

ARGUMENTS IN OPPOSITION TO MANDATORY CLE

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Mandatory CLE will unnecessarily create a new state bureaucracy, impose new administrative costs on all attorneys, favor form over substance, and not address the issues cited by the proponents as the reasons for the need for mandatory CLE.

First, the proposed mandatory CLE plan will be administered by a state bureaucracy. There will be employees hired to certify which courses qualify for CLE credit, to monitor the compliance of attorneys with the CLE requirements, and to discipline attorneys who do not meet the requirements.

A fee will be imposed on each attorney to pay for the administration of the MCLE program. While no fee has yet been set, it is likely that that fee could be in the range of \$200 per attorney.

Proponents claim that mandatory CLE is required because of the instances where attorneys have taken clients' funds and because many new lawyers are putting up their own shingle immediately after graduating from law school without any mentoring from a law firm or having worked with a more senior lawyer. Mandatory CLE does not address either of these concerns. It simply does not make sense to conclude that lawyers steal money from their clients because lawyers did not go to a legal education course telling them that they should not do it. Further, if there is concern about the training of young lawyers as they set up their shingle immediately out of law school, then a program directed to that issue, such as a mentoring program, is much more appropriate than an annual mandatory CLE requirement imposed on all lawyers.

There is no evidence that states that have implemented mandatory CLE programs have more honest lawyers, less theft of client funds, or fewer problems with new, inexperienced attorneys.

In fact, there is evidence that compliance with mandatory CLE requirements is more form than substance. The experience in many states is that just before the deadline for having completed CLE credits arrives, attorneys scurry to buy videotapes or online CLE programs to meet the letter, rather than the substance, of the rule.

Continuing legal education is very important. There are many providers that are providing high quality programs. Lawyers should be encouraged to participate in such programs. Some malpractice insurers provide incentives for lawyers to participate in such programs. There simply is no need to create a bureaucracy to require lawyers to complete a set number of courses during any period established by court rules.

Finally, the major proponents for mandatory CLE are the Connecticut Bar Association and many of the local bar associations. These are the very groups that sponsor CLE programs and believe that a mandatory CLE requirement will generate more income as a result of their organizations running CLE programs. This is not only an improper motivation, but it also is advocacy by these organizations in a situation where they have a clear conflict of interest. The bar associations are supposed to represent lawyers in this state, and not advocate a mandatory program which benefits the associations at the expense of their members.