



**RESOLUTION OF THE
LOUISIANA BOARD OF LEGAL SPECIALIZATION
APPROVE EMPLOYMENT LAW STANDARDS**

WHEREAS, the Louisiana Board of Legal Specialization is empowered under Section 3.1C of the Plan of Legal Specialization to make recommendations to the House of Delegates of the Louisiana State Bar Association with respect to reasonable and non-discriminatory standards concerning education, experience, proficiency and other relevant matters for granting certificates of special competence to lawyers in defined and designated fields of law; and

WHEREAS, a specialty certification in Employment Law has been approved by the Louisiana Supreme Court; and

WHEREAS, a public hearing was held on April 13, 2016 for the purpose of providing an opportunity for board certified specialists and members of the bar to comment on the proposed Louisiana Board of Legal Specialization Employment Law Standards; and

WHEREAS, at a meeting of the Louisiana Board of Legal Specialization held on December 12, 2016, it was unanimously agreed that a recommendation be made to the House of Delegates of the Louisiana State Bar Association to adopt the standards for Employment Law, a copy of which is attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED that:

This Resolution shall be presented to the House of Delegates of the Louisiana State Bar Association; and

FURTHER, be it resolved that The Louisiana Board of Legal Specialization recommends that the standards for Employment Law be adopted and approved.

Respectfully submitted,


J. Kevin Stelly, Chair
Louisiana Board of Legal Specialization

December 12, 2016
New Orleans, Louisiana

APPROVED
HOUSE OF DELEGATES & BOARD OF GOVERNORS
JANUARY 21, 2017
BATON ROUGE, LA



LOUISIANA BOARD OF LEGAL SPECIALIZATION EMPLOYMENT LAW STANDARDS

Pursuant to the authority vested in the Louisiana Board of Legal Specialization (the "Board") by the Supreme Court of Louisiana, the Board, on the recommendation of the Employment Law Advisory Commission (the "Advisory Commission"), prescribes the following standards and requirements for board certification in Employment Law in accordance with the Plan of Legal Specialization (the "Plan") and the Rules and Regulations of the Louisiana Board of Legal Specialization (the "Rules").

Section I. DEFINITIONS

- A. The practice of law means full-time legal work performed for the purpose of rendering legal advice or legal representation to the general public, private employers, or governmental agencies.
- B. Full time shall be defined as working a minimum of 35 hours per week.
- C. Employment Law is defined as the handling of all matters arising from the relationships between employers and employees or independent contractors, excluding workers' compensation matters other than retaliatory discharge issues. The practice encompasses all forms of advice, guidance, and counseling as well as litigation, negotiation, arbitration, mediation and other forms of alternative dispute resolution before state and federal tribunals involving public or private employment-related statutes, employment-related torts, employment-related contracts, and/or discrimination matters, including but not limited to:
- Equal Employment Opportunity, including Title VII, LEDL, ADA, PDA and ADEA;
 - Wage and Hour and leave matters including FLSA, FMLA, Louisiana's maternity leave law, USERRA, Louisiana's MSRA, WARN Act, Equal Pay Act, Louisiana's wage law, OFCCP, employment status, and unemployment compensation matters;
 - Employment-related torts, including trade secret and unfair trade practice matters;
 - Employment contracts, including non-competition and non-solicitation provisions;
 - Pre-employment matters and employment practices, policies and procedures;
 - Employment-related civil rights claims;
 - Whistleblower and non-EEO retaliation claims;
 - Occupational Safety and Health (except worker's compensation and/or LHWCA claims or proceedings).

The practice of law dealing with ERISA (such as employee benefits and group benefits), COBRA, social security law, immigration, bankruptcy and administrative proceedings may, under proper circumstances, constitute the practice of Employment Law within the meaning of this section.

- D. Certification as a specialist shall be effective the date the Board authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

Section II. BASIC REQUIREMENTS

A. Application

Applicants must at the time of initial application for certification:

1. Be an active member in good standing of the Louisiana State Bar Association;
2. Have a minimum of five (5) years of continuous actual practice of law on a full time basis preceding the year of application;
3. Certify under oath that during five (5) of the seven (7) years immediately preceding the year of application they have devoted a minimum of 25% of a full-time work schedule in the practice of law annually in the field of Employment Law as defined in Section I, C.
4. The Advisory Commission must receive on behalf of an applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) reference statements from practicing attorneys or judges who can attest to the applicant's competence in the specialty field of Employment Law. Of the five (5) references, at least one (1) must be from a Board Certified Employment Law Specialist. These submissions shall be subject to the limitations outlined in Rule 8.4 of the Rules;
5. Consent to a confidential inquiry by the Board and/or the Advisory Commission, directed to any person who serves as a reference for the applicant, and to other persons regarding the applicant's competence and qualifications to be recognized as an Employment Law Specialist. This inquiry and review shall consider information furnished by references and other information that the Advisory Commission deems relevant to whether the applicant has sufficient competence and proficiency handling the usual matters of Employment Law. This information may include the applicant's work product, ethics, reputation, professionalism, or such other criteria that the Advisory Commission deems appropriate to consider in reaching its recommendations;
6. Comply with the rules and regulations established by the Board as they relate to release of disciplinary action information;
7. Obtain by December 31 of the year of application a minimum of 15 hours of continuing legal education (CLE) in the field of Employment Law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 15 hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption under Rule 7.10 of the Rules in the year of application.
8. Maintain professional liability insurance in the minimum amount of \$500,000. The policy must be offered by a company reasonably acceptable to the Board. Evidence of insurance shall be provided with the application.
9. Take and pass a written examination.
10. Certify under oath to having met these requirements.

B. Maintenance

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

1. Be an active member in good standing of the Louisiana State Bar Association;
2. Certify under oath, on a form provided by the Board, that they engage in the actual practice of law on a full time basis;
3. Certify under oath, on a form provided by the Board, that they have devoted a minimum of 25% of a full time work schedule in the practice of law annually in the field of Employment Law, as defined in Section I, C herein.
4. During each year of certification, must attend a minimum of 15 hours of approved Employment Law continuing legal education programs that comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved Employment Law specialization CLE earned in excess of the 15 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.
5. Maintain professional liability insurance in the minimum amount of \$500,000, unless waived for good cause by the Board. The policy must be offered by a company reasonably acceptable to the Board. Proof of insurance shall be provided annually with payment of the annual dues and upon request.
6. Pay all fees required by the Rules.

C. Recertification

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

Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS

A. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Employment Law Specialist and should be open for attendance by all such attorneys;
2. Programs should be developed by individual(s) qualified in the subject matter;
3. Program content should be current, and 50% or more of the program must be related to Employment Law subjects. No specialization continuing legal education credit will be awarded for attending a program that does not satisfy the 50% requirement.

4. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required), and teaching methods to be used;
5. Instructors or discussion leaders should be qualified with respect to program content and teaching method used;
6. Program sponsors should encourage participation only by individuals with appropriate education and/or experience;
7. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.

B. Program Qualification

1. General Rule

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

2. Program Approval

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

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

Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT

A. General Rules

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

B. Teaching

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter. If an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not

teach in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education. No credit will be given for repetitious presentations of a program.

2. Teaching of academic courses in Employment Law in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.
3. CLE credit may be awarded for teaching an Employment Law course at any seminar, provided the presentation meets all criteria contained in Section III, A and B, other than Section III, A3.

C. Writing

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

D. Louisiana State Law Institute Committee meetings

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

E. Pro Bono

CLE credit may be awarded for providing uncompensated pro bono legal representation related to an Employment Law matter, as defined in Section I C herein, to an indigent or near-indigent client or clients. CLE credit shall not be granted until the representation has been assigned, completed and verified by the assigning organization as defined by and in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

Section V. CREDIT HOURS GRANTED

- A. Only credit hours or the equivalent (and not hours dedicated to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instruction with intervening breaks, the number of minutes of instruction is summed for the entire program for which the credit is claimed and then the total number of minutes is divided by 60.
- C. A participant who is not present for an entire program may claim credit only for the portion he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

Section VI. COMPLIANCE

A. General Rule

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

B. Notification

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

A specialization transcript may be obtained from the Louisiana Board of Legal Specialization website located at www.lascmele.org/specialization

Section VII. ADMINISTRATION

The Advisory Commission may delegate its responsibility to rule on all matters pertaining to Employment Law CLE requirements to a committee consisting of at least three (3) Advisory Commission members. Any such committee shall report to the Advisory Commission, and the Advisory Commission shall, at all times, retain the right to review, modify, or supersede the decisions of any such committee.