

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, continuing legal education is required. These rules establish the minimum continuing legal education requirements an attorney must satisfy to remain authorized to practice law in this state. [History: New rule adopted effective October 2, 2019.]

Rule 801

DEFINITIONS

- (a) **"Active attorney"** means an attorney who is required to pay the annual registration fee, is registered as active under Rule 208 for the current Licensing Period, and is not suspended or disbarred from the practice of law by the Supreme Court.
- (b) **"Approved program"** means a continuing legal education program that has been approved pursuant to these rules.
- (c) **"Board"** means the body created under Rule 802(b).
- (d) **"Compliance period"** means the period of one year from July 1 through June 30.
- (e) **"Continuing legal education program" or "CLE program"** means a legal educational program, course, or activity designed to maintain and improve an attorney's professional competence.
- (f) **"Distance learning program"** means a CLE program offered by live webinar, live teleconference, or any prerecorded program.
- (g) **"Ethics"** means the standards set by the Kansas Rules of Professional Conduct that an attorney must comply with to practice law in Kansas and remain in good standing.
- (h) **"Guidelines"** means a document that prescribes administrative requirements for CLE programs that are not set forth in these rules.
- (i) **"Inactive attorney"** means an attorney who is registered as inactive under Rule 208.
- (j) **"In-house program"** means a CLE program given for a select private audience from the same law firm, corporation, or single governmental entity and not open for attendance by

other members of the general legal community. The term includes a program offered by invitation and a program not advertised to a broad attorney population.

- (k) **"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.
- (l) **"Live program"** means a CLE program offered in one of the following formats or any other format approved under these rules.
 - (1) **"Standard Classroom Setting."** A CLE program that is presented in a suitable classroom setting devoted to the program.
 - (2) **"Satellite."** A live CLE program that is broadcast to a classroom setting or a central viewing or listening location and advertised to a broad attorney population. There must be a live connection to the speaker to comment and answer questions. There is no minimum attendance requirement.
 - (3) **"Video Replay."** A recorded CLE program presented in a suitable classroom setting or in a central viewing location advertised to a broad attorney population. The attorney must be able to contact the moderator, either in-person or by telephone or email, to comment or ask questions. There is no minimum attendance requirement.
 - (4) **"Live Webcast."** A CLE program that is broadcast in real-time via Internet in audio or audio plus video form to viewers in remote locations and accessed solely by an individual attorney. The attorney must be able to contact the moderator or presenters during the program to comment and ask questions.
 - (5) **"Live Teleconference."** A CLE program that is broadcast in real-time via telephone in audio or audio plus video form to listeners in remote locations and accessed solely by an individual attorney. The attorney must be able to contact the moderator or presenters during the program to comment and ask questions.
- (m) **"OJA"** means the Kansas Supreme Court Office of Judicial Administration and staff.
- (n) **"Prerecorded program"** means a CLE program accessed solely by an individual attorney in one of the following formats: audiotape, videotape, CD, podcast, CD-ROM, DVD, or another format approved pursuant to these rules and defined in the Guidelines for Live Telephone/Webinars and Prerecorded Programming.
- (o) **"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 unrepresented parties.

[**History:** New rule adopted effective July 1, 2011; Am. (d) effective April 29, 2013, Am. (h) effective July 1, 2017; Am. (i) effective July 1, 2019; Am. effective October 2, 2019.]

Rule 802

KANSAS CONTINUING LEGAL EDUCATION

- (a) **Administration.** Kansas continuing legal education shall be administered and regulated by the Supreme Court through OJA.
- (b) **The Board.** The Kansas Continuing Legal Education Board is established for the purpose of assisting the Supreme Court and OJA with administering and regulating continuing legal education. The Board replaces the Continuing Legal Education Commission.
- (c) **Duties and Responsibilities.** The Board's responsibilities include:
 - (1) approving providers and programs;
 - (2) determining the number of hours of CLE credit to be given for participating in a program;
 - (3) granting or withdrawing approval of provider programs;
 - (4) granting waivers and extensions of time to complete requirements; and
 - (5) as defined in Rule 801(h).
- (d) **Membership.** The Board consists of nine members appointed by the Supreme Court. All attorney members must be registered under Rule 208. The members must include:
 - (1) five practicing attorneys, at least one of whom has been admitted to practice law in Kansas for fewer than 10 years;
 - (2) a faculty representative from each of the University of Kansas and Washburn University Schools of Law;
 - (3) one nonattorney member; and
 - (4) a justice or judge.

- (e) **Terms.** Each Board member is appointed 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 an additional two consecutive three-year terms. A member is eligible for one or more additional terms after a break in service.
 - (f) **Election of Officers.** At the first Board meeting held in each annual compliance period, the Board will elect from its members a chair and a vice chair.
 - (g) **Meetings.** The Board will meet quarterly and at such additional times as the need arises. Five members constitute a quorum for the transaction of business.
 - (h) **Confidentiality.** All files, records, proceedings, or other documents maintained by OJA that relate to or arise out of an attorney's compliance with or failure to satisfy continuing legal education requirements are private and confidential and must not be divulged except as provided in these rules, by Supreme Court order, or on request of the attorney affected. OJA is authorized, at its 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.
- [**History:** New rule adopted effective July 1, 2011; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 803

MINIMUM REQUIREMENTS

- (a) **Credit Hours.** An active attorney must earn a minimum of 12 CLE credit hours at approved programs in each compliance period as defined in Rule 801. Of the 12 hours, at least 2 hours must be in the area of ethics and professionalism.
- (b) **Carryover Credit.** If an active attorney completes CLE credit hours at approved programs during a compliance period exceeding the number of hours required by subsection (a) and the attorney complies with the requirements of Rule 806, the attorney may carry forward to the next compliance period up to 10 unused general attendance CLE credit hours from the compliance period during which the credit hours were earned. An active attorney may carry forward ethics and professionalism CLE credit hours in excess of the 2-hour requirement in subsection (a) as general attendance CLE credit hours but not as ethics and professionalism CLE credit. CLE credit hours approved for teaching, authorship, or law practice management credit do not qualify for carryover credit.

- (c) **Reporting.** CLE credit hours at an approved program for each attorney must be reported 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 208 as inactive, retired, or disabled due to mental or physical disability;
 - (3) all active and retired federal and state judges or justices, bankruptcy judges, and full-time magistrates of the United States District Court for the District of Kansas who are not engaged in the practice of law, but federal and state administrative judges are not eligible for this exemption; and
 - (4) an attorney exempted by the Board for good cause pursuant to subsection (e).
- (e) **Exemptions for Good Cause.** The Board may grant an exemption to the strict requirement of these rules to complete continuing legal education because of good cause, e.g., disability or hardship. A request for exemption must be submitted to OJA in writing with a detailed explanation of the circumstances necessitating the request. An attorney with a disability or hardship that affects the attorney's ability to attend CLE programs may file annually a request for a substitute program in lieu of attendance and must propose a substitute program the attorney can complete. The Board must review and approve or disapprove a request for exemption on an individual basis. An attorney who receives an exemption is responsible for the annual CLE fee required by Rule 808.
- (f) **Legislative Service.** Upon a 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.
- (g) **Accommodation for Attorneys Employed Out-of-Country.** An attorney employed full time outside the United States for a minimum of eight months during the compliance period may, upon written request to OJA and preapproval from the Board, complete the annual CLE requirement by distance learning programs.

[**History:** New rule adopted effective July 1, 2011; Am. (b) effective July 1, 2011; Am. (g) effective November 8, 2011; Am. (d) effective August 24, 2012; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 804

PROGRAM APPROVAL

- (a) **Provider Live Program Approval.** A provider sponsoring a live CLE program may request prior approval of the CLE program.
- (1) At least 60 days before the program, a provider should submit to OJA an application for approval of CLE activity and any additional information requested by OJA. This time limit does not apply to an in-house CLE program which is governed by Rule 804(c).
 - (2) An application must be accompanied by a \$25 nonrefundable fee.
 - (3) OJA staff must notify the provider of the status of its review of the application no later than 30 days after OJA receives it. A program is not approved until the provider is notified of approval.
 - (4) A provider seeking approval of a CLE program must comply with Rule 805(a).
- (b) **Individual Attorney Course Approval.** An attorney seeking CLE credit for attendance at a live CLE program that was not previously approved must submit to OJA an application for approval of CLE activity 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 program is not approved until the attorney is notified of approval.
- (c) **In-House Program.** To receive approval, an in-house CLE program must meet the following requirements:
- (1) A provider offering the CLE program is responsible for approval of the program. For purposes of Rule 804(c), a "provider" means a law firm, corporation, or single governmental entity hosting the CLE program.
 - (2) The host must submit to OJA an application for approval of CLE activity and any additional information requested by OJA no later than 21 days before the in-house CLE program.
 - (3) The 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 from OJA may audit the program.

- (4) A provider seeking approval of an in-house program must also satisfy the requirements set forth in Rule 804(a)(2)-(4).
- (d) **Interdisciplinary Program.** An attorney seeking CLE credit for an interdisciplinary program that crosses academic lines must submit to OJA an application as set forth in Rule 804(b). The attorney must include with the application a statement describing how the program is beneficial to the attorney's practice.
- (e) **Prerecorded Program Course Approval.** A provider seeking approval of a prerecorded program must submit to OJA an application for approval of prerecorded programming courses. The program must comply with the Guidelines for Live Telephone/Webinars and Prerecorded Programming. An application for approval of prerecorded programming courses must be accompanied by a \$100 nonrefundable fee. Approval will be valid for one year.
- (f) **Attendance Reporting.** Upon the Board approving a program for CLE credit, OJA will issue to the provider a notice of accreditation/affidavit.
- (1) **In-State Program.** A provider holding an in-state program is responsible for distributing the appropriate Kansas affidavit for signature and for reporting the attendance to OJA within 30 days after the program.
- (2) **Out-of-State Program.** For an out-of-state program, the attorney is responsible for submitting the executed affidavit to OJA within 30 days after the program.
- (3) **Distance Learning Program.** For a distance learning program, the provider is responsible for reporting attendance in the approved format to OJA within 30 days after the program.
- (g) **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 after notice of the denial was issued. No other appeal may be taken.
- (h) **Standards.** To be approved, a CLE program must comply with the following requirements.
- (1) CLE credit must be awarded on the basis of 1 credit hour for each 50 minutes actually spent in attendance at instructional activities, excluding introductory remarks, meals, breaks, and other noneducational activities. One-half credit hour must be awarded for attendance of at least 25 but less than 50 minutes. No credit will be claimed or 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.
- (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, or broadcast to, a suitable classroom setting or central viewing or listening location devoted to the program. Generally, credit will not be approved for keynote speeches.
- (6) 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.

[**History:** New rule adopted effective July 1, 2011; Am. (a) and (b) effective February 22, 2012; Am (e) effective October 1, 2015; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 805

PROVIDER RESPONSIBILITY

- (a) **Marketing Prior to Approval.** A provider of a CLE program for which approval has been sought but not yet approved must announce in any marketing that credit is pending. A provider may not advertise a CLE program as approved until a notice of accreditation/affidavit is received.
- (b) **Late Report of Attendance.** A provider of an approved in-state CLE program held by June 30 of a compliance period must report the attendance for the program by July 31. Otherwise, the provider is responsible for the fees set forth in Rule 807(c).
- (c) **Audit of a Program.** 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. Such attendance does not qualify for CLE credit for the Board member or OJA representative.

- (d) **Evaluations.** At the conclusion of an approved program, each participating attorney must be given the opportunity to complete an evaluation form addressing the quality, effectiveness, and usefulness of the program. OJA may request copies of the evaluations.
 - (e) **Record Retention.** A provider must keep on file for a minimum of three years attendance records and evaluation summaries for a program.
- [**History:** New rule adopted effective July 1, 2011; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 806

CREDITS

- (a) **Credit for Attendance.** The number of CLE credit hours assigned to an approved program reflects the maximum that may be earned by attending the entire program. Only actual attendance earns CLE credit. No attorney will receive more than eight hours of credit in one day of CLE attendance.
- (b) **Carryover Credit.** CLE credit hours that are to be carried forward under Rule 803(b) must be received by OJA by July 31 or submitted via U.S. mail postmarked by July 31 and reflect attendance during the compliance period in which they were earned. An attorney will not receive carryover credit if an application or affidavit is received after that date.
- (c) **Credit for Teaching.** An attorney can earn up to five CLE credit hours for each 50 minutes spent teaching an approved program. The attorney must file an application for approval of teaching credit that outlines program content, teaching methodology, and time spent in preparation and instruction. 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 claimed or awarded for smaller fractional units. A repeat presentation will only qualify for additional credit hours for time actually spent updating the presentation and teaching. 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.** CLE credit hours may be awarded for authorship of legal publications. The attorney author must complete an application for approval of authorship credit. An attorney author can earn CLE credit hours if the attorney's research (1) has produced a published article, chapter, monograph, or book, personally authored, in whole

or part, by the attorney, and (2) contributes substantially to the continuing legal education of the attorney author and other attorneys. One credit hour may be awarded for each 50 minutes spent directly in preparing the publication. Publication must occur during the compliance period for which CLE credit hours are requested. An article, chapter, monograph, or book directed to a nonattorney audience does not qualify for authorship credit.

- (e) **Credit for Attendance Prior to Admittance.** No CLE credit hours will be awarded for any CLE program attended before the applicant is admitted to practice law in Kansas.
- (f) **Credit for Attending 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.
- (g) **Duplicate Attendance.** No CLE credit hours will be awarded for attendance at a program the attorney previously attended during the compliance period.
- (h) **In-House Program.** No more than six CLE credit hours will be applied toward the annual CLE requirement to an attorney in any compliance period for attendance at in-house CLE programs.
- (i) **Law Practice Management Program.** An attorney can earn CLE credit hours for participation in an approved CLE program as defined in the Guidelines for Accreditation of Law Practice Management Programming. No more than two general credit hours will be applied toward the annual CLE requirement to an attorney in any compliance period for attendance at law practice management programs.
- (j) **Prerecorded Program Limitation.** No more than six CLE credit hours will be applied toward the annual CLE requirement to an attorney in any compliance period for attendance at or participating in prerecorded programs.
- (k) **Self-Study Prohibition.** An attorney cannot earn credit for a self-study program.
[**History:** New rule adopted effective July 1, 2011; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 807

REPORTING REQUIREMENTS AND NONCOMPLIANCE FEE

- (a) **Annual Report.** Every August, OJA will notify each active attorney when the annual report for the preceding compliance period is generated. 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 within 30 days of 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 must send notice of the apparent noncompliance to the attorney at the attorney's last known address by certified mail, return receipt requested. No later than 30 days after mailing of the notice, the attorney, to avoid suspension from the practice of law, must cure the failure to comply or show cause for an exemption.
- (c) **Noncompliance Fee.** An attorney must pay a noncompliance fee of \$75 if:
 - (1) report of attendance is successfully submitted electronically after July 31 or submitted via U.S. mail postmarked after July 31; or
 - (2) the attorney fails to complete the hours required under Rule 803(a) within the compliance period.
- (d) **Address Change.** An attorney must notify OJA within 30 days after a change of the attorney's address.

[**History:** New rule adopted effective July 1, 2011; Am. (c) and (d) effective December 6, 2012; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 808

FEES

- (a) **Annual CLE Fee.** An active attorney must pay an annual CLE fee established by the Supreme Court.
- (b) **Notice of Fee.** By June 1 of each year, OJA will send a statement to every attorney showing the annual CLE fee due for the next compliance period.
- (c) **Failure to Receive Notice.** Failure of an attorney to receive a statement under subsection (b) does not excuse the attorney from paying the required fee.
- (d) **Due Date and CLE Late Fee.** The annual CLE fee is due by June 30 prior to the start of the next compliance period that begins July 1. A payment is considered timely if successfully submitted electronically by June 30 or remitted via U.S. mail postmarked by June 30. Late payments must be accompanied by a \$50 late fee.

- (e) **Attorney Returning to Practice.** An attorney whose status changes to active status after a period of disbarment or suspension and an attorney who is returning to active status after a period of time on inactive, retired, or disabled due to mental or physical disability status must pay the annual CLE fee required by subsection (a) for the current compliance period, together with any other fee required for a change in status.
- (f) **Active Status with Attorney Registration and CLE.** Payment of the annual CLE fee and any applicable late fee is a prerequisite to completing registration as an active attorney under Rule 208.
- (g) **Returned Check.** A service fee of the maximum amount allowed by law will be assessed for a check returned unpaid.

[**History:** New rule adopted effective July 1, 2011; Am. effective July 1, 2017; Am. (d) effective April 25, 2019; Am. effective October 2, 2019.]

Rule 809

SUSPENSION FROM THE PRACTICE OF LAW

- (a) **Reasons for Suspension.** An attorney who is required to submit CLE credit hours and fails to do so, who fails to meet the minimum requirements of these rules, or who fails to pay the annual CLE registration fee will be suspended from the practice of law in this state.
- (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 in this state, unless the attorney shows cause why the certification should not be made. Notice must be sent to the attorney at the attorney's last known address by certified mail, return receipt requested. Thirty days after the notice is mailed, if no hearing is requested 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, no later than 30 days after the date the notice was mailed, submit to OJA a request for a hearing, stating the issues the attorney raises. The Board must grant a timely request for a hearing to consider the issues raised by the attorney. The attorney's name must not be certified to the Supreme Court for suspension unless suspension is recommended by the Board after the hearing. OJA must provide for a record and the costs thereof when needed.

[**History:** New rule adopted effective July 1, 2011; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 810

CHANGE OF STATUS PROCEDURE FOR INACTIVE ATTORNEY

- (a) **Request for Change of Status.** An inactive attorney seeking to become an active attorney must submit to OJA a written request for change of status. This request is in addition to the request to the Attorney Registration Office for change of status required by Rule 208.
 - (b) **Required Fees.** In addition to any amount to be paid to the Attorney Registration Office under Rule 208, a request for change of status submitted to OJA by an inactive attorney must be accompanied by a check or money order payable to "Kansas CLE" for or proof of electronic payment of the annual CLE fee for the current compliance period plus a change of status fee of \$25.
 - (c) **Required Hours.** Any inactive attorney whose status changes to active and is authorized to practice law in Kansas must complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the attorney's status changes.
- [**History:** New rule adopted effective July 1, 2011; Am. (c) effective September 21, 2011; Am. effective July 1, 2017; Am. effective October 2, 2019.]

Rule 811

CHANGE OF STATUS PROCEDURE FOR SUSPENDED ATTORNEY

- (a) **Suspended Less than 1 Year.** A suspended attorney returning from suspension of less than 1 year must:
 - (1) submit to OJA a written request for change of status, accompanied by a check or money order payable to "Kansas CLE" for or proof of electronic payment of a change of status fee of \$100;
 - (2) between the date of suspension and the date the attorney's status changes, complete any hours required to satisfy any deficiency in CLE requirements under Rule 803(a) and pay any fees incurred prior to suspension;
 - (3) complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the attorney's status changes; and
 - (4) prior to the change in status, complete any requirements imposed by the Attorney Registration Office under Rule 208.

(b) **Suspended 1 Year or More.** A suspended attorney returning from suspension of 1 year or more must:

- (1) submit to OJA a written request for change of status, accompanied by a check or money order payable to "Kansas CLE" for or proof of electronic payment of a change of status fee of \$100;
- (2) between the date of suspension and the date the attorney's status changes, complete any hours required to satisfy any deficiency in CLE requirements under Rule 803(a) and pay any fees incurred prior to suspension;
- (3) between the date of suspension and the date the attorney's status changes, complete an additional 12 hours of CLE credit, including 2 hours of ethics and professionalism, for each year during which the attorney was suspended, unless waived or modified by order of the Supreme Court;
- (4) complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the attorney's status changes; and
- (5) prior to the change of status, complete any requirements imposed by the Attorney Registration Office under Rule 208.

[**History:** New rule adopted effective July 1, 2011; Am. effective May 30, 2014; Am. effective July 1, 2017; Am. effective October 2, 2019.]

[**History of CLE Rules:** Rules 801-809 and CLE Implementing Rules effective July 1, 1985, repealed effective July 1, 2011; New Rules 801-811 adopted effective July 1, 2011.]