education seminar in each Supreme Court District. Subjects taught at each seminar shall include the latest Kentucky Supreme Court and Court of Appeals decisions, procedural rule changes, Federal Court decisions, legal ethics, professional responsibility and professionalism, Kentucky statutory changes and other subjects relating to improvements in basic legal skills. Each program shall include a minimum of 2 credits for subjects specifically addressing legal ethics, professional responsibility and professionalism.

(2) Registration for the Kentucky Law Update seminars shall be free to all members in good standing with the Association.

(3) Members may attend Kentucky Law Update seminars in any location. The maximum credit that may be earned for attending any 1 Kentucky Law Update seminar is 12 credits. However, if different tracks of programs are attended at different locations, additional credit may be approved by the Commission. Duplicate credits shall not be earned by attending the same program at different locations.

**XLVI. [SCR 3.640 Commission staff]**

Deletion of SCR 3.640.

**XLVII. SCR 3.640 New Lawyer Program requirement**

New rule SCR 3.640 shall read:

(1) Within 12 months following the date of admission as set forth on the certificate of admission, each person admitted to membership in the Association shall complete the New Lawyer Program requirement.

(2) At least twice each educational year, the Commission shall provide or cause to be provided a New Lawyer Program of not less than 12 credits. The Commission may in its discretion, accredit a New Lawyer Program proposed by other CLE providers.

(3) Continuing legal education credits for the New Lawyer Program shall be awarded in a number consistent with the award of credits for other continuing legal education programs.

(4) The New Lawyer Program shall include at least 2 hours of ethics, a course on law practice management and other subjects determined appropriate by the Commission.

(5) The Commission or other provider accredited under SCR 3.640(2) may charge a reasonable registration fee approved by the Court for the New Lawyer Program.

(6) Each individual attending the New Lawyer Program shall certify to the Director for CLE the completion of the Program on the attendance certificate provided for that purpose. Such certification shall be submitted to the Director for CLE upon completion of the program and in no case shall the certification be submitted later than 30 days after completion of the program. Continuing legal education credits awarded for the program shall be applied to the educational year in which the program is attended, and if applied to a year in which the individual so attending is otherwise exempt from CLE requirements under SCR 3.665(c), then said credits shall carry forward in accordance with SCR 3.645(3).

(7) A member required to complete the New Lawyer Program pursuant to paragraph (1) of this Rule may, upon application to and approval by the Commission, be exempted from the requirement if the member is admitted to practice in another jurisdiction for a minimum of 5 years, and will certify such prior admission to the Commission, or if the member has attended a mandatory new lawyer training program of at least 12 credits, including 2 ethics credits, offered by the state bar association of another jurisdiction and approved by the Director for CLE.

(8) The time for completion and certification set forth in paragraphs 1 and 6 of this Rule may, upon written application to and approval by the Commission or its designee, be extended. Written applications for an extension under this paragraph must be received by the Commission no later than 30 days after the member's deadline to complete the Program as set forth in paragraph (1) of this Rule. All applications must be signed by the member. The Commission may approve extensions for completing the Program under the following circumstances:

(a) Where the member demonstrates hardship or other good cause clearly warranting relief. Requests for relief under this subsection must set forth all circumstances upon which the request is based, including supporting documentation. In these circumstances, the member shall complete the requirement set forth in paragraphs (1) and (6) as soon as reasonably practicable as determined by the Commission or its designee; or

(b) Where the member fails to demonstrate hardship or other good cause clearly warranting relief, the member must pay a fee of \$250.00 and complete the requirement set forth in paragraphs (1) and (6) at the next regularly scheduled New Lawyer Program.

(9) Non-compliance with the New Lawyer Program requirement: Failure to complete and certify attendance for the New Lawyer Program pursuant to this Rule shall be grounds for suspension from the practice of law in the Commonwealth or other sanctions as deemed appropriate by the Board.

(a) Ninety days prior to the end of the 12 month period all individuals not certifying completion of the New Lawyer Program pursuant to this Rule shall be notified in writing that the program must be completed before the end of the 12 month period, indicating the date.

(b) Names of all individuals not submitting certification of completion of the New Lawyer Program within the 12 month period or not being granted an extension of time, pursuant to paragraph (8) of this Rule, shall be submitted to the Board by the Director for CLE, certifying the member's failure to comply with the New Lawyer Program requirement.

(c) The Board shall cause to be sent to the member a notice of delinquency by certified mail, return receipt requested, at the member's bar roster address. Such notice shall require the attorney to show cause within 30 days from the date of the mailing why the attorney's license should not be suspended for failure to meet the New Lawyer Program requirement set forth in this Rule. Such response shall be in writing, sent to the attention of the Director of CLE, and shall be accompanied by costs in the amount of \$50.00 payable to the Kentucky Bar Association.

(d) Unless good cause is shown by the return date of the notice, or within such additional time as may be allowed by the Board, the lawyer will be stricken from the membership roster as an active member of the KBA and will be suspended from the practice of law or will be otherwise sanctioned as deemed appropriate by the Board. A copy of the suspension notice shall be delivered by the Director of CLE to the member, the Clerk of the Kentucky Supreme Court, and in the case of suspension, to the Circuit Clerk of the district wherein the member resides for recording and indexing as required by SCR 3.480.

(e) A member suspended under this Rule may apply for restoration to membership under the provisions of SCR 3.500.

(f) A member may appeal to the Kentucky Supreme Court from such suspension order within 30 days of the effective date of the suspension. Such appeal shall include an affidavit showing good cause why the suspension should be set aside.

#### **XLIII. SCR 3.645 Continuing legal education requirements: compliance and certification**

New rule SCR 3.645 shall read:

(1) Each educational year, as defined by SCR 3.600(7), every person licensed to practice law in this Commonwealth, not specifically exempted pursuant to the provisions of SCR 3.665, shall complete and certify a minimum of 12 credit hours in continuing legal education activities approved by the Commission, including a minimum of 2 credit

hours devoted to "ethics, professional responsibility and professionalism" as defined by SCR 3.600(8). All continuing legal education activities must be completed by June 30 of each educational year.

(a) Integration of legal ethics, professional responsibility and professionalism issues into substantive law topics is encouraged, but will not count toward the 2 credit minimum annual requirement.

(b) It is the obligation of the attorney seeking credit to ensure the activity has been approved. Completion of a non-accredited activity shall be at the risk of the attorney.

(2) Certification of completion of approved CLE activities must be received by the Director for CLE no later than August 10th immediately following the educational year in which the activity is completed.

(a) Certification shall be submitted to the Director for CLE by the sponsor of the accredited activity or by individual attorneys on approved KBA forms, uniform certificates, or other format adopted by the Commission.

(b) Any certification submitted after the August 10th deadline shall be deemed past due. All past due reports shall be accompanied by a late filing fee of \$50.00 per certificate to cover the administrative costs of recording credits to the prior year. All past due reports must be received by the Commission with the late fee no later than the close of the educational year (June 30th) immediately following the year during which the activity was completed. This deadline will not apply in instances where the member or former member is in the process of removing an exemption per SCR 3.665 (2) or attempting certification per SCR 3.685.

(c) Sponsors submitting certifications to the Director for CLE shall comply with all requirements set forth in SCR 3.660(6).

(3) A member who accumulates an excess over the 12 credit requirement may carry forward the excess credits into the 2 successive educational years for the purpose of satisfying the minimum requirement for those years. Carry-forward credits are limited to a total of 24 credits, including 4 ethics credits. All excess credits above a total of 24 credits will remain on the member's record but may not be carried forward.

(4) Failure to acquire a minimum of 12 credits, including 2 ethics credits, to meet the minimum, annual continuing legal education requirement and/or the associated certification requirements set forth herein, shall be grounds for suspension by the Board from the practice of law.

(5) Compliance and certification requirements concerning the New Lawyer Program requirement are set forth at SCR 3.640(1) and (6).



**XLIX. [SCR 3.650 Commission duties]**

Deletion of SCR 3.650.

**L. SCR 3.650 Qualifying continuing legal education activity and standards**

New rule SCR 3.650 shall read:

(1) Credit for completing qualifying continuing legal education activities, as set forth below in paragraphs 2 and 3 of this Rule, shall be calculated, reported and subject to the limitations set forth in SCR 3.655.

(2) A continuing legal education activity qualifies for accreditation if the Commission determines that the activity conforms to the following standards:

(a) The activity is an organized program of learning (including a course of study, workshop, symposium or lecture) which contributes directly to the legal competence of an attorney.

(b) The activity deals primarily with substantive legal issues directly related to the practice of law, or law practice management, and includes consideration of any related issues of ethics, professional responsibility, or professionalism.

(c) The activity has significant intellectual or practical content which is timely.

(d) The activity has as its primary objective to increase the participant's professional competence as an attorney. Activities designed primarily for non-lawyers do not qualify for accreditation.

(e) The activity must be offered by a sponsor having substantial, recent experience in offering continuing legal education. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.

(f) The activity itself must be taught and conducted by an individual or group qualified by practical or academic experience.

(g) The activity, including the named advertised participants, must be conducted substantially as planned, subject to emergency alterations.

(h) Thorough, high-quality, readable, timely, useful and carefully prepared written materials must be made available to all participants at or before the time the activity is presented. A brief outline without citations or explanatory notations is not sufficient.

(i) At the conclusion of the activity, each participating attorney must be given the opportunity to complete an evaluation questionnaire addressing the quality of the particular activity.

(j) The cost of the activity itself to participating attorneys must be reasonable considering the subject matter and instructional level.

(k) The activity may be presented live or by technological transmission as defined in SCR 3.600(12). Activities including audio components must have high quality audio reproductions so that listeners may easily hear the content of the activity. Activities including video components must have high quality video reproductions so that observers may easily view the content of the activity.

(l) In cases of an in-house activity, as defined in SCR 3.600(9), such activities may be approved if all standards set forth herein for accreditation are met. In addition, at least half the instruction hours must be provided by qualified persons having no continuing relationship or employment with the sponsoring firm, department or agency.

(3) Continuing legal education credit may be earned for the following additional activities subject to the limitations set forth in SCR 3.655:

(a) Teaching or participating as a panel member or seminar leader in an approved activity.

(b) Researching, writing or editing material to be presented at an approved activity.

(c) Publication of a legal writing as defined by SCR 3.600(10).

(d) Public speaking. Upon application, CLE credit may be earned by teaching or participating as a panel member, mock trial coach or seminar leader for law-related public service speeches to civic organizations or school groups. A maximum of 2 credits earned under this Rule per educational year may be applied to meet the annual minimum requirement. Speaking for which the member is paid shall not be approved. Written copies of presentations must accompany such applications; provided, however, that, where appropriate, a narrative summary of the material presented may be sufficient.

(e) Law school classes attended by a member, provided that the member registers for the class with the law school and completes the course as required by the terms of registration, for credit or by audit.

(4) The following categories of activities shall not qualify as a continuing legal education:

(a) Seminars or meetings sponsored by law firms or other organizations which are determined by the Commission to be in the nature of client development and do not meet the requirements set forth in SCR 3.650(2).

(b) Passing a bar exam for licensure to practice law in a state or jurisdiction.

(c) Bar review courses taken in preparation for bar examinations for admission to the highest court in a state or jurisdiction.

(d) Correspondence classes.

(e) Any activity completed prior to admission to practice in Kentucky except the program required pursuant to SCR 3.645(5) and 3.640(1).

(f) Undergraduate law or law-related classes.

(g) Programs taken in preparation for licensure exams for non-lawyer professionals.

(h) Business meetings or committee meetings of legal and law-related associations.

(5) Seminars designed for non-lawyer professionals which in, case-by-case situations, will benefit the lawyer by allowing clients improved services in unique areas of practice. Credits earned for this category of seminar or activity shall not count toward the 12 credit annual minimum requirement but may count toward continuing legal education award credits as determined by the Commission.

(6) Accreditation of activities may be withdrawn by the Commission in cases where there is evidence that any of the above standards and criteria have not been met or that circumstances surrounding the actual content or transmission of the activity are not as originally represented to the Commission during the application process such that withdrawal of accreditation is warranted.

**LI. [SCR 3.651 Kentucky law update seminars in each appellate district]**

Deletion of SCR 3.651.

**LII. [SCR 3.652 New Lawyer Program]**

Deletion of SCR 3.652.

**LIII. SCR 3.655 Calculation and reporting of continuing legal education credits: formulas and limits**

New rule SCR 3.655 shall read:

(1) All certifications and applications for credits shall be claimed on KBA forms, uniform certificates approved by the Commission, or other mechanism adopted by the Commission and shall be forwarded to the Director for CLE.

(2) Credits granted for continuing legal education activities vary depending on the nature of the activity. Credit will be granted, or is calculated, and in some instances limited, as set forth below.

(a) Members completing or participating in an approved activity will be granted 1 credit for each 60 minutes of actual instructional time. Instructional time shall not include introductory remarks, breaks, or business meetings held in conjunction with a continuing legal education activity.

(b) Members completing or participating in an accredited technologically transmitted, non-live activity will be granted credit as set forth in SCR 3.655(2)(a). A maximum of 6 credits may be applied to meet the annual minimum CLE requirement set forth in SCR 3.645. Credits earned by completing a non-live activity will be applied to the educational year in which such activity is completed. Activities presented by technological transmission with an attorney facilitator available for purposes of answering questions and leading discussions are considered "live." Live webinars and teleseminars are also considered "live" programs and are not subject to this limitation.

(c) Members teaching or participating as panel members or seminar leaders in an approved activity will be granted 1 credit for each 60 minutes of actual instructional time.

(d) Members may be granted preparation credit as follows:

(i) One credit for each 2 hours spent in preparation for teaching or participating as a panel member or seminar leader in an approved activity, up to a maximum of 12 credits per educational year.

(ii) One credit for each 2 hours spent researching, writing or editing material presented by another member at an approved continuing legal education activity, up to a maximum of 12 credits per educational year.

(e) Credit for attending a law school class as set forth in SCR 3.650 shall equal twice the number of semester or credit hours awarded by the law school for successful completion of the course for credit or by audit. Actual instruction time shall not be used to determine continuing legal education credit for attending law school classes.

(f) Members may earn credits for publication of qualified legal writing pursuant to SCR 3.650(3)(c), up to a maximum of 6 credits per year. One credit is granted for each 2 hours of actual preparation time including research, writing, and editing. Any excess credits, up to 20 hours, will be applied toward the award established in SCR 3.690. Applications for continuing legal education credit for a published legal writing shall be made as set forth in SCR 3.655(1) and shall be accompanied by a copy of the published legal writing for which credit is sought.

(g) The Commission shall grant a maximum of 2 credits to meet the annual minimum requirement for public speaking pursuant to SCR 3.650(3)(d).

**LIV. SCR 3.660 Procedure for accreditation of continuing legal education activities and obligations of sponsors**

New rule SCR 3.660 is:

(1) Educational activities may be approved for credit upon application to the Commission. Application for accreditation may be made by a member or former member without involving the sponsor, or application for accreditation may be made by an activity sponsor.

(2) Application for accreditation of continuing legal education activities shall be made by members, former members or activity sponsors using forms provided by the Association or using uniform applications adopted by the Association. Applications must provide all information required by the form in order to be reviewed. All applications shall be accompanied by the appropriate application fee as follows:

(a) For applications submitted by sponsors for activities greater than 2 hours in length and submitted at least 30 days in advance of the activity, the fee is \$50.00 per activity. If such application is submitted less than 30 days in advance of the activity, the fee is \$100.00 per activity.

(b) For applications submitted by sponsors for activities 2 hours or less in length and submitted at least 30 days in advance of the activity, the fee is \$20.00 per activity. If such application is submitted less than 30 days in advance of the activity, the fee is \$40.00 per activity.

(c) For applications submitted by members or former members, regardless of length of activity and when submitted, the fee is \$20.00 per activity.

(d) Activities repeated on different dates or at different locations are separate activities and require separate applications and separate fees.

(3) Activity sponsors that apply for accreditation and receive approval prior to the activity may announce in advertising materials, "This activity has been approved by the Kentucky Bar Association Continuing Legal Education Commission for a maximum of XX.XX credits, including XX.XX ethics credits." Sponsors who have made application for accreditation of activities that have not yet been approved may announce in advertising materials, "Application for approval of this activity for a maximum of XX.XX credits, including XX.XX ethics credits, is PENDING before the Kentucky Bar Association Continuing Legal Education Commission." Sponsors may not advertise accreditation if accreditation has not been granted by the Commission and notice of such accreditation received by the sponsor.

(4) Technologically transmitted activities produced from live programs or studio productions must be accredited separately from the live or studio activity from which they were produced.

(5) Sponsors of accredited activities shall comply with the obligations and requirements set forth below.

(a) Ensure that all education activities comply with SCR 3.650.

(b) Permit Commission members and staff or their designees to monitor without payment of registration or other fees, any approved activity.

(c) Utilize the activity code provided by the Kentucky Bar Association in its notification of accreditation in identifying the activity in all correspondence regarding the activity and provide the activity code to members for use in reporting credits.

(d) Provide to each Kentucky attorney completing an approved activity a Commission approved credit reporting form and activity code. Credit reporting forms and activity numbers shall be made available to sponsors upon request from the Commission for use at approved activities.

(e) Collect credit reporting forms from Kentucky attorneys and submit to the Commission all forms received within 30 days of completion of the program. Failure to submit completed credit reporting forms within 30 days of the activity shall be accompanied by a late filing fee from the sponsor of \$10.00 per form or certificate. Submit all attendance forms or certificates for activities held during the month of June no later than July 10th, immediately following the end of the educational year on June 30th. For programs held during June this provision of the rule supersedes the 30 day submission deadline provided above.

(f) Sponsors may submit member activity certifications to the Director of CLE as required by SCR 3.645(2), via electronic means so long as the sponsor maintains the member's original certification, or a copy thereof, on file for 2 subsequent educational years following the year in which the activity was completed.

**LV. [SCR 3.661 Continuing legal education requirements: compliance and certification]**

Deletion of SCR 3.661.

**LVI. [SCR 3.662 Qualifying continuing legal education activity standards and credit limits]**

Deletion of SCR 3.662.

**LVII. [SCR 3.663 Calculation and reporting of continuing legal education credits: formulas and limits]**

Deletion of SCR 3.663.

**LVIII. [SCR 3.665 Procedure for accreditation of continuing legal education activities and obligations of sponsors]**

Deletion of SCR 3.665.

**LIX. SCR 3.665 Exemptions and removal of exemptions**

New rule SCR 3.665 shall read:

(1) For each educational year, the following members of the Association shall be exempt from the requirements of SCR 3.645:

(a) In recognition of their positions, which prohibit the practice of law and have significant continuing education requirements by statute or rule of court as a result of the positions they hold, members who, during any portion of that educational year, are serving as:

(i) Justices, Judges, or Magistrates of the Commonwealth or Court of the United States; or

(ii) full-time administrative law judges for an agency of the United States or Commonwealth of Kentucky executive branch.

(b) Justices and Judges of the Commonwealth leaving the bench will be allowed to use accumulated Continuing Judicial Education credits toward the required CLE minimum, up to 12 credits, including 2 ethics, for the first year they are subject to the CLE requirement after leaving the bench.

(c) New lawyers who have been admitted less than 1 full educational year as of the June 30th deadline. Such members shall be subject to the New Lawyer Program requirement, as set forth in SCR 3.640.

(d) Members who are at least 75 years of age or at least 50 year members, including members who will become 75 years of age and those who become 50 year members within the educational year.

(2) Upon application to the Commission, the following members may be exempted from the requirements of SCR 3.645:

(a) Non-practice exemption: Members who do not practice law, as defined in SCR 3.020, within the Commonwealth and agree to refrain from such practice until the Commission approves an application for removal of the exemption.

(i) Non-practice exemptions shall not be effective retroactively unless the applicant certifies that he or she has not practiced law, as defined in SCR 3.020, within the Commonwealth, for all time periods covered by such exemption.

(ii) Practice of law as defined in SCR 3.020, within the Commonwealth, during the effective period of this exemption pursuant to SCR 3.665(2)(a) shall constitute the unauthorized practice of law. Information known by the Commission regarding the practice of law during any period for which a member has certified non-practice status pursuant to SCR 3.665(2)(a) is not confidential as provided by SCR 3.695 and shall be provided along with the member's continuing legal education transcript by the Director for CLE to the Office of Bar Counsel and the Inquiry Commission in writing.

(iii) A member seeking removal of a non-practice exemption shall be required to file a written application with the Commission, addressed to the Director for CLE, for the removal of said exemption. Required as an attachment to the application for removal of said exemption shall be certification of completion of sufficient continuing legal education credits to meet the minimum annual continuing legal education requirement for each educational year during which he or she was exempt, excluding the current educational year. In no case shall a member be required to certify completion of more than 12 credits, including applicable ethics credits, as a condition of removal of the exemption. Timely certification shall include only continuing legal education credits earned during the current educational year and 2 prior educational years. This Rule in no way affects the member's responsibility to complete the current year minimum

annual education requirement by June 30th. The current year minimum educational requirement must be completed as set forth at SCR 3.645. The member shall be notified in writing, via certified mail, of the commission's action on the application for the removal of the exemption.

(iv) Application for removal of an exemption granted pursuant to SCR 3.665(2)(a) may not be made within 30 days of the granting of the exemption.

(b) Hardship exemption: Members who practice law within the Commonwealth, but demonstrate that meeting the requirements of SCR 3.645 would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.

(c) Military exemption: Any member who, for any portion of an educational year, was on active duty in the United States armed forces or whose spouse was on active duty in the United States armed forces for any portion of an educational year.

(3) Every member seeking an exemption from the mandatory continuing legal education requirement of SCR 3.645 pursuant to SCR 3.665(2) shall submit an application on forms provided by the Association or shall make other such written request providing information necessary for determination by the Commission of circumstances warranting exemption.

(4) Exemptions granted pursuant to SCR 3.665(2)(b) and (c) based on hardship or military service are considered temporary in nature unless specifically designated otherwise. In order to maintain an exemption based on a temporary hardship or military service, annual application is necessary. Failure to so certify will result in loss of the exempt status.

**LX. [SCR 3.666 Exemptions and removal of exemptions]**

Deletion of SCR 3.666.

**LXI. [SCR 3.667 Extension of time requirements]**

Deletion of SCR 3.667.

**LXII. [SCR 3.668 Non-compliance, definition]**

Deletion of SCR 3.668.

**LXIII. [SCR 3.669 Non-compliance: procedure and sanctions]**

Deletion of SCR 3.669.

**LXIV. [SCR 3.670 Appeal of commission actions]**

Deletion of SCR 3.670.



## **LXV. SCR 3.670 Extension of time requirements**

New rule SCR 3.670 shall read:

(1) The time requirements associated with completion of continuing legal education and certification thereof, as set forth in SCR 3.645(1), may be extended by the Commission in case of hardship or other good cause clearly warranting relief. Requests for time extensions for completion of activities or certification thereof shall be made to the Commission in writing. All requests for time extension must be received by the Commission no later than the September 10th following the end of the educational year for which the time extension is sought. Requests must set forth all circumstances upon which the request is based, including supporting documentation. Applications for time extensions for completion of the New Lawyer Program may be submitted pursuant to SCR 3.640(8).

(2) A member who fails to complete the requirements of SCR 3.645 for any educational year, and who cannot show hardship or other good cause clearly warranting relief, may submit an application for a non-hardship extension of time in which to earn the annual minimum requirement. The application, which shall be made on KBA forms or by such other appropriate method approved by the Commission, must meet the following requirements:

(a) Each application must contain a detailed plan for completing the annual requirement.

(b) All required credits must be completed and reported by the September 10th deadline for the educational year for which an extension is sought.

(c) The application must be submitted to the Director for CLE and received by the September 10th deadline for the educational year for which an extension is sought; and

(d) The application must include the required application fee as set forth below:

(i) \$250.00 for the first year for which a non-hardship time extension is sought; or

(ii) \$350.00 for the second year for which a non-hardship time extension is sought; or

(iii) \$500.00 for the third year and all years thereafter for which a non-hardship time extension is sought.

(iv) If a member does not seek a non-hardship time extension for 3 consecutive years, a subsequent non-hardship time extension thereafter sought will be considered the first such application and the fee schedule will begin again at the \$250.00 level.

(3) Failure to comply with extended time requirements granted by the Commission pursuant to SCR 3.645 (1) or (2), including both completion of continuing

legal education activities and certification thereof, shall subject the member to the sanctions of SCR 3.675: Suspension for Non-Compliance.

**LXVI. [SCR 3.675 Continuing legal education requirements for restoration or reinstatement to membership: procedures]**

Deletion of SCR 3.675.

**LXVII. SCR 3.675 Non-compliance: procedure and sanctions**

New rule SCR 3.675 shall read:

(1) As soon as practicable after August 20th of each year, the Commission shall notify a member in writing of existing delinquencies of record. The writing may consist of a computer generated form setting forth said delinquency. If any statement incorrectly reflects the continuing legal education status of the member it shall be the duty of the member to promptly notify the Commission of any claimed discrepancy in the education statement.

(2) If, by the first day of November immediately following, a member has neither certified completion by the June 30th immediately prior, of the minimum continuing legal education requirements set forth in SCR 3.645, nor applied for and satisfied the conditions of an extension under SCR 3.670 or exemption under SCR 3.665, the Commission shall certify the name of that member to the Board.

(3) The Board shall cause to be sent to the member a notice of delinquency by certified mail, return receipt requested, at the member's bar roster address. Such notice shall require the attorney to show cause within 30 days from the date of the mailing why the attorney's license should not be suspended for failure to meet the mandatory minimum CLE requirements of SCR 3.645. Such response shall be in writing, sent to the attention of the Director for CLE, and shall be accompanied by costs in the amount of \$50.00 payable to the Kentucky Bar Association.

(4) Unless good cause is shown by the return date of the notice, or within such additional time as may be allowed by the Board, the lawyer will be stricken from the membership roster as an active member of the KBA and will be suspended from the practice of law or will be otherwise sanctioned as deemed appropriate by the Board. A copy of the suspension notice shall be delivered by the Director to the member, the Clerk of the Kentucky Supreme Court, the Director of Membership, and to the Circuit Clerk of the district wherein the member resides for recording and indexing as required by SCR 3.480.

(5) A member suspended under this Rule may apply for restoration to membership under the provisions of SCR 3.500.

(6) A member may appeal to the Kentucky Supreme Court from such suspension order within 30 days of the effective date of the suspension. Such appeal shall include an affidavit showing good cause why the suspension should be set aside.

**LXVIII. [SCR 3.680 Continuing legal education award]**

Deletion of SCR 3.680.

**LXIX. SCR 3.680 Appeal of commission actions**

New rule SCR 3.680 shall read:

(1) The Commission shall state the reason or reasons for any adverse Commission decision and shall notify the person or organization affected.

(2) Any person or organization may request in writing reconsideration of an adverse decision within 15 days of the notice of the decision. The Commission shall consider any pertinent material submitted and shall permit the aggrieved party the opportunity to appear at a meeting of the Commission for oral presentation of information to be considered.

(3) Any person or organization may appeal to the Board from an adverse decision of the Commission by filing a written notice in the Office of the Director within 30 days of the notice of the decision or of a refusal to reconsider a decision. The review of the Board shall be limited to the record considered by the Commission. The entire record, including a transcript of Commission proceedings, shall be submitted to the Board, with costs born by the unsuccessful party.

(4) Any person or organization may appeal to the Supreme Court of Kentucky from an adverse decision of the Board by filing a written petition, together with 10 copies, in the office of the Clerk of the Court, accompanied by a certificate of service on the Director and a filing fee of \$100.00, within 30 days of the notice of the decision. The review of the Court shall be limited to the record considered by the Commission and the Board.

(5) Commission certification of non-compliance filed with the Board pursuant to SCR 3.640(9) or SCR 3.675 may not be appealed under Sections (3) and (4) of this Rule.

**LXX. [SCR 3.685 Annual publication of educational achievement]**

Deletion of SCR 3.685.

**LXXI. SCR 3.685 Continuing legal education requirements for restoration or reinstatement to membership: procedures**

New rule SCR 3.685 shall read:

(1) Every former member, applying for or otherwise seeking restoration or reinstatement to membership pursuant to Rules 3.500 or 3.510, shall be required to have completed the minimum annual continuing legal education requirement for each year during which he or she was not a member in good standing, including any year prior to disbarment, suspension or withdrawal under threat of disbarment or suspension, during which the minimum annual continuing legal education requirement was not

fulfilled. Completion of such credits shall be certified to the Commission as a condition precedent to reinstatement or restoration. In no case shall a member be required to attend more than 60 continuing legal education credits, including applicable ethics credits, as a condition precedent of restoration or reinstatement to membership.

(2) The application or affidavit of compliance submitted for restoration or reinstatement shall include certification from the Director for CLE of completion of continuing legal education activities as required by these Rules, or otherwise specified by the Commission or Court. Applicants or affiants shall request said certification from the Director for CLE in writing and shall submit with said written request a fee of \$50.00 to cover the expense of the record search and certification. Applications or affidavits of compliance submitted for restoration or reinstatement which do not include the required certification of continuing legal education credits, including verification of fee payment for the certification, shall be considered incomplete and shall not be processed.

(3) The requirements for completion of continuing legal education as a condition to restoration or reinstatement as set forth above may only be satisfied with credits earned in the current educational year during which the application is submitted and the preceding 2 educational years. Credits so earned shall be applicable to requirements imposed by the Commission upon application or other actions undertaken in pursuit of restoration or reinstatement.

(4) Approval of the application or provision of a certification for an affidavit of compliance shall satisfy the requirement of the applicant under SCR 3.645 for the current educational year.

(5) In the event that a new educational year begins after approval of the application or certification for an affidavit of compliance by the Commission, but prior to Supreme Court entry of an Order of Reinstatement or Restoration, or Registrar's certification of member's name to the active roster of membership the new year minimum continuing legal education requirement must be completed and the application updated before the reinstatement or restoration can proceed to the Board of Governors or to the Court, unless a maximum of 60 credits have been completed.

**LXXII. [SCR 3.690 Commission records confidential]**

Deletion of SCR 3.690.

**LXXIII. SCR 3.690 Continuing Legal Education Award**

New rule SCR 3.690 shall read:

(1) Any member who completes a minimum of 60 credit hours approved by the Commission within a period of 3 or fewer educational years, is eligible for a Continuing Legal Education Award which shall consist of a dignified certificate issued by the Association attesting to the educational accomplishment.

(2) The Commission shall notify the member and issue the award.

(3) Approved awards are valid for 1 year, beginning on the first day of July of the year of award notification.

(4) The validity of an award may be renewed for an additional year following the initial award date, in which the member who holds the award completes a minimum of 20 approved credits.

(5) Failure to earn 20 credits in any educational year following the initial award date shall disqualify the member from further renewals of that award. The member may only become eligible for another award by earning 60 approved credit hours in a period separate and distinct from the period for which a prior award was issued.

(6) Each member who holds a valid, unexpired award shall receive a 25% discount from the normal registration fee for the Kentucky Bar Association Annual Convention.

(7) The Association may publish annually in leading daily newspapers of general circulation throughout the Commonwealth an announcement of the members who during the preceding educational year have earned the Continuing Legal Education Award. The announcement shall describe the basis of the award and shall set forth in alphabetical order the name and geographical location of each recipient. A similar annual announcement may be included in the Kentucky Bench & Bar and on the Association website.

#### **LXXIV. SCR 3.695 Commission records confidential**

New rule SCR 3.695 shall read:

The files and records of the Commission shall be deemed confidential and shall not be disclosed except in furtherance of the duties of the Commission, as set forth at SCR 3.630, of the Board, upon request of the member affected, or as directed by the Supreme Court of Kentucky. This rule specifically excludes from confidentiality information provided by a member to the Commission as a part of a member's application for relief from the requirements of these rules.

#### **LXXV. SCR 7.030(2) and (4) Nomination and election – regular elections Election of Bar Representatives to Judicial Nominating Commissions**

Sections (2) and (4) of SCR 7.030 shall read:

(2) On or before June 1 of the years in which regular elections are to be held under this rule the board shall by majority vote nominate candidates for election to the various commissions as specified in subsection 3 of this rule. The board shall immediately certify the names of its nominees to the director. On or before July 1 the director shall publish by appropriate means to the members specified in (3)(c) of this rule a list or lists of the candidates so nominated.

(4) Any other qualified member may file a written petition for candidacy for the commission for the Supreme Court and the Court of Appeals, signed by himself and not

less than 10 other members residing in the Commonwealth of Kentucky, or may file a written petition for candidacy for the commission for a judicial circuit, signed by himself and not less than 2 other members residing in the circuit. In his petition the member shall state that he does not hold any other public office or any office in a political party or organization. All such petitions shall be filed with the director on or before August 15 of the year in which the regular election for members of the commissions is to be held. The director shall acknowledge receipt of each candidate's petition by return mail. All petitions shall be considered public records and shall be available for inspection at reasonable hours. On or before September 1 the director shall publish by appropriate means to the members specified in (3)(c) of this rule a list or lists of the candidates, including those nominated by the board and those nominated by petition.

**LXXVI. SCR 8.030 Staff for Commission**

SCR 8.030 shall read:

The Manager of the Division of Judicial Branch Education of the Administrative Office of the Courts or designee as appointed by the Chief Justice of the Supreme Court shall serve as Executive Secretary to the Commission.

**LXXVII. SCR 8.070 Continuing judicial education requirements**

SCR 8.070 shall read:

(a) Every appellate judge and justice and every trial judge, not exempted, shall attend a minimum of 25 hours in continuing judicial education courses approved by the Judicial Education Commission each educational biennium.

(b) At least once every 2 years, a portion of the continuing judicial education provided for judges by the Administrative Office of the Courts shall consist of programs which focus on the dynamics and effects of domestic violence including the availability of community resources, victims services and reporting requirements. The minimum hours of judicial education credits need not include domestic violence programs credits.

(c) An educational biennium shall begin on July 1 and end 2 years later on June 30 of each even-numbered year.

(d) To satisfy the minimum attendance requirement for any educational biennium a judge is authorized to carry forward any excess attendance over 25 hours that was earned in the immediately preceding biennium.

**LXXVIII. SCR 8.110 Sanctions**

SCR 8.110 shall read:

As soon as practicable after July 31st of the educational biennium, the Commission shall request the Executive Secretary to notify a judge in writing of their delinquency unless prior to July 1st the judge has requested an exemption which has not been ruled on by the Commission. If such judge remains delinquent on the 30th day

of August, the Commission Chair shall forthwith, in writing, report the judge's name to the Chief Justice.

**LXXIX. SCR 8.120 Expenses**

SCR 8.120 shall read:

Judges attending judicial education programs sponsored by the Administrative Office of the Courts shall be reimbursed for their expenses in accordance with Court of Justice Travel Regulations. Expenses for attendance at any other education program shall be borne by the judge unless prior approval is obtained by the Manager of Judicial Branch Education of the Administrative Office of the Courts.

All sitting. All concur, except:

Cunningham and Scott, JJ. would not adopt the amendments to CR 5.02 (1) and (2).  
Cunningham, JJ. would send Residual Funds to Kentucky Access to Justice Foundation.

Scott, J. would not adopt the amendments to SCR 3.450 (1), (2) and (3).

Cunningham, J. would not adopt the amendments to SCR 3.510 (1), (2), (3) and (4).

ENTERED: October 7, 2013.

  
CHIEF JUSTICE