

Rule 800

PURPOSE AND SCOPE

Because it is essential to the public and the legal profession that an attorney admitted to practice law in Kansas maintain and improve the attorney's professional competence, an attorney must complete continuing legal education. These rules establish the minimum continuing legal education requirements an attorney must satisfy to remain authorized to practice law in Kansas.

Rule 801

DEFINITIONS

- (a) **“Active attorney”** means an attorney who is required to pay the annual registration fee, is registered as active for the current licensing period under Rule 206(a)(1) and (b)(1), and is not suspended or disbarred from the practice of law by the Supreme Court.
- (b) **“Approved program”** means a continuing legal education program approved under these rules.
- (c) **“Board”** means the body created under Rule 803.
- (d) **“Compliance period”** means the period of one year beginning July 1 and ending June 30.
- (e) **“Continuing legal education program” or “CLE program”** means a legal education program, course, or activity designed to maintain and improve an attorney's professional competence.
- (f) **“Ethics”** means the standards found in the Kansas Rules of Professional Conduct that an attorney must comply with to practice law in Kansas and remain in good standing.
- (g) **“Guidelines”** means a document that prescribes administrative requirements for continuing legal education that are not set forth in these rules.
- (h) **“Inactive attorney”** means an attorney who is registered as inactive under Rule 206(b)(1).
- (i) **“In-house live program”** means a live program offered by invitation to a select audience that is not open for attendance by other members of the legal community.

- (j) **“Law practice management program”** means a CLE program specifically designed for attorneys on nonsubstantive topics that address ways to enhance the quality and efficiency of an attorney’s service to clients.
- (k) **“Live program”** means a CLE program offered at a set time during which the attorney has the ability to contact the moderator or presenter to comment and ask questions. A live program may be held in person or delivered through an electronic medium.
- (l) **“OJA”** means the Kansas Supreme Court’s Office of Judicial Administration and staff.
- (m) **“Prerecorded program”** means an on-demand CLE program accessible through an electronic medium solely by an individual attorney in a format approved by OJA.
- (n) **“Professionalism”** means conduct consistent with the tenets of the legal profession by which an attorney demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other attorneys, witnesses, and self-represented and unrepresented persons.
- (o) **“Provider”** means an individual or organization offering a CLE program.

Rule 802

KANSAS CONTINUING LEGAL EDUCATION

- (a) **Administration.** The Supreme Court through OJA administers and regulates Kansas continuing legal education.
- (b) **Continuing Legal Education Fee.** A continuing legal education fee is included in the annual registration fee under Rule 206.
- (c) **Service Fee.** OJA will charge a \$30 service fee for a check that is returned unpaid.
- (d) **Confidentiality.** All files, records, proceedings, and other documents that relate to or arise out of an attorney’s compliance with or failure to satisfy continuing legal education requirements are confidential and must not be disclosed except as provided in these rules, by Supreme Court order, or on request of the affected attorney. OJA has the discretion to disclose relevant information and to submit any part of its files to the Board for the furtherance of the Board’s duties. This confidentiality provision does not apply to anonymous statistical abstracts.

Rule 803

KANSAS CONTINUING LEGAL EDUCATION BOARD

- (a) **The Board.** The Supreme Court establishes the Kansas Continuing Legal Education Board to assist the Supreme Court and OJA with administering and regulating continuing legal education. The Board replaces the Continuing Legal Education Commission.
- (b) **Duties and Responsibilities.** The Board's responsibilities include the following:
 - (1) approving providers and programs;
 - (2) determining the number of CLE credit hours to be awarded for participating in a program;
 - (3) granting or withdrawing approval of CLE programs;
 - (4) granting waivers and extensions of time to complete requirements; and
 - (5) developing guidelines as described in Rule 801(g).
- (c) **Membership.** The Board consists of nine members appointed by the Supreme Court. All attorney members must be registered under Rule 206. The members are as follows:
 - (1) five practicing attorneys, at least one of whom has been admitted to practice law in Kansas for fewer than 10 years;
 - (2) one faculty representative from the University of Kansas School of Law and one faculty representative from Washburn University School of Law;
 - (3) one nonattorney; and
 - (4) one justice or judge.
- (d) **Terms.** The Supreme Court will appoint each Board member for a three-year term. No member may serve more than two consecutive three-year terms. The Supreme Court will appoint a new member to fill a vacancy on the Board; the new member will serve the remainder of the unexpired term and is then eligible to serve two consecutive three-year terms. A member is eligible for one or more additional terms after a break in service.

- (e) **Election of Officers.** The Board will elect from its members a chair and a vice chair at the first Board meeting held in each annual compliance period.
- (f) **Meetings; Quorum.** The Board will meet quarterly and when the need arises. Five members constitute a quorum for the transaction of business.

Rule 804

MINIMUM REQUIREMENTS

- (a) **Credit Hours.** An active attorney must earn a minimum of 12 CLE credit hours at approved programs during each compliance period. Of the 12 hours, at least 2 hours must be in the area of ethics and professionalism.
- (b) **Carryover Credit.** An active attorney may complete CLE credit hours at approved programs during a compliance period that exceed the number of credit hours required by subsection (a). To carry over the credit hours to the next compliance period, the attorney must comply with the requirements of Rule 808. The following provisions apply to carryover credit.
 - (1) An active attorney may carry over up to 10 unused general attendance CLE credit hours.
 - (2) An active attorney may carry over ethics and professionalism CLE credit hours as general attendance CLE credit hours but not as ethics and professionalism CLE credit hours.
 - (3) An active attorney cannot carry over CLE credit hours earned for teaching, authorship, or attendance at a law practice management program.
- (c) **Reporting.** CLE credit hours at an approved program must be reported for each attorney as required under Rule 806 and in the form and manner prescribed by OJA.
- (d) **Exemptions.** The following attorneys are exempt from the CLE requirement in subsection (a):
 - (1) an attorney newly admitted to practice law in Kansas until the first compliance period following admission to practice;
 - (2) an attorney registered under Rule 206 as inactive, retired, or disabled due to mental or physical disability; and

- (3) an active or retired federal or state judge or justice, bankruptcy judge, or full-time magistrate of the United States District Court for the District of Kansas who is not engaged in the practice of law, but a federal or state administrative judge is not eligible for this exemption.
- (e) **Exception for Good Cause.** The Board may grant an exception to the strict requirement to complete continuing legal education in any compliance period because of good cause, such as disability or hardship. The following provisions apply.
 - (1) An attorney must submit a written request for an exception to OJA with a detailed explanation of the circumstances necessitating the request.
 - (2) The Board must review and approve or disapprove a request for an exception on an individual basis.
- (f) **Legislative Service.** Upon a written request submitted to OJA, an attorney serving in the Kansas Legislature will receive a reduction of 6 of the 10 general attendance CLE credit hours required for the compliance period in which the attorney serves in the Legislature.

Rule 805

PROGRAM APPROVAL, STANDARDS, AND APPEALS

- (a) **Provider Application for Program Approval.**
 - (1) **Live Program.** No later than 30 days before a live program, a provider should submit to OJA an application for approval of the live program and any additional information requested by OJA. The application must be accompanied by a \$25 nonrefundable fee.
 - (2) **In-House Live Program.** No later than 21 days before an in-house live program, a provider must submit to OJA an application for approval of the in-house live program and any additional information requested by OJA. The application must be accompanied by a \$25 nonrefundable fee.
 - (3) **Prerecorded Program.** No later than 30 days before a provider makes a prerecorded program available to attorneys, the provider should submit to OJA an application for approval of the prerecorded program and any additional information requested by OJA. The application must be accompanied by a \$100 nonrefundable fee.

- (4) **Notice of Accreditation.** OJA must notify the provider of the status of its review of the application no later than 30 days after OJA receives it. A CLE program is not approved until OJA provides a notice of accreditation to the provider. Approval of a prerecorded program will remain valid for up to one year.

- (b) **Individual Attorney Application for Live Program Approval.** An individual attorney may seek CLE credit for a live program that was not previously approved by OJA. To receive credit, the attorney must submit an application for approval of the live program and any additional information requested by OJA. OJA must notify the attorney of the status of its review of the application no later than 30 days after OJA receives it. A live program is not approved until OJA notifies the attorney of approval.

- (c) **Standards.** To be approved, a CLE program must comply with the following standards.
 - (1) CLE credit will be awarded on the basis of one credit hour for each 50 minutes actually spent in attendance at the CLE program, excluding introductory remarks, meals, breaks, and other noneducational activities. One-half credit hour will be awarded for attendance of at least 25 but less than 50 minutes. No credit will be awarded for smaller fractional units.
 - (2) The program must have significant intellectual or practical content designed to promote attorney competence and primarily address matters related to the practice of law, ethics and professionalism, or law practice management. An interdisciplinary program that crosses academic lines may meet this standard if the provider or individual attorney seeking credit demonstrates that the program is beneficial to the practice of law. Generally, credit will not be awarded for keynote speeches.
 - (3) The program must be presented by a person qualified by practical or academic experience to present the subject. Generally, a legal subject should be presented by an attorney.
 - (4) Thorough, high quality, readable, useful, and carefully prepared instructional materials must be made available to all participants by the time the program is presented, unless the Board approves the absence of instructional materials. A brief outline without citations or explanatory notations is not sufficient. Instructional materials must satisfy the criteria set forth in the Guidelines for Instructional Materials.
 - (5) A live program must be presented in a setting that is suitable for its contents.

- (6) An in-house live program must be scheduled at a time and location so that attorneys attending are free of interruptions from telephone calls and other office matters and so that Board members or a representative of OJA may audit the program.
- (7) Integration of ethics or professionalism instruction into substantive law topics is encouraged, but integrated material does not count toward the two-hour minimum annual ethics and professionalism requirement.
- (d) **Appeal of Determination.** If an application for approval of a CLE program or CLE credit is denied, the applicant may appeal the decision to the Board by submitting a letter of appeal to OJA within 30 days of when the notice of the denial was issued. No other appeal may be taken.

Rule 806

ATTENDANCE REPORTING

- (a) **Provider Approved Program.** If OJA approves an application submitted by a provider under Rule 805(a), OJA will issue a notice of accreditation and, in the case of an in-person live program, an affidavit to the provider. Attendance will be reported as follows.
 - (1) **In-Person Live Program.** A provider holding an in-person live program is responsible for distributing the affidavit to attendees for signature.
 - (A) **In-State Program.** The provider is responsible for submitting the executed affidavit to OJA no later than 30 days after the program.
 - (B) **Out-of-State Program.** The attorney is responsible for submitting the executed affidavit to OJA no later than 30 days after the program.
 - (2) **Electronic Live Program or Prerecorded Program.** A provider holding a live program delivered through an electronic medium or a prerecorded program is responsible for reporting attendance in the prescribed format to OJA no later than 30 days after the program.
- (b) **Individual Attorney Approved Program.** If OJA approves an application submitted by an individual attorney under Rule 805(b), the attorney is responsible for submitting proof of attendance as prescribed by OJA.

Rule 807

PROVIDER RESPONSIBILITY

- (a) **Marketing Prior to Approval.** A provider of a CLE program pending approval must announce in any marketing that approval is pending. A provider must not advertise a CLE program as approved until the provider receives a notice of accreditation.
- (b) **Late Report of Attendance.** A provider responsible under Rule 806(a) for reporting the attendance at a program held in a compliance period must report the program attendance by July 31. Otherwise, the provider is responsible for the fees set forth in Rule 809(c).
- (c) **Program Audit.** A provider must allow Board members or a representative of OJA to attend, free of charge, any CLE program to audit compliance with these rules. A Board member or OJA representative auditing a CLE program will not receive CLE credit for attendance.
- (d) **Evaluation.** At the conclusion of an approved program, a provider must give a participating attorney the opportunity to complete an evaluation form addressing the quality, effectiveness, and usefulness of the program. OJA may request a copy of the evaluation.
- (e) **Record Retention.** A provider must keep attendance records and evaluation summaries for a program on file for a minimum of three years.

Rule 808

CREDIT

- (a) **Credit for Attendance.** The number of CLE credit hours assigned to an approved program reflects the maximum number of hours that an attorney can earn by attending the entire program. An attorney can only earn CLE credit for actual attendance. No attorney can earn more than eight hours of credit in one day of CLE attendance.
- (b) **Carryover Credit.** An attorney will not receive carryover credit hours under Rule 804(b) unless an application or affidavit is submitted to OJA by July 31 or submitted via U.S. mail postmarked by July 31. The application or affidavit must reflect attendance during the compliance period in which the attorney earned the credit hours.

- (c) **Credit for Teaching.** An attorney can earn up to five CLE credit hours for each 50 minutes spent teaching an approved program. The following provisions apply.
- (1) The attorney must file an application for approval of teaching credit that outlines program content, teaching methodology, and time spent in preparation and instruction.
 - (2) In determining the number of CLE credit hours to award, the Board will calculate time spent in preparation and teaching. For example, an attorney who spends 150 minutes preparing a program and 50 minutes teaching it will be awarded four credit hours. One-half credit hour will be awarded for teaching at least 25 but less than 50 minutes. No CLE credit hours will be awarded for smaller fractional units.
 - (3) A repeat presentation will only qualify for additional credit hours for time spent updating the presentation and teaching.
 - (4) Because CLE teaching credit hours are awarded as an incentive to attorneys to benefit the legal profession, instruction must be directed toward an audience composed primarily of attorneys. No CLE credit hours will be awarded for teaching undergraduate, graduate, or law school classes.
- (d) **Credit for Authorship.** An attorney can earn CLE credit hours for authorship of a legal publication. The following provisions apply.
- (1) An attorney can earn CLE credit hours if the attorney is a named author on a published article, chapter, monograph, or book that contributes substantially to the continuing legal education of the attorney author and other attorneys.
 - (2) The attorney must complete an application for approval of authorship credit.
 - (3) Publication must occur during the compliance period for which the attorney requests CLE credit hours.
 - (4) One credit hour may be awarded for each 50 minutes the attorney spent directly preparing the publication. An article, chapter, monograph, or book directed to a nonattorney audience does not qualify for authorship credit.
- (e) **Credit for Law School Course.** An attorney can earn CLE credit hours for postgraduate education by enrollment in a course, either for credit or by audit, from a law school accredited by the American Bar Association. The Board will award one credit hour for each 50 minutes of class attendance.

- (f) **Credit for Law Practice Management Program.** An attorney can earn no more than two general attendance CLE credit hours toward the annual CLE requirement in any compliance period for attendance at a law practice management program.
- (g) **Credit for Attendance Prior to Admittance.** An applicant cannot earn CLE credit hours for any CLE program attended before the applicant is admitted to practice law in Kansas.
- (h) **Duplicate Attendance.** An attorney cannot earn CLE credit hours for attendance at a program the attorney previously attended during the compliance period.
- (i) **Self-Study Prohibition.** An attorney cannot earn credit for a self-study program.

Rule 809

ANNUAL REPORT AND NONCOMPLIANCE

- (a) **Annual Report.** Every August, OJA will notify each active attorney when the annual report for the preceding compliance period is available. If the report is accurate, the attorney is not required to respond; the report will be filed automatically as the attorney's annual report. If the report is not accurate, the attorney must notify OJA no later than 30 days after the date of the report.
- (b) **Failure to Comply.** If it appears an attorney has not earned the minimum number of CLE credit hours required for a compliance period, OJA will send notice of the apparent noncompliance to the attorney at the attorney's preferred address on record with OJA by certified mail, return receipt requested. No later than 30 days after mailing of the notice, the attorney must cure the failure to comply or show cause for an exception to avoid suspension from the practice of law under Rule 810.
- (c) **Noncompliance Fee.** An attorney must pay a noncompliance fee of \$75 if either of the following provisions apply:
 - (1) report of attendance is electronically received by OJA after July 31 or submitted via U.S. mail postmarked after July 31; or
 - (2) the attorney fails to complete the credit hours required under Rule 804(a) within the compliance period.
- (d) **Address Change.** Under Rule 206, an attorney must update the attorney's address through the attorney registration portal no later than 30 days after an address change.

Rule 810

SUSPENSION FROM THE PRACTICE OF LAW

- (a) **Reasons for Suspension.** An active attorney who is required to submit CLE credit hours and fails to do so or who fails to meet the minimum requirements of these rules will be suspended from the practice of law in Kansas.
- (b) **Notice of Noncompliance.** OJA must notify an attorney who appears to have failed to meet the requirements of these rules that the attorney's name will be certified to the Supreme Court for suspension from the practice of law unless the attorney shows cause why the certification should not be made. OJA will send the notice to the attorney at the attorney's preferred address on record with OJA by certified mail, return receipt requested. If the attorney does not request a hearing within 30 days under subsection (c), the Board must certify to the Supreme Court, for an order of suspension, the name of the attorney who has not met the requirements of these rules.
- (c) **Hearing.** An attorney to whom OJA has sent notice of noncompliance under subsection (b) may submit to OJA no later than 30 days after the date the notice was mailed a request for a hearing, stating the issues the attorney raises. The Board must grant a timely request for a hearing. The attorney's name must not be certified to the Supreme Court for suspension unless the Board recommends suspension after the hearing. OJA must provide for a record and the costs thereof when needed.

Rule 811

INACTIVE ATTORNEY RETURNING TO ACTIVE STATUS

An inactive attorney whose status changes to active under Rule 206 must comply with the annual CLE requirement under Rule 804(a) by the end of the compliance period in which the attorney's status changes.

Rule 812

REINSTATEMENT PROCEDURE FOR SUSPENDED ATTORNEY

- (a) **Reinstatement After Administrative Suspension.** To seek reinstatement, an attorney who has been suspended under Rule 810 or Rule 206(f)(3) must comply with the requirements in Rule 206(j) and must comply with subsection (b) or (c).

- (b) **Suspended Less than One Year.** An attorney returning from suspension of less than one year must complete the following requirements:
 - (1) prior to reinstatement, earn any CLE credit hours necessary to cure any deficiency in the annual CLE requirement under Rule 804(a) and pay any fees incurred prior to suspension; and
 - (2) comply with the annual CLE requirement under Rule 804(a) by the end of the compliance period in which the Supreme Court reinstates the attorney.

- (c) **Suspended One Year or More.** An attorney returning from suspension of one year or more must complete the following requirements:
 - (1) complete the requirements in subsection (b); and
 - (2) prior to reinstatement, earn an additional 12 CLE credit hours, including 2 hours of ethics and professionalism, for each year of suspension unless waived or modified by Supreme Court order.