

## **Amendments to Rules 800-811: Rules Relating to Continuing Legal Education**

The Kansas Supreme Court is accepting public comment on proposed amendments to Rules 800-811: Rules Relating to Continuing Legal Education.

The amendments are related to an administrative restructuring within the Kansas judicial branch to achieve operational and organizational efficiencies. The changes will not affect the excellent level of service members of the bar have come to expect from the CLE Commission and its staff.

The Supreme Court thanks the staff of the CLE Commission and all current and past Commission members for their effort and dedication to enable and support continuous improvement in the performance of Kansas lawyers.

Amendments to Rule 800-811 are shown using strikethrough for deletion and underlining for new language. They include:

- changing the Continuing Legal Education Commission to the Kansas Continuing Legal Education Board, which will help the Supreme Court and the Office of Judicial Administration administer and regulate continuing legal education;
- updating continuing legal education delivery methods; and
- updating the rule format.

Comment may be made by email to [publiccomments@kscourts.org](mailto:publiccomments@kscourts.org) until noon Thursday, September 19, 2019. The subject line must read "Rules 800-811."

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### **RULES RELATING TO CONTINUING LEGAL EDUCATION**

#### **Note regarding proposed revisions:**

Unless otherwise noted, formatting changes for the following proposed rule revisions (e.g., indentions, bold section identifiers) are not shown. The following is an example of such a formatting change:

*Original formatting of proposed Rule 801(a):*

(a) "**Active attorney**" means an attorney who is required to pay the annual registration fee and is registered as active under Rule 208 for the current Licensing Period ~~imposed by Supreme Court~~ ~~Rule 208 for the current registration period~~ and who is not on inactive status, suspended, or disbarred by the ~~Supreme Court~~ from the practice of law by the Supreme Court.

*New formatting of proposed Rule 801(a):*

(a) "**Active attorney**" means an attorney who is required to pay the annual registration fee and is registered as active under Rule 208 for the current Licensing Period ~~imposed by Supreme Court~~

~~Rule 208 for the current registration period and who is not on inactive status, suspended, or disbarred by the Supreme Court from the practice of law by the Supreme Court.~~

## Proposed Revisions:

### **PREFATORY RULE**

#### **Rule 800**

#### **PURPOSE AND SCOPE**

~~Because it is essential to the public and the legal profession that attorneys an attorney admitted to practice law in Kansas maintain and increase their~~ improve the attorney's professional competence by continuing ~~their~~ legal education is required. These rules establish the minimum requirements the continuing legal education ~~necessary~~ requirements an attorney must satisfy to remain authorized to practice law in this state.

#### **Rule ~~802~~ 801<sup>1</sup>**

#### **DEFINITIONS**

- (a) **"Active attorney"** means an attorney who is required to pay the annual registration fee and is registered as active under Rule 208 for the current Licensing Period imposed by Supreme Court ~~Rule 208 for the current registration period and who is not on inactive status, suspended, or disbarred by the Supreme Court from the practice of law by the Supreme Court.~~
- (b) **"Approved program"** means a continuing legal education program that has been accredited by the Commission approved pursuant to these Rules.
- (c) **"~~CLE Commission~~" or "Commission Board"** means the governing body created under Rule 802(b). ~~by Rule 801(a).~~
- (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 ~~or~~ and improve the an attorney's professional competence. ~~competency of practicing attorneys.~~
- (f) **"Distance learning program"** means a CLE program offered by live webinar, live teleconference, or any prerecorded program.
- (~~f~~)(g) **"Ethics"** means the standards set by the Kansas Rules of Professional Conduct ~~with which that~~

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<sup>1</sup>The order for Rules 801 and 802 has been switched. Rule 801 currently in effect will be Rule 802 under the proposed revisions. Rule 802 currently in effect will be Rule 801 under the proposed revisions. Revisions to the body of those rules are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

an attorney must comply with to practice law in Kansas and remain authorized to practice law in Kansas and in good standing.

- (g)(h) **"Guidelines"** means a ~~Commission~~ document that prescribes administrative requirements for CLE programs that are not set forth in these rules.
- (1) ~~prescribes prescribing administrative requirements for CLE programs which are not set forth in these rules;~~ and
- (2) ~~is available to attorneys on the Commission's website.~~
- (h)(i) **"Inactive attorney"** means an attorney who is registered as inactive under Rule 208 ~~has elected inactive status pursuant to Supreme Court Rule 208 and has registered as an inactive attorney with the CLE Commission.~~
- (i)(j) **"In-house program"** means a CLE programming given for a select private audience ~~from the same law firm, corporation, or single governmental entity, and not open for attendance~~ from the same law firm, corporation, or single governmental entity, and not open for attendance by other members of the general legal community generally. ~~The term includes a program offered by invitation and a program not advertised to a broad attorney population.~~
- (j)(k) **"Law practice management programming program"** means a CLE programming specifically designed for attorneys on nonsubstantive topics that ~~deal with means and methods for enhancing address ways to enhance~~ the quality and efficiency of an attorney's service to ~~the attorney's~~ clients.
- (k)(l) **"Live programming program"** means a CLE program offered in one of the following formats or any other format approved under these rules.
- (1) **"Standard Classroom Setting."** ~~"Standard Classroom Setting"~~— A CLE program that is presented in a suitable classroom setting devoted to the program.
- (2) **"Satellite."** ~~"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. ~~As long as the program is advertised, there~~ There is no minimum attendance requirement.
- (3) **"Video Replay."** ~~"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. ~~As long as the program is advertised, there~~ There is no minimum attendance requirement.
- (4) **"Live Webcast."** ~~"Live Webcast"~~— A CLE ~~activity~~ 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 activity program to comment and ask questions.

- (5) **"Live Teleconference."** ~~"Live Teleconference"~~— A CLE activity 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 activity program to comment and ask questions.

~~(6) Any other format approved by the Commission.~~

~~(4)(m)~~ **"OJA"** means the Kansas Supreme Court Office of Judicial Administration and staff.

~~(m)(n)~~ **"Prerecorded programming program"** means the following a CLE programming program accessed solely by an individual attorney in one of the following formats: audiotape, videotape, CD, podcast, CD-ROM, DVD, or another format approved by the Commission pursuant to these Rules and defined in ~~its~~ the Guidelines for Prerecorded Programming.

~~(n)~~ **"Rules"** means the Rules Relating to Continuing Legal Education, together with any amendments thereto, adopted by the Supreme Court.

~~(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.

## **Rule ~~801~~ 802**

### **KANSAS CONTINUING LEGAL EDUCATION COMMISSION**

~~(a)~~ **Administration.** Kansas continuing legal education shall be administered and regulated by the Supreme Court through OJA.

~~(a)(b)~~ **The Commission Board.** ~~There is hereby created the~~ The Kansas Continuing Legal Education Commission 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.

~~(b)(c)~~ **Duties and Responsibilities.**<sup>2</sup> ~~The Commission is responsible for the administration of Rules 801 through 811, subject to the supervision of the Supreme Court. The authority of the Commission includes:~~ The Board's responsibilities include:

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<sup>2</sup>The "Duties and Responsibilities" section is one paragraph under the rules currently in effect. The proposed revisions breaks the specific duties into subsections. Revisions to the body of those subsections are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

- (1) ~~accrediting~~ approving providers and programs; ~~and~~
- (2) determining the number of hours of CLE credit to be given for participating in a program;
- ~~(2)~~(3) granting or withdrawing of approval of all or less than all programs of a provider provider programs;
- ~~(3)~~ ~~receiving and considering reports of attorneys;—~~
- (4) granting of waivers and extensions of time to complete requirements; and
- (5) ~~giving notices and certifications required by these rules; and~~ adopting guidelines necessary to implement or administer these rules as defined in Rule 801(h).

(e)(d) **Composition Membership.** ~~The Commission Board shall consist~~ consists of nine members appointed by the Supreme Court. All attorney members must be registered under ~~Supreme Court~~ Rule 208. The members must include:<sup>3</sup>

- (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.

(d)(e) **Term of Service Terms.** ~~Appointment as a Commission member is~~ Each Board member is appointed for a three-year term. The Supreme Court will appoint a new member to fill a vacancy on the Commission occurring during a term. A new member appointed to fill a vacancy serves the unexpired term of the previous member. No member may serve more than two consecutive three-year terms, except that a member initially appointed to serve an unexpired term may serve two consecutive 3-year terms thereafter. 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.

(e)(f) **Election of Officers.**<sup>4</sup> At the first ~~Commission Board~~ meeting held in each annual compliance

<sup>3</sup>The "Membership" section is one paragraph under the rules currently in effect. The proposed revisions breaks the required members into subsections. Revisions to the body of those subsections are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

<sup>4</sup>The order of sections (f) "Election of Officers" and section (g) "Meetings" has been switched under the proposed revisions. Under the rules currently in effect, the "Meetings" section is immediately prior to the "Election of Officers" section.

period, the ~~Commission Board~~ must will elect from its members a ~~chairman, a vice chairman, and a secretary chair~~ and a vice chair.

- (f)(g) **Meetings.** The ~~Commission Board~~ may will meet at ~~such times and places as it determines~~ quarterly and at such additional times as the need arises. Five members constitute a quorum for the transaction of business.
- (g) **Expenses.** ~~Members of the Commission and Commission staff shall be reimbursed for actual and necessary expenses they incur in travel to and from Commission meetings and for authorized travel in connection with Commission business.~~
- (h) **Confidentiality.** ~~Unless otherwise directed by the Supreme Court, the~~ All files, records, and proceedings, ~~or other documents maintained by OJA of the Commission~~ that relate to or arise out of ~~an attorney's compliance with or the failure of an attorney~~ to satisfy continuing legal education requirements are private and confidential and must not be ~~disclosed~~ divulged except as provided in these rules, ~~by Supreme Court order, except in furtherance of the Commission's duties~~ or on request of the attorney affected. OJA is authorized, in 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. ~~However, This confidentiality provision does not apply to anonymous statistical abstracts-~~ may be drawn from the files, records, and proceedings.
- (i) **Staff.** ~~The Supreme Court, through the Office of Judicial Administration, may employ an Executive Director and other necessary staff and may delegate to the director or staff the authority to conduct the business of the Commission under these Rules and Commission guidelines, subject to review by the Commission.~~
- (j) **Contact Information for Commission.** ~~The Commission's mailing address is Kansas Continuing Legal Education Commission, Attn: Executive Director, 400 S. Kansas Ave., Ste. 202, Topeka, Kansas 66603. The Commission's telephone number is 785-357-6510. The Commission's website address is~~ [www.kscle.org](http://www.kscle.org).

## 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 ~~(July 1 to June 30)~~ as defined in Rule 802. 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 ~~practitioner~~ attorney complies with the requirements of Rule 806, the ~~practitioner~~ attorney may

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Revisions to the body of those sections are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

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. ~~However, An~~ An active attorney may carry forward ethics and professionalism CLE credit hours in excess of the 2-hour requirement in subsection (a) ~~may be carried forward~~ 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 ~~to the Commission~~ in the form and manner ~~the Commission prescribes~~ prescribed by OJA.

(d) **Exemptions.** The following attorneys are ~~not required to fulfill~~ exempt from the CLE requirement in subsection (a):

(1) ~~An an~~ an attorney newly admitted to practice law in Kansas ~~during the period prior to~~ until the first compliance period ~~beginning after following~~ admission to practice.;

(2) ~~An an~~ an attorney ~~during the time the attorney is on retired or inactive status pursuant to Supreme Court Rule 208 and registered on inactive status with the CLE Commission.~~ registered under Rule 208 as inactive, retired, or disabled due to mental or physical disability;

(3) ~~All all~~ 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. ~~Federal, but federal~~ and state administrative judges are not eligible for this exemption.;

(4) ~~An an~~ an attorney exempted by the ~~Commission~~ Board for good cause pursuant to subsection (e).

(e) **Exemptions for Good Cause.** The ~~Commission~~ 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 ~~the Commission~~ OJA in writing with ~~full~~ 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 ~~Commission~~ Board must review and approve or disapprove a ~~substitute program request for exemption~~ request for exemption on an individual basis. An attorney who receives ~~approval of a substitute program~~ 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 8 eight months during the compliance period may,

upon written request to OJA and preapproval from the Board, complete the annual CLE requirement by prerecorded programming distance learning programs.

## Rule 804

### ACCREDITATION OF PROGRAMMING PROGRAM APPROVAL

- (a) **Provider Live Programming Program Approval.**<sup>5</sup> A provider sponsoring a live continuing legal education CLE program may request prior accreditation approval of the CLE program for CLE credit.
- (1) ~~The Commission recommends the provider submit to the Commission, at~~ At least 60 days before the program, a provider should submit to OJA an application for approval of CLE activity and any other additional information ~~required by the Commission 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 ~~by a provider~~ must be accompanied by a \$25 nonrefundable filing fee.
- (3) ~~The Commission-OJA staff~~ must notify the ~~applicant~~ provider of the status of its review of the application no later than 30 days after ~~the Commission-OJA~~ receives it. A program is not approved until the ~~applicant~~ provider is notified of approval.
- (4) The program must be advertised only as pending approval, as required by Rule 805(a), and may not be advertised as approved until a notice of accreditation/affidavit is received. ~~The time limit in this subsection does not apply to an in-house CLE program, which is governed by Rule 806(i).~~
- (b) **Individual Attorney Course Approval.** An attorney seeking CLE credit for attendance at a live CLE program that was not previously ~~accredited~~ approved must submit to ~~the Commission-OJA~~ an application for approval of CLE activity and any other additional information ~~required by the Commission requested by OJA.~~ The Commission-OJA must notify the ~~applicant~~ attorney of the status of its review of the ~~request application~~ no later than 30 days after ~~the Commission-OJA~~ receives it. A program is not approved until the ~~applicant~~ 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.

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<sup>5</sup>The "Provider Live Program Approval" section is one paragraph under the rules currently in effect. The proposed revisions breaks the process into subsections. Revisions to the body of those subsections, including the new subsections, are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

- (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).

~~(e)(d)~~ **Interdisciplinary CLE Program.** An attorney seeking CLE credit may be earned for a an interdisciplinary program that crosses academic lines (e.g., accounting tax) if it is pertinent to an individual 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. See Rule 806(j).

~~(d)(e)~~ **Prerecorded Programming Program Course Approval.** A provider seeking approval of a prerecorded program must submit to OJA an application for approval of CLE credit for prerecorded programming courses. must be submitted to the Commission by the provider in the form prescribed by the Commission, and the The program must comply with the Guidelines for Prerecorded Programming. An application for approval of a prerecorded program programming courses must be accompanied by a \$100 nonrefundable filing fee. and Approval will be valid for a 1 year period one year.

~~(e)(f)~~ **Attendance Reporting.**<sup>6</sup> Upon the Board approving a program for CLE credit, the Commission OJA will issue to the applicant provider a notice of accreditation/affidavit. A provider must distribute the appropriate Kansas affidavit to all attorneys seeking Kansas CLE credit.

- (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 ~~the CLE Commission~~ 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 ~~the Commission~~ OJA within 30 days after the program.
- (3) **Distance Learning Program.** For ~~prerecorded programming~~ a distance learning program, the provider is responsible for reporting attendance in the approved format to the CLE Commission ~~OJA~~ within 30 days after the program ~~in the approved format.~~

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<sup>6</sup>Note: The "Attendance Reporting" section is one paragraph under the rules currently in effect. The proposed revisions breaks the reporting process into subsections. Revisions to the body of those subsections, including the new subsections, are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

- (f)(g) **Appeal of Determination.** If an application for approval of a CLE ~~credit for a CLE program or~~ CLE credit is denied, the applicant may appeal the decision to the ~~Commission Board~~ by submitting a letter of appeal to OJA within 30 days after notice of the denial was ~~mailed~~ issued. No other appeal may be taken.
- (g)(h) **Standards.** To be ~~accredited~~ 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, ~~exclusive of~~ excluding introductory remarks, meals, breaks, ~~or~~ and other noneducational activities. One-half credit hour must be awarded for attendance of at least 25 but less than 50 minutes. No credit ~~may~~ 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 ~~deal~~ primarily with address matters related to the practice of law, ethics and professionalism, or law practice management.
  - (3) The program must be presented by a person ~~or persons~~ qualified by practical or academic experience to present the subject. ~~In most instances,~~ Generally, a legal ~~subjects~~ subject should be presented by ~~attorneys~~ an attorney.
  - (4) Thorough, high quality, readable, useful, and carefully prepared instructional materials must be made available to all participants ~~at or before~~ by the time the program is presented, unless the ~~Commission Board~~ approves the absence of instructional materials ~~as reasonable~~. 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) ~~For A live programming,~~ the 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 ~~after dinner type~~ keynote speeches.
  - (6) Integration of ethics or professionalism instruction into substantive law topics is encouraged, but integrated material does not count toward the ~~2-hour~~ two-hour minimum annual ethics and professionalism requirement.

## Rule 805

### PROVIDER RESPONSIBILITY

- (a) **Marketing ~~prior~~ Prior to approval Approval.** A provider of a CLE program for which ~~accreditation~~ approval has been sought but not yet approved ~~may~~ must announce in any marketing: "Application for CLE approval of this activity program in Kansas is currently pending. Attorneys wanting to know the CLE approval status of a program should contact the sponsor."

- (b) **Late Report of Attendance by Provider.** A provider of an ~~accredited~~ 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 ~~Activities~~ a Program.** A provider must allow a ~~Commission member or staff Board member~~ or a representative of OJA to attend, free of charge, any ~~continuing legal education~~ CLE program to audit compliance with these rules. Such attendance does not qualify for ~~mandatory continuing legal education~~ CLE credit for the ~~Commission member or staff 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. ~~The Commission~~ OJA may request copies of the evaluations.
- (e) **Record Retention.** A provider must keep on file for a minimum of ~~3~~ three years attendance records and evaluation summaries for a program.

## Rule 806

### ~~CREDITS FOR PARTICIPATION~~

- (a) **Credit for Attendance.**<sup>7</sup> 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 ~~8~~ eight hours of credit in ~~4~~ one day of CLE attendance.
- (b) **Carryover Credit.** ~~Hours~~ CLE credit hours that are to be carried forward under Rule 803(b) must be received ~~in the CLE Commission office 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 received after that date will not qualify as carryover credit.
- (~~e~~) **~~Course or Program Formats.~~** ~~An approved program may include live and prerecorded programming.~~
- (~~d~~)(c) **Credit for Teaching.** ~~Up~~ An attorney can earn up to 5 ~~five~~ five CLE credit hours ~~will be awarded~~ for each 50 minutes spent teaching an approved program. ~~The applicant~~ 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

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<sup>7</sup>Note: The order of sections (a) "Credit for Attendance" and section (b) "Carryover Credit" has been switched under the proposed revisions. Under the rules currently in effect, the "Carryover Credit" section is immediately prior to the "Credit for Attendance" section. Revisions to the body of those sections are identified using the standard format (underlined for added language and strikethrough for ~~deleted language~~).

award, the ~~Commission~~ 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 ~~4~~ 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 ~~may~~ be claimed ~~or awarded~~ for smaller fractional units. A repeat presentation will only qualify for additional ~~credits, limited to credit hours for~~ time actually spent updating the presentation and teaching. Because CLE teaching credit hours are ~~is~~ awarded as an incentive to attorneys to benefit the legal profession, instruction must be directed toward an audience composed primarily of attorneys. ~~Credit~~ No CLE credit hours will ~~not~~ be awarded for teaching undergraduate, graduate, or law school classes.

- (~~e~~)(d) **Credit for Authorship.** ~~Credit~~ CLE credit hours may be awarded for authorship of legal publications. The attorney author must complete an application for approval of authorship credit. ~~Credit will be awarded~~ An attorney author can earn CLE credit hours if the ~~applicant's~~ attorney's research (1) has produced a published article, chapter, monograph, or book, personally authored, in whole or part, by the ~~applicant~~ attorney, and (2) contributes substantially to the continuing legal education of the ~~applicant~~ 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 ~~is~~ requested. An article, chapter, monograph, or book directed to a nonattorney audience, ~~while resulting in self-improvement as a form of self-study,~~ does not qualify for authorship credit.
- (~~f~~)(e) **Credit for Attendance Prior to Being Admitted to Practice Law in Kansas Admittance.** ~~Credit~~ No CLE credit hours will ~~not~~ be ~~given~~ awarded for any CLE program attended before the applicant was is admitted to practice law in Kansas.
- (~~g~~)(f) **Credit for Attending Law School Course.** ~~Credit may be earned~~ 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 ~~approved~~ accredited by the American Bar Association. The ~~Commission-Board~~ will award ~~4~~ one credit hour for each 50 minutes of class attendance.
- (~~h~~)(g) **Duplicate Attendance.** ~~Attendance~~ No CLE credit hours will be awarded for attendance at a program ~~that an~~ the attorney has ~~attended~~ previously attended during the compliance period ~~will not be accepted for continuing legal education credit.~~
- (i)(h) **In-House Program.** ~~To receive approval, an in-house CLE program must meet the following requirements:~~
- (1) ~~The activity must meet the standards for program approval in Rule 804.~~
  - (2) ~~The law firm, corporation, or single governmental entity for which the activity is offered must assume responsibility for accreditation.~~
  - (3) ~~An application for approval of CLE credit must be received by the Commission~~ OJA ~~no later than 21 days before the in-house CLE program. The activity must be open to in-person monitoring/observation by any Commission member or staff.~~

- (4) ~~The activity must be scheduled at a time and location so that attorneys attending are free of interruptions from telephone calls and other office matters.~~
- (5) ~~No more than 6~~ six CLE credit hours ~~may~~ will be ~~earned by~~ applied towards the annual CLE requirement to an attorney in any compliance period ~~through~~ for attendance at in-house CLE programs.
- (j) **Interdisciplinary Programming.** ~~CLE credit may be earned for a program that crosses academic lines (e.g., accounting tax) if it is pertinent to an individual attorney's practice. An Application for Approval of CLE Activity must be submitted under Rule 804(b) and include a statement describing how the program is beneficial to the attorney's practice.~~
- (k)(i) **Law Practice Management Programming Program.** An attorney ~~may receive~~ can earn CLE credit hours for participation in an ~~accredited~~ approved CLE program as defined in the Guidelines for Accreditation of Law Practice Management Programming. ~~Law practice management credit is limited to a maximum of 2 hours of~~ No more than two general credit hours will be applied towards the annual CLE requirement to an attorney in any compliance period for attendance credit in any compliance period at law practice management programs.
- (l)(j) **Prerecorded Programming Program Limitation.** ~~Credit for prerecorded programming is limited to a maximum of 6 hours of~~ No more than six CLE credit per compliance period hours will be applied towards the annual CLE requirement to an attorney in any compliance period for attendance at or participating n prerecorded programs.
- (m)(k) **Self-Study Prohibition.** An attorney cannot earn credit for a self-study program.

## Rule 807

### REPORTING REQUIREMENTS AND NONCOMPLIANCE FEE

- (a) **Annual Report.** Every August, ~~the Commission~~ 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 ~~the Commission~~ 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, ~~the Commission~~ 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 ~~the Commission~~ OJA within 30 days after a change of the attorney's address.

## Rule 808

### FEES

- (a) **Annual CLE Fee.** An active attorney must pay an annual CLE fee ~~to fund administration of these rules. The Commission determines~~ in the amount of the annual fee, with approval by established by the Supreme Court.
- (b) **Notice of Fee.** By June 1 of each year, ~~the Commission~~ OJA will ~~mail to each attorney's last known address~~ 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 ~~Attorney Registration Licensing Period under Rule 208(a)(1)~~ compliance period that begins July 1. A fee payment is considered timely if successfully submitted electronically by June 30 or remitted via U.S. mail postmarked on or after July 1 by June 30. Late payments must be accompanied by a \$50 late fee.
- (e) **Attorney Returning to Practice.** An attorney ~~who is reinstated~~ 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 reinstatement, ~~prior to the attorney's return to active status~~ 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 ~~Supreme Court~~ Rule 208.
- (g) **Returned Check.** A service fee of the maximum amount allowed by law will be assessed for a check returned unpaid, ~~to the CLE Commission.~~

## Rule 809

### SUSPENSION FROM THE PRACTICE OF LAW

- (a) **Reasons for Suspension.** An attorney who is required to ~~file~~ 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.** ~~The Commission~~ 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 Commission~~ Board must certify to the 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 ~~the Commission~~ OJA has sent notice of noncompliance under subsection (b) may, no later than 30 days after the date the notice was mailed, ~~file~~ submit with ~~the Commission~~ OJA a request for a hearing, stating the issues the attorney raises. ~~The Commission~~ 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 Commission~~ Board after the hearing. ~~The Commission~~ OJA must provide for a record and the costs thereof when needed.

## Rule 810

### ~~REINSTATEMENT~~ CHANGE OF STATUS PROCEDURE FOR INACTIVE ATTORNEY

- (a) **Request for Reinstatement Change of Status.** An inactive attorney seeking to become an active attorney must submit to ~~the Commission~~ OJA a written request for reinstatement change of status. This request is in addition to the request to the ~~Supreme Court~~ Attorney Registration Office for reinstatement change of status required by ~~Supreme Court~~ Rule 208.
- (b) **Required Fees.** In addition to any amount to be paid to the ~~Clerk of the Appellate Courts~~ Attorney Registration Office under ~~Supreme Court~~ Rule 208, a request for reinstatement change of status submitted to ~~the Commission~~ OJA by an inactive attorney must be accompanied by a check or money order payable to the "~~Kansas Continuing Legal Education Commission~~" "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 ~~reinstated to the practice of law~~ 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 is reinstated~~ attorney's status changes.

## Rule 811

### **REINSTATEMENT 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 ~~the Commission~~ OJA a written request for ~~reinstatement~~ change of status, accompanied by a check or money order payable to ~~the Kansas Continuing Legal Education Commission~~ "Kansas CLE" for or proof of electronic payment of a reinstatement change of status fee of \$100;
  - (2) between the date of suspension and the date of ~~reinstatement~~ 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 ~~practitioner is reinstated~~ attorney's status changes; and
  - (4) prior to ~~reinstatement~~ change in status, complete any requirements imposed by the Attorney Registration Office under Rule 208(g)(3).
- (b) **Suspended 1 Year or More.** A suspended attorney returning from suspension of 1 year or more must:
- (1) submit to ~~the Commission~~ OJA a written request for ~~reinstatement~~ change of status, accompanied by a check or money order payable to ~~the Kansas Continuing Legal Education Commission~~ "Kansas CLE" for or proof of electronic payment of a reinstatement change of status fee of \$100;
  - (2) between the date of suspension and the date of ~~reinstatement~~ 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 of ~~reinstatement~~ 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; and
  - (4) complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the ~~attorney is reinstated~~ attorney's status changes; and
  - (5) prior to ~~reinstatement~~ change of status, complete any requirements imposed by the Attorney Registration Office under Rule 208(g)(3).