

REGULATIONS

WV MANDATORY CONTINUING LEGAL EDUCATION COMMISSION

REGULATION 1

Definitions:

1. "Approved Activity": Activity that has been approved by the Mandatory CLE Commission.
2. "Commission": The Mandatory Continuing Legal Education Commission.
3. "Credit Hour": See regulation 4A13.
4. "Inactive Lawyers": A member of The West Virginia State Bar who is in good standing but who is not an active member as defined in Article II of the By-Laws of The West Virginia State Bar.
5. "In-house activity": Activities sponsored by law firms, corporate legal departments, governmental legal agencies, or similar entities for the education of lawyers who are members of the firm, department, agency or entity.
6. "Lawyer": An active member in good standing of The West Virginia State Bar.
7. "Reporting Period": A time period during which a certain number of credit hours must be obtained.
8. "Provider": An entity that offers or sponsors a continuing education program.
9. "Rule": Rules to govern Mandatory Continuing Legal Education in West Virginia.

REGULATION 2

Reserved

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REGULATION 4

A. Standards For Approval Of Continuing Legal Education Activities

1. A continuing legal education activity qualifies for accreditation if the Commission determines that:
 - a. It is an organized program of learning (including a workshop, symposium or lecture) which contributes directly to the professional competency of an attorney;
 - b. It deals primarily with matter directly related to the practice of law or to the professional responsibility or ethical obligations of the member;
 - c. Activities which involve the crossing of disciplinary lines, such as a medicolegal symposium or an accounting tax law seminar, may be approved;

- d. Each activity is taught by a person qualified by practical or academic experience to teach the activity the person covers. Legal subjects should normally be taught by lawyers;
 - e. While comprehensive written materials need not be distributed for every course, thorough, high quality, readable, carefully prepared written outlines and/or materials should be distributed to attendees at or before the time the course is offered.
2. No credit shall be given for any activity attended before being admitted to The West Virginia State Bar, including preparation for admission to The West Virginia State Bar. However, CLE activities completed after graduation from law school but before admission to The West Virginia State Bar may be approved, if taken in the applicable reporting period. Bar review courses taken by members of The West Virginia State Bar in preparation for admission to the Bar in another state may be considered for CLE credit. If not sponsored by a presumptively-accredited provider, requests should be made on Form A. Graduate courses may also be considered for credit on the same basis.
 3. Credit may be earned through teaching or participating as a panelist in a panel discussion in an approved continuing legal or judicial education activity. In awarding credit for teaching or participating as a panelist in an approved program, the Commission will be controlled by Rule 6.4. In general, actual presentation time will be weighed more heavily than preparation time in determining credit to be awarded. The maximum credit available for teaching in one calendar day of presentation is 10 credits. The maximum credit available for teaching and/or participating in panel discussions in any two-year reporting period is 18 credits.
 4. Credit hours for writing an article published in the law review of an ABA-accredited law school shall be allocated in the year of publication and limited as provided for in Rule 6.
 5. An in-house activity may be approved for continuing legal education credit under the rules and regulations applicable to any other provider, plus the following additional requirements:
 - a. The courses shall be submitted for approval on a course-by-course basis, rather than an accredited-provider basis;
 - b. The courses shall be submitted for approval at least thirty (30) days in advance;
 - c. A written outline or written materials must be presented to the Mandatory Continuing Legal Education Commission at the time of submission for approval and must be distributed at the course;
 - d. The courses must be open to observation by the Justices of the Supreme Court of Appeals of the State of West Virginia, the officers or staff of the State Bar, the members of the Board of Governors of the State Bar, and members or staff of the Mandatory Continuing Legal Education Commission;
 - e. The courses must be scheduled and arranged at a time and location so as to be free of interruptions from telephone calls and other office matters;

- f. The provider must keep records of who attends, and those records must be made available to the Commission upon request;
 - g. For teaching an in-house program one hour of credit may be obtained for each credit hour of instruction;
 - h. No more than half of the mandatory continuing legal education requirements may be satisfied by in-house teaching or attendance at in-house activities;
 - i. An in-house activity on legal ethics may not be taught by a member of the firm or entity sponsoring such activity.
6. Client-oriented seminars shall not be approved for CLE credit.
7. The total credit for video, audio, correspondence, telephone seminars, computer-based training courses and in-house instruction shall not exceed half of the mandatory continuing legal education requirements.
8. A lawyer attending a videotape or audiotape presentation is entitled to credit hours under the following circumstances:
- a. If a course is accredited, an audiotape or videotape of that course is presumptively-accredited.
 - b. Any videotape or audiotape presentations which are not presumptively-accredited must meet the requirements for accreditation set forth in 4A1-a,b,c, and d.
 - c. Unless the entire videotape or audiotape program has been produced by a presumptively-accredited sponsor, the person or organization sponsoring the program or the attorney seeking credit must receive advance approval and accreditation from the Commission by submitting Form A - Course Approval.
9. The Commission may permit an active member to meet the full Mandatory CLE requirements by attending or participating in a seminar which includes a videotape presentation as part of a live program.
10. Simultaneous satellite broadcasts will be allowed for full CLE credit if the following criteria are met: (1) The broadcast is designed and organized for interaction among a group of attorneys. (2) The broadcast does not fall within the definition of an in-house seminar. (3) The broadcast is merely a distribution of a live program with the same qualified speakers which would address a seminar with live attendees. (4) Attendees are able to have questions answered either by a live moderator or by a telephone hook-up to a moderator. (5) Written materials should be sent in advance and may be distributed through the State Bar office or through a private entity sponsoring such programs.
11. The mandatory continuing legal education requirements may not be satisfied by receiving credit for teaching the same activity more than once.

12. A lawyer may receive credit for authorship and publication of legal materials by submitting Form D.
 - a. An application for credit hours for authorship and publication of such materials must be made to the Commission and include:
 - I. A copy of the work and a statement by the applicant that the material is an original work; and
 - ii. The name and address of any other person participating in the authorship of the published material, and a statement with respect to the extent to which the applicant contributed to the authorship of the material; and
 - iii. A statement that the authored material has been published in a publication having distribution to at least 300 attorneys, and including the name and address of the publisher.
 - b. Credit hours shall be allocated for the authorship and publication of the material in the year in which publication actually occurs.
 - c. The Commission will determine the number of credits to be allocated to the authorship and publication of the work. In general, more credits will be awarded for scholarly pieces involving legal research as indicated by citation to authority or otherwise.
 - d. A lawyer may not receive more than 18 credit hours for authorship and publication of any material in any two-year reporting period.
13. For purposes of calculating credit, a "credit-hour" means each period of fifty minutes of instruction in an accredited course.
 - a. Ordinarily, the following may not be counted for credit: coffee breaks; introductory remarks; keynote speeches; business meetings; and dinner speeches.
 - b. The hours of credit merely reflect a maximum that may be earned through attendance. Only actual attendance by the lawyer earns credit.
14. Credit hours from one reporting period may not be used to satisfy the requirements of another reporting period.
15. An attorney may not earn double credit for either (a) attending the same seminar held in different locations or (b) attending a seminar and completing an audio or video tape of the same seminar.
16. A law related correspondence course may be approved for continuing legal education credit under the rules and regulations applicable to any other course or program, plus the following additional requirements:
 - a. The courses shall be submitted for approval on a course by course basis rather than an accredited-provider basis.
 - b. The course must be part of a structured course of study.

- c. A written outline or written materials fully describing the course must be presented to the Mandatory Continuing Legal Education Commission at the time of submission for approval. In awarding credit for correspondence courses, the Commission shall consider the extent to which the lawyer's educational effort in the course is evaluated by the sponsor.
 - d. No more than six (6) hours of mandatory continuing legal education requirements may be satisfied by correspondence course activities. Correspondence courses will be reported as audio, video, and in-house activities.
17. A telephone course may be approved for continuing legal education credit under the rules and regulations applicable to any other course or program, plus the following additional requirements:
- a. The course if sponsored by a presumptively-accredited provider, shall be automatically approved for MCLE credit.
 - b. Written materials should be provided to participants prior to the activity.
 - c. The telephone seminar is designed and organized for interaction among a group of attorneys.
 - d. The telephone seminar is merely a state-of-the-art telecommunication of a live program with the same qualified speakers who would address a seminar with all live attendees.
 - e. The telephone seminar provides an opportunity for attendees to have questions answered by the speakers.
 - f. No more than half of the total mandatory continuing legal education requirement may be satisfied by telephone seminar activities. Telephone seminar courses will be reported as audio, video, in-house, correspondence and computer-based training activities.
18. To earn continuing legal education credit for attendance at any Bar Committee meeting, the Committee must submit an approved agenda at least thirty (30) days in advance, which lists the topics covered and a brief biographical sketch of each speaker. Presentations at Bar Committee meetings must include at least fifty (50) minutes of actual instruction. No audio or video taped presentations of Bar Committee meetings will be approved. If the meeting is approved by the Committee for Course Accreditation, only those members of the Bar Committee may earn continuing legal education credit. Committee meeting attendance credit may not be earned by attorneys that are not members of that Committee. The maximum number of continuing legal education credits that may be earned from attendance at Bar Committee meetings during any two-year reporting period is three (3.0) credits.
19. Any person employed on a full-time or part-time basis as a professor of law courses, in a law school or other academic institution, shall not receive CLE credit for those courses.
20. Computer-based training courses may be approved for continuing legal education credit under the rules and regulations applicable to any other course or program, plus the following additional requirements:
- a. The computer-based training course must be part of a structured course of study.

- b. A written outline or written materials fully describing the course must be presented to the Mandatory Continuing Legal Education Commission at the time of submission for approval. In awarding credit for computer-based training courses, the Commission shall consider the extent to which the lawyer's educational effort in the course is evaluated by the sponsor.
- c. The sponsor shall provide the number of credits possible for completion of the course. Credit reported shall not exceed the maximum number of credits as designated by the sponsor.
- d. No more than half of the mandatory continuing legal education requirement may be satisfied through computer-based training activities. Computer-based training courses will be reported as audio, video, in-house, telephone seminars, and correspondence activities.

B. Standards and Procedures For Accreditation of Providers, Programs and Activities

- 1. Presumptive accreditation of providers.
 - a. A provider not presumptively-accredited by the Commission desiring accreditation of legal education activities shall apply for presumptive accreditation on Form B.
 - b. Presumptively-accredited providers shall provide to the Commission upon request, a list of all courses offered in the preceding year by August 30 of each year.
 - c. A list of all lawyers in attendance at any presumptively-accredited program shall be maintained by the provider. The list of lawyers in attendance shall be maintained for not less than three years and made available to the Commission upon request.
 - d. Presumptively-accredited providers shall allow The West Virginia State Bar or CLE Commission members and staff to audit, free of charge, any of its accredited continuing legal education programs.
 - e. Failure to comply with MCLE rules and/or regulations shall result in the removal of presumptively-accredited status.
- 2. Prior approval of individual activities of providers who are not presumptively-accredited.
 - a. A provider desiring prior approval of an activity shall apply for approval on Form A to the Commission at least 30 days in advance of the commencement of the activity and each accredited course must comply with 4B1.c, d and e.
 - b. A lawyer desiring prior approval of an activity shall apply for approval on Form A to the Commission at least 30 days in advance of the commencement of the activity, or shall provide the Commission with a written explanation for the delay in application.
- 3. Post-approval of activities of providers that are not presumptively-accredited.
 - a. A lawyer seeking approval of an activity which was not conducted by a presumptively-accredited provider nor otherwise

approved shall request credit within 30 days after completion of such activity by submitting Form A.

4. Courses sponsored by more than one provider are presumptively-accredited if at least one of the sponsors is presumptively-accredited.

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REGULATION 11.

Ethics In Reporting Continuing Legal Education Activities

1. The filing of a false report, form or statement or any other misrepresentation may result in the initiation of a disciplinary proceeding for engaging in unethical conduct.

REGULATION 12.

Time Limits

1. For good cause shown, any time limitations or requirements imposed by these Regulations may be modified by the Commission.

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