



NEW YORK STATE CLE BOARD

Regulations & Guidelines

NEW YORK STATE MANDATORY CONTINUING LEGAL EDUCATION

JUNE 1, 2018

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SECTION 1. PUBLICATION OF NEW YORK STATE CLE BOARD REGULATIONS AND GUIDELINES FOR THE MANDATORY CONTINUING LEGAL EDUCATION PROGRAM FOR ATTORNEYS IN THE STATE OF NEW YORK

Pursuant to Part 1500, Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York, the following Regulations and Guidelines have been promulgated by the New York State Continuing Legal Education Board (“CLE Board”) to clarify the “Mandatory Continuing Legal Education Program for Attorneys in the State of New York.” These Regulations and Guidelines shall be read with the Program Rules for a full understanding of New York State’s continuing legal education requirement. All written requests to the New York State CLE Board may be sent to:

**New York State Continuing Legal Education Board
25 Beaver Street, Room 888
New York, New York 10004**

SECTION 2. MANDATORY CONTINUING LEGAL EDUCATION PROGRAM FOR NEWLY ADMITTED ATTORNEYS

(A) **Requirement** *[revised effective January 1, 2016]* – Newly admitted attorneys shall fulfill their continuing legal education requirement by taking accredited transitional continuing legal education courses or programs.* The specific requirements and breakdown of categories of credit are described in Subpart B of the Program Rules. Newly admitted attorneys who are exempt from the CLE requirement for part of the reporting cycle may be eligible for a prorated requirement.

* Throughout these Regulations and Guidelines the phrase “courses or programs” is used interchangeably with the words “courses” and “programs.”

- (1) Newly admitted attorneys who are exempt from the CLE requirement and who thereafter cease to be exempt and commence the practice of law in New York during the first two years of admission to the Bar, shall be required to complete by the end of those two years 1.5 credit hours of accredited continuing legal education as set forth in §1500.12(a) of the Program Rules in any combination of categories set forth in that section, for each month of the two-year period during any part of which the attorney practices law in New York. Credit shall be completed in a format permissible for the category of credit, as set forth in section 2(C) of these Regulations and Guidelines, except that no more than 14 credits may be earned through nonparticipatory formats, such as on-demand video or live broadcast.

- (2) Subject to the requirements of §1500.12(f)(4) of the Program Rules, newly admitted attorneys who are practicing law in New York at the commencement of the reporting cycle and who thereafter cease to practice law in New York and become exempt from the CLE requirement during the first two years of admission to the Bar, and remain exempt through the end of the first two years of admission to the Bar, shall be required to complete by the end of those two years 1.5 credit hours of accredited continuing legal education as set forth in §1500.12(a) of the Program Rules in any combination of categories set forth in that section, for each month of the two-year period during any part of which the attorney practices law in New York. Credit shall be completed in a format permissible for the category of credit, as set forth in section 2(C) of these Regulations and Guidelines, except that no more than 14 credits may be earned through nonparticipatory formats, such as on-demand video or live broadcast.

- (B) **Transitional Courses** *[revised effective January 1, 2016]* – Transitional continuing legal education courses are courses designed to help recent graduates and newly admitted attorneys establish a foundation in the practical skills, techniques and procedures essential to the practice of law.
- (C) **Transitional CLE Course Formats** *[revised effective January 1, 2016]* – Newly admitted attorneys shall fulfill their requirement by completing transitional continuing legal education courses in a format permissible for the category of credit.
- (1) **Skills** – Skills credit shall be completed in the traditional live classroom setting or by fully interactive videoconference.
 - (2) **Ethics and Professionalism** – Ethics and professionalism credit shall be completed in the traditional live classroom setting; by fully interactive videoconference; or by simultaneous transmission with synchronous interactivity, such as webconference or teleconference, where questions are allowed during the program.
 - (3) **Law Practice Management and Areas of Professional Practice** – Law practice management and areas of professional practice credit may be completed in any approved format, including nonparticipatory formats such as on-demand video or live broadcast.
- (D) **Limitations on CLE Credit Awards**
- (1) **Partial Credit** – Credit shall be awarded only for attendance at an entire course or program, or for attendance at an entire session of a course or program. No credit shall be awarded for attending a portion of a course or a portion of a session.

- (2) **Repeat Attendance** – No CLE credit hours may be earned for repeating the same course or program, in any format, even if the course or program is repeated in a subsequent reporting cycle.
- (E) **CLE Activities** – Newly admitted attorneys may not earn transitional CLE credit hours for the CLE activities set forth in section 3(D) of these Regulations and Guidelines.
- (F) **Exception for Newly Admitted Attorneys in Foreign Offices** *[revised effective January 1, 2016]* – Notwithstanding section 2(C) of these Regulations and Guidelines, newly admitted attorneys based in law offices outside of the United States may fulfill a maximum of 16 credit hours of their requirement in any approved format. The remaining credit hours shall be completed in a format permissible for the category of credit, as set forth in section 2(C).
- (G) **Postgraduate/Preadmission Credit** *[revised effective January 1, 2016]* – Subject to the requirements of §1500.12(e) of the Program Rules and section 2(C) of these Regulations and Guidelines, transitional CLE credit hours may be earned for attending approved transitional CLE courses from the date of graduation from law school through the date of admission to the New York Bar, except that no credit will be awarded for attendance at such courses occurring more than two years before the date of admission to the New York Bar.
- (H) **Postgraduate Enrollment** – Transitional CLE credit hours may be earned for attending courses for credit or by audit at an ABA-accredited law school after admission to the New York Bar provided that (1) the attorney is officially registered for the course and (2) the attorney completes the course as required by the terms of the registration. Credit for approved attendance at law school courses shall be for the number of 50-minute classes attended. Attorneys shall obtain from the school an official transcript or other appropriate documentation indicating the name of attorney, name, date

and location of course, New York credit hours earned, a breakdown of categories of credit and the attorney's successful completion of the course. Attorneys shall retain proof of completion of such postgraduate work for a period of four (4) years after completion of such course work.

- (I) **Ethics and Professionalism Credit** – Ethics and professionalism credit may not be carried over from the first year of admission to the Bar to fulfill the requirement for the second year of admission. Ethics and professionalism credit may not be carried over from the second year of admission to the Bar to fulfill the requirement for the following biennial reporting cycle. Notwithstanding §1500.13(b)(2) of the Program Rules, a newly admitted attorney who is required to file a biennial registration statement prior to completing the second year of admission to the Bar may not apply ethics and professionalism credit hours to the requirement for the following biennial reporting cycle.

SECTION 3. MANDATORY CONTINUING LEGAL EDUCATION PROGRAM FOR ATTORNEYS OTHER THAN NEWLY ADMITTED ATTORNEYS

- (A) **Requirement** – Experienced attorneys may take any accredited continuing legal education courses or programs, except those designated as appropriate for newly admitted attorneys only, to fulfill their Program requirements. The specific requirements are described in Subpart C of the Program Rules.
 - (1) Experienced attorneys who are exempt from the CLE requirement and who thereafter cease to be exempt and commence the practice of law in New York during the two-year reporting cycle shall be required to complete by the end of the reporting cycle one (1) credit hour of

accredited continuing legal education as set forth in §1500.22(a) of the Program Rules, in any category, for each month of the reporting cycle during any part of which the attorney practices law in New York.

- (2) Subject to the requirements of §1500.22(n), experienced attorneys who are practicing law in New York at the commencement of the reporting cycle and who thereafter cease to practice law in New York and become exempt from the CLE requirement during the two-year reporting cycle, and remain exempt through the end of the two-year reporting cycle, shall be required to complete by the end of the reporting cycle one (1) credit hour of accredited continuing legal education as set forth in §1500.22(a) of the Program Rules, in any category, for each month of the reporting cycle during any part of which the attorney practices law in New York.
 - (3) A newly admitted attorney who is exempt from New York's transitional CLE requirements under §1500.10(c) of the Program Rules and is subject to the CLE requirements for experienced attorneys, may apply to the initial biennial reporting cycle a maximum of 16 CLE credit hours for participating in approved transitional or nontransitional CLE courses taking place before the date of admission to the New York Bar, except that no credit may be applied for participation in such courses occurring more than two years before the date of admission to the New York Bar.
- (B) **Course or Program Formats** – Experienced attorneys may earn CLE credit hours in a number of formats including, for example, the traditional live classroom setting, audio recordings, video recordings, live broadcasts, teleconferences, videoconferences, webconferences and online courses, provided that the CLE Board has approved the particular format to be offered by the provider. Credit may not be earned for reading legal materials unless specifically preapproved by the CLE Board.

(C) **Limitations on CLE Credit Awards**

- (1) **Partial Credit** – Credit shall be awarded only for attendance at an entire course or program, or for attendance at an entire session of a course or program. No credit shall be awarded for attending a portion of a course or a portion of a session.
- (2) **Repeat Attendance** – No CLE credit hours may be earned for repeating the same course or program, in any format, even if the course or program is repeated in a subsequent reporting cycle.

(D) **CLE Activities**

- (1) **Speaking and Teaching** – Credit may be earned for speaking and teaching at a program accredited by the CLE Board, including accredited programs presented to summer associates or to nonattorney judges or justices. Three (3) CLE credit hours are awarded for each 50 minutes of presentation. No additional credit may be earned for preparation time. The sponsor of the CLE activity is responsible for issuing appropriate certification to the speaker documenting the name of attorney, name, date and location of course or program, breakdown of categories of credit and the number of New York CLE credit hours earned.
- (2) **Panel Presentations** – Credit may be earned for participating in panel presentations accredited by the CLE Board. The panel member earns three (3) CLE credit hours for each 50 minutes of participation on the panel. No additional credit may be earned for preparation time. The sponsor of the CLE activity is responsible for issuing appropriate certification to panel members documenting the name of attorney, name, date and location of activity, breakdown of categories of credit and the number of New York CLE credit hours earned.

- (3) **Moderators** – Credit may be earned for moderating CLE activities accredited by the CLE Board. The moderator earns one (1) CLE credit hour for each 50 minutes of participation. No additional credit may be earned for preparation time. The sponsor of the CLE activity is responsible for issuing appropriate certification to the moderator documenting the name of attorney, name, date and location of activity, breakdown of categories of credit and the number of New York CLE credit hours earned.

- (4) **In-House CLE** – Credit may be earned for speaking, teaching or participating in an accredited in-house program as set forth in subsections 3(D)(1)-(3), above. No CLE credit may be earned for activity in connection with a pending case. The sponsor of the CLE activity is responsible for issuing appropriate certification documenting the name of attorney, name, date and location of course or program and the number of New York CLE credit hours earned.

- (5) **Law Competitions** – Credit may be earned for preparing students for and judging law competitions, mock trials and moot court arguments, including those at the high school or college level. Ethics and professionalism and/or diversity, inclusion and elimination of bias credit hours are not available for participation in this type of CLE activity. CLE credit hours are not available for grading written briefs or other written papers in connection with this type of CLE activity. No additional credit may be earned for preparation time. The sponsor of the CLE activity is responsible for issuing appropriate certification documenting the name of attorney, name, date and location of course or program and the number of New York CLE credit hours earned.

- (a) **Law School Competitions** – One (1) credit hour may be earned for each 50 minutes of participation in an ABA-accredited law school competition. A maximum of six (6) CLE credit hours may be earned for participation in this type of CLE activity during any one reporting cycle.

- (b) **High School and College Competitions**
 - (i) **Application** – The sponsor, or an attorney participant, shall submit an application for accreditation of the law competition to the CLE Board for review with a cover letter and any supporting documentation, including: (1) a description of the competition, (2) the date(s) and time(s) of the competition, (3) a copy or description of the written materials to be distributed to the participants, (4) the name(s) and credentials of the faculty participant(s) in the competition, and (5) the name of the contact person at the sponsoring school.

 - (ii) **Application Deadline** – Accreditation of high school and college law competitions shall be sought no later than 15 days after the occurrence of the law competition.

 - (iii) **Calculation of Credit** – One (1) CLE credit hour may be earned for each 50 minutes of participation in a high school or college law competition. A maximum of three (3) CLE credit hours may be earned for this type of CLE activity during any one reporting cycle.

- (c) **In-House** – Credit may be earned for preparing participants for, demonstrating for and judging accredited in-house mock trial, moot court and other trial advocacy exercises. Credit shall

be awarded as set forth in sections 3(D)(5) and 3(D)(5)(a), above. No CLE credit may be earned for activity in connection with a pending case.

- (d) **Credit Hour Limit** – Subject to the requirements of section 3(D)(5)(b)(iii), above, a combined maximum of six (6) CLE credit hours may be earned for the activities set forth in subsections 3(D)(5)(a)-(c) during any one reporting cycle.
- (6) **Teaching Law Courses** – Credit may be earned for teaching law courses at an ABA-accredited law school. One (1) CLE credit hour is awarded for each 50 minutes of instruction. No additional credit may be earned for preparation time. The ABA-accredited law school is responsible for issuing appropriate certification to the instructor documenting the name of attorney, name, date and location of course, breakdown of categories of credit and the number of New York CLE credit hours earned.
- (7) **Repeat Presentations** – CLE credit hours may be earned for repeat presentations of any of the foregoing CLE activities set forth in 3(D) of this section except as indicated below:
 - (a) One (1) CLE credit hour may be earned for each 50 minutes of repeat presentation as a speaker, teacher or panel member at an accredited CLE activity within any one reporting cycle.
 - (b) No additional credit may be earned for moderating repeat presentations of the same CLE program within any one reporting cycle.

- (8) **Written Materials** – Credit may be obtained for either speaking at an accredited CLE activity or for the preparation of written materials for that same CLE activity, but not for both. Written materials distributed in conjunction with an accredited CLE activity are eligible for CLE credit only if (i) such written material is sufficient in substance and citation to stand by itself as an instructional tool (in contrast to an outline that is merely an adjunct or aid to the speaker’s presentation), and (ii) such written material meets the criteria for CLE publications set forth in section 3(D)(10) of these Regulations and Guidelines.
- (9) **Postgraduate Enrollment** – CLE credit hours may be earned for attending courses for credit or by audit at an ABA-accredited law school after admission to practice in New York provided that (i) the attorney is officially registered for the course and (ii) the attorney completes the course as required by the terms of the registration. Credit for approved attendance at law school courses shall be for the number of 50-minute classes attended. Attorneys shall obtain from the school an official transcript or other appropriate documentation indicating the name of attorney, name, date and location of course, breakdown of categories of credit, the number of New York credit hours earned and the attorney’s successful completion of the course. Attorneys shall retain proof of completion of such postgraduate work for a period of four (4) years after completion of such course work.
- (10) **Publications** – Credit may be earned for legal research-based writing that (i) has been published or accepted for publication, in print or electronically, in the form of an article, chapter, book, revision or update, (ii) was written in whole or in substantial part by the applicant, and (iii) contributes substantially to the continuing legal education of the applicant and other attorneys. “Legal research-based writing,” under this subsection, is defined as writing that has as its primary purpose

to increase the professional legal competency of attorneys in ethics and professionalism, skills, law practice management, areas of professional practice, and/or diversity, inclusion and elimination of bias.

- (a) **Limitations** – The following shall not qualify for CLE publication credit:
- (i) Editing legal research-based writing;
 - (ii) Authorship of published decisions;
 - (iii) Writing appearing in a publication for general circulation or in a publication directed to a nonlawyer audience; and
 - (iv) Legal research-based writing appearing in any publication, whether print or electronic, that is controlled by the applicant or by the applicant’s firm or employer.
- (b) **Application** – The applicant shall submit the legal research-based writing to the CLE Board for review with a New York State Continuing Legal Education Board “Application for Publication Credit” and supporting documentation including, but not limited to: (i) proof that the legal research-based writing has been published or has been accepted for publication, (ii) the date of publication or acceptance for publication, (iii) the time the applicant spent on research and writing, (iv) the total number of CLE credit hours requested, (v) a breakdown of the categories of credit, (vi) the date of the applicant’s admission to the New York Bar, and (vii) an English translation of legal research-based writing not written in English. Each joint author seeking credit shall submit a separate application. Applicants not listed as authors shall submit with their application a letter from a

listed author attesting to the applicant's contribution to the legal research-based writing and describing the nature and extent of the contribution.

(c) **Calculation of Credit**

(i) One (1) CLE credit hour may be awarded for each 50 minutes of research and writing.

(ii) A maximum of 12 CLE publication credit hours may be earned during any one reporting cycle.

(iii) Credit, if awarded, shall be awarded as of the date of publication or the date of acceptance for publication.

(d) **Notification** – The Board shall notify the applicant by first class mail or electronic mail of its decision to grant, deny or grant with modifications the request for CLE publication credit.

(11) **Pro Bono Legal Services** – Credit may be earned for performing eligible pro bono legal services for clients unable to afford counsel pursuant to (i) assignment by a court or (ii) participation in a pro bono CLE program sponsored by an Approved Pro Bono CLE Provider. CLE credit shall not be awarded for pro bono legal services performed outside of New York State.

(a) **Definitions**

(i) **Eligible pro bono legal services** are (1) legal services for which there is no compensation to the attorney performing the legal services or (2) legal services for which the compensation to the attorney performing the legal services is provided by someone other than the recipient of

those services, and such compensation would be provided regardless of whether the attorney performed those services. Legal services provided by assigned counsel who receive compensation for those services from any source and/or legal services provided by legal services organization attorneys within the scope of their employment, are not eligible pro bono legal services.

- (ii) **A pro bono CLE program** is a program, activity or case that is sponsored by, and to which attorneys are assigned by an Approved Pro Bono CLE Provider, and in which all recipients of the legal services provided by the program have been screened for financial eligibility.
- (b) **Court Assignment** – Pro bono CLE credit may be earned for the provision of eligible pro bono legal services to clients unable to afford counsel, pursuant to assignment by a court.
- (c) **Approved Pro Bono CLE Providers**
 - (i) **Eligibility** – Eligibility for designation by the CLE Board as an Approved Pro Bono CLE Provider is limited to the following organizations:
 - (1) Legal services organizations, or subsidiaries or subdivisions thereof, that have as their primary purpose the furnishing of legal services to indigent persons and that have filed a statement with the Appellate Division in the Judicial Department in which their principal office is located, pursuant to New York Judiciary Law §496; or

- (2) Subsidiaries or programs of bar associations that have as their primary purpose the furnishing of legal services to indigent persons.
- (ii) **Approval** – An eligible organization seeking to become an Approved Pro Bono CLE Provider must submit to the CLE Board a letter requesting approval. The letter shall include a description of the organization’s pro bono CLE programs and the name of a pro bono CLE contact person at the organization. The organization requesting approval as an Approved Pro Bono CLE Provider shall be furnished with written notice of the CLE Board’s determination to approve, conditionally approve, or deny the request by first class mail or electronic mail at an address reflected on the letter requesting approval. Pro bono CLE programs sponsored by Approved Pro Bono CLE Providers are deemed approved for pro bono CLE credit for a period of three (3) years from the date of the CLE Board’s approval of the Pro Bono CLE Provider.
- (d) **Calculation of Credit** – Credit for eligible pro bono legal services shall be earned in the following ratio: one (1) CLE credit hour for every two (2) 60-minute hours (120 minutes) of eligible pro bono legal services. A maximum of ten (10) pro bono CLE credit hours may be earned during any one reporting cycle. Credit shall be calculated in increments of one-half (.5) CLE credit hour. Ethics and professionalism credit is not available for participation in pro bono CLE activities.

(e) **Attorney Obligations** – In order to receive pro bono CLE credit, attorneys shall maintain records of their participation in pro bono CLE activities as follows:

(i) **Court Assignment** – An attorney who performs eligible pro bono legal services pursuant to assignment by a court shall maintain time records and calculate the CLE credit hours earned pursuant to section 3(D)(11)(d), above. The attorney shall retain for a period of four (4) years the time records, the CLE credit hour calculation and a copy of the court order assigning the attorney to the pro bono activity.

(ii) **Pro Bono CLE Program Assignment** – An attorney who performs eligible pro bono legal services for a pro bono CLE program pursuant to assignment by an Approved Pro Bono CLE Provider shall complete an affirmation describing the services provided, and stating the number of hours of eligible pro bono legal service that the attorney performed. The attorney shall submit the affirmation to the sponsoring Approved Pro Bono CLE Provider. The attorney shall retain for a period of four (4) years the time records of the attorney's participation in eligible pro bono legal services, a copy of the attorney's affirmation and the Letter of Participation issued to the attorney by the Approved Pro Bono CLE Provider as set forth in section 3(D)(11)(f)(i), below.

(f) **Obligations of Approved Pro Bono CLE Providers**

(i) **Letters of Participation** – Approved Pro Bono CLE Providers shall furnish participating attorneys with a Letter of Participation indicating: (1) the name of the Approved Pro Bono CLE Provider, (2) the date(s) of assignment, and

the location and name, if applicable, of the pro bono CLE program, (3) the name of the attorney participant, (4) the number of hours of eligible pro bono legal service provided by the attorney pursuant to section 3(D)(11)(e)(ii), above, (5) the number of pro bono CLE credit hours earned, calculated pursuant to section 3(D)(11)(d), above, and (6) a breakdown of the categories of credit.

- (ii) **Participation List** – Approved Pro Bono CLE Providers shall retain for a period of four (4) years a list of participants in each pro bono CLE program along with the number of hours of eligible pro bono legal service claimed and the number of pro bono CLE credit hours earned by each participant.
- (iii) **Year-End Reports** – Approved Pro Bono CLE Providers shall complete and submit to the CLE Board a year-end report at the end of each calendar year during which the organization has been an Approved Pro Bono CLE Provider. The report shall contain information for pro bono CLE programs sponsored during the calendar year, including: (1) the total number of pro bono CLE programs sponsored, (2) the total number of attorneys participating in the pro bono CLE programs, (3) the total number of attorneys to whom Letters of Participation were issued, (4) the total number of pro bono CLE credits issued, and (5) the total pro bono CLE hours reported on attorney affirmations.
- (g) **Carry-Over Credit for Newly Admitted Attorneys** – Newly admitted attorneys may earn pro bono CLE credit as set forth in this section 3(D)(11), solely for the purpose of carrying over

pro bono CLE credit to the following biennial reporting cycle in partial fulfillment of the requirements for experienced attorneys. A maximum of six (6) CLE credit hours, including pro bono CLE credit, may be carried over to the following biennial reporting cycle. Newly admitted attorneys may not apply pro bono CLE credit to their minimum requirements as set forth in §1500.12(a) of the Program Rules and section 2(A) of these Regulations and Guidelines. Newly admitted attorneys shall maintain records of their participation in pro bono CLE activities as set forth in section 3(D)(11)(e), above, and shall retain those records for a period of six (6) years.

(h) **Effective Date** – Pro bono CLE credit pursuant to this section D(11) may be earned only for eligible pro bono legal services performed after January 1, 2000. [*Calculation of Credit, 3(D)(11)(d), revised effective February 15, 2012*]

(12) **Attorney Emeritus Program** – Attorneys who are enrolled in the New York State Unified Court System Attorney Emeritus Program may earn a maximum of fifteen (15) pro bono CLE credit hours during any one reporting cycle. These pro bono CLE credit hours may be earned entirely for legal services provided under the Attorney Emeritus Program, or may include a maximum of ten (10) pro bono CLE credit hours earned under section 3(D)(11) of these Regulations and Guidelines.

(a) **Calculation of Credit** – One (1) pro bono CLE credit hour shall be earned for every two (2) 60-minute hours (120 minutes) of legal services provided under the Attorney Emeritus Program. Credit

shall be calculated in increments of one-half (.5) CLE credit hour. Ethics and professionalism credit is not available for participation in pro bono CLE activities.

- (b) **Attorney Obligations** – The attorney shall obtain documentation from the Attorney Emeritus Program host organization indicating the dates the attorney provided legal services for that organization and the number of hours of legal services provided. The attorney shall maintain time records and calculate the pro bono CLE credit hours earned pursuant to section 3(D)(12)(a), above. The attorney shall retain the documentation from the host organization, along with the time records and CLE credit hour calculation, for a period of four (4) years.
- (c) **Effective Date** – Pro bono CLE credit may be earned pursuant to section 3(D)(12) only for legal services performed on or after February 15, 2012.

SECTION 4. GUIDELINES FOR WAIVERS, MODIFICATIONS, EXTENSIONS OF TIME AND EXEMPTIONS

(A) Waivers and Modifications

- (1) **Rule** – The CLE Board may grant a waiver or modification of Program requirements based on undue hardship or extenuating circumstances that prevent the attorney from complying with Program requirements.
- (2) **Application** – An attorney seeking a waiver or modification of Program requirements shall submit a New York State Continuing Legal Education Board “Application for Waiver or Modification of CLE Requirement” to the CLE Board as soon as possible. The request shall include:

- (a) a full description of the undue hardship or extenuating circumstances necessitating the request;
 - (b) a statement as to whether the applicant practices law in New York; and
 - (c) a list of the CLE courses completed for the relevant reporting cycle.
- (3) **Review** – The CLE Board shall review the request and any supporting documentation, and notify the attorney by first class mail or electronic mail of its decision to grant, deny or grant with modifications the relief requested.
- (4) **Effective Date** – The effective date for any waiver or modification granted under the Program Rules and these Regulations and Guidelines shall be the date the attorney filed the request for a waiver or modification. The attorney must notify the CLE Board immediately of any material change in the circumstances that led to the grant of a waiver or modification of the attorney’s CLE requirements.
- (5) **Reporting Requirement** – An attorney who has been granted a waiver or modification of Program requirements shall certify to that fact on the biennial attorney registration statement, and shall retain supporting documentation demonstrating the attorney’s eligibility for a waiver or modification of New York’s Program requirements.

(B) **Extensions of Time**

- (1) **Rule** – The CLE Board may grant requests for extensions of time in which to complete Program requirements based on undue hardship or extenuating circumstances for a period of 90 days or less, absent compelling circumstances.

- (2) **Application** – An attorney seeking an extension of time in which to complete Program requirements shall submit a New York State Continuing Legal Education Board “Application for an Extension of Time” to the CLE Board as soon as possible. The request shall include:
 - (a) a description of the undue hardship or extenuating circumstances necessitating the request;
 - (b) a list of accredited courses and the number of CLE credits completed for the relevant reporting cycle; and
 - (c) a plan of action outlining how the attorney intends to complete the requirement if an extension is granted.
- (3) **Review** – The CLE Board shall review the request and any supporting documentation, and notify the attorney by first class mail or electronic mail of its determination.
- (4) **Reporting Requirement** – The grant of an extension of time in which to complete Program requirements shall not affect the date by which the attorney shall complete the continuing legal education requirements for the following reporting cycle.

(C) **Exemptions**

- (1) **Rule** – Section 1500.5(b) of the Program Rules sets forth the categories of exemptions from New York’s CLE requirements. If the period during which an attorney qualifies for exemption is less than the entire biennial reporting cycle, the attorney may be eligible for a prorated CLE requirement as set forth in sections 2(A)(1), (2) and 3(A)(1), (2) of these Regulations and Guidelines.

- (2) **Not Practicing Law in New York Exemption** – The issue of whether an attorney is practicing law in New York is a question of law that must be determined by the individual attorney. All members of the New York Bar are presumed to be practicing law in New York unless otherwise shown; the burden of proof is on the individual attorney. In determining whether an attorney is practicing law in New York, the attorney should be guided by case law and the Restatement of Law, Third, the Law Governing Lawyers, Chapter 1, §3. Attorneys who determine that they are not practicing law in New York must retain supporting documentation for audit purposes and comply with the requirements of §§1500.12(f) and 1500.22(n) of New York’s CLE Program Rules. Neither the CLE Board nor its staff shall advise attorneys on the issue of whether their specific activities constitute the practice of law in New York.
- (3) **Reporting Requirement** – An attorney who is exempt from New York’s CLE requirements shall retain supporting documentation demonstrating the attorney’s eligibility for an exemption from New York’s Program requirements, and shall certify to the exemption on the biennial attorney registration statement.
- (4) **Exemption from Newly Admitted Attorney CLE Requirement** – An attorney who has been engaged in the practice of law in another state, the District of Columbia, any territory of the United States or any foreign jurisdiction, for five (5) of the seven (7) years immediately preceding admission to the New York Bar, shall not be deemed a newly admitted attorney for purposes of the CLE requirement, but shall be required to comply with the requirements of Subpart C of the Program Rules and section 3 of these Regulations and Guidelines, to the extent they are applicable.

SECTION 5. REPORTING PROCEDURES

Attorneys shall retain proof of compliance with Program requirements (e.g., certificates of attendance) and supporting documentation (e.g., for waivers, modifications, extensions of time or exemptions from New York's requirement) for a period of four (4) years. Attorneys shall certify on the biennial registration statement that they have completed the appropriate number of credit hours and are in full compliance with the Program Rules and these Regulations and Guidelines.

SECTION 6. NEW YORK'S APPROVED JURISDICTION POLICY

(A) **Rule** – A New York attorney who completes an eligible Approved Jurisdiction course or program may claim New York CLE credit for the course or program in accordance with the requirements of the Program Rules and these Regulations and Guidelines.

(B) **Definitions** *[revised effective December 6, 2013]*

- (1) **Eligible Approved Jurisdiction Course or Program** – An eligible Approved Jurisdiction course or program is an out-of-state course or program that is accredited by a New York Approved Jurisdiction and that meets New York's standards for accreditation.
- (2) **Out-of-State Course or Program** – A traditional live classroom-format program is an "out-of-state" course or program if it takes place outside of New York State. A nontraditional-format program is an "out-of-state" course or program if the headquarters of the provider organization is located outside of New York State.

- (3) **New York Approved Jurisdiction** – A New York Approved Jurisdiction is any jurisdiction so designated by the CLE Board. A list of New York Approved Jurisdictions is available on the CLE website or may be obtained by contacting the CLE Board.
- (C) **Procedures for Claiming Credit and Attorney Obligations** *[revised effective December 6, 2013]* – An attorney completing an eligible Approved Jurisdiction course or program may claim New York CLE credit in accordance with the requirements of the Program Rules and these Regulations and Guidelines. The attorney must retain, for a period of at least four (4) years, appropriate documentation indicating:
- (1) that the course or program was accredited by a New York Approved Jurisdiction;
 - (2) that the attorney attended or otherwise participated in the program, specifying the attorney’s name, the title, date and location of the course or program, and the number of CLE credit hours earned; and
 - (3) proof of compliance with New York’s standards for accreditation (for details see the CLE website).
- (D) **Limitations** – Credit may be claimed only in a manner consistent with the Program Rules and these Regulations and Guidelines.
- (1) **Newly Admitted Attorneys** – Newly admitted attorneys who complete eligible Approved Jurisdiction courses or programs may earn CLE credit only in accordance with the requirements of section 2 of these Regulations and Guidelines. (E.g., newly admitted attorneys may not earn New York CLE credit in the skills category for participation in programs offered in a nontraditional format, even if this activity has been approved for credit by an Approved Jurisdiction, as CLE credit is

not available to newly admitted attorneys for this activity under these Regulations and Guidelines except as provided in sections 2(C)(1) and 2(F).)

- (2) **Attorneys other than Newly Admitted Attorneys** – Attorneys other than newly admitted attorneys may earn credit for completion of eligible Approved Jurisdiction courses or programs only in accordance with the requirements of section 3 of these Regulations and Guidelines. (E.g., New York attorneys may not earn New York CLE credit for reading legal materials, even if this activity has been approved for credit by a New York Approved Jurisdiction, as CLE credit is not available for this activity under these Regulations and Guidelines except as provided in section 3(B).) Credit may be earned for any of the activities set forth in section 3(D)(1)-(4) and (7), for an eligible Approved Jurisdiction course or program, to the extent that credit is available under these Regulations and Guidelines.
- (E) **Procedure for Nonapproved Out-of-State Courses or Programs** – An attorney or sponsoring organization seeking New York CLE credit for an out-of-state course or program that is not an eligible Approved Jurisdiction course or program shall comply with the accreditation application procedures for individual courses or programs. (See section 8 of these Regulations and Guidelines.)

SECTION 7. CONFIDENTIALITY

The files, records and proceedings of the CLE Board, as they relate to an attorney's satisfying the requirements of the Program Rules and these Regulations and Guidelines, shall be confidential and shall not be disclosed except in furtherance of the duties of the CLE Board or upon the request of

the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings implementing the Program Rules and these Regulations and Guidelines.

SECTION 8. THE ACCREDITATION PROCESS

(A) Individual Courses or Programs

- (1) **Application for Individual Courses or Programs** *[revised effective December 6, 2013]* – Sponsoring organizations may seek accreditation of individual courses or programs offered in New York, or offered out of state and not accredited by a New York Approved Jurisdiction, by completing the New York State Continuing Legal Education Board “Application for Accreditation of an Individual Course Activity.” Similarly, individual attorneys may seek credit on their own behalf for participating in such courses or programs. A completed application form and supporting information shall accompany all requests for accreditation of CLE courses and programs. Continuing legal education courses that are granted accreditation by the CLE Board are deemed approved for credit as of the date of the course or program, in traditional live classroom settings only, unless otherwise indicated in the CLE Board approval letter.
- (2) **Supporting Information** – Applications shall be submitted with all required attachments. Required attachments include, but are not limited to:
 - (a) timed course or program outline;
 - (b) faculty biographies, including educational background and degrees; and for attorney faculty members, the jurisdiction(s) in which admitted to practice law;

- (c) complete set of written materials for the course or program;
 - (d) computation of New York credit hours;
 - (e) breakdown of categories of credit;
 - (f) financial aid policy as required under section 8(A)(4)(i) of these Regulations and Guidelines;
 - (g) attendance verification procedures; and
 - (h) sample or description of any nontraditional course format(s) as required under section 8(A)(5) of these Regulations and Guidelines.
- (3) **Application Deadline** – Applications for accreditation of CLE courses or programs shall be submitted by sponsoring organizations or individuals on their own behalf, in accordance with the following application deadlines:
- (a) **Sponsoring Organizations** – Applications submitted by sponsoring organizations shall be postmarked at least 60 days prior to the occurrence of the course or program. All applications should be submitted as far in advance of the date of the course or program as possible to ensure a timely response by the CLE Board.
 - (i) Applications postmarked less than 60 days prior to the occurrence of the course or program will not be accepted for review except in extenuating circumstances and with prior permission from the CLE Board. A cover letter detailing the extenuating circumstances shall be included with the late application.

- (ii) No application for accreditation will be accepted for review after a course or program has occurred except under extraordinary circumstances. A cover letter detailing the extraordinary circumstances shall be included with the late application.
- (b) **Individual Attorneys** – Applications submitted by individual attorneys seeking CLE credit on their own behalf, as participants in a CLE course or program, shall be submitted as follows:
 - (i) Applications shall be postmarked at least 60 days prior to the occurrence of the course or program. All applications should be submitted as far in advance of the date of the course or program as possible to ensure a timely response by the CLE Board.
 - (ii) Applications postmarked up to 30 days after the conclusion of the course or program will be accepted for review where the individual attorney is unable to obtain the supporting information required under section 8(A)(2) of these Regulations and Guidelines at least 60 days prior to the occurrence of the course or program.
 - (iii) Applications postmarked more than 30 days after the conclusion of the course or program will not be accepted for review, except for good cause shown.
- (4) **Standards for Accreditation** – Accredited continuing legal education courses or programs shall comply with the following guidelines:

- (a) One (1) hour of continuing legal education credit shall consist of at least 50 minutes of instruction or other accredited activity, exclusive of introductory remarks, meals, breaks or other noneducational activities. Credit hours shall be calculated in no less than 25-minute (.5-hour) increments.
 - (i) Each 0-24 minute session of instruction or other accredited activity shall equal zero (0) CLE credit hours.
 - (ii) Each 25–49 minute session of instruction or other accredited activity shall equal one-half (.5) credit hour.
 - (iii) Each 50–74 minute session of instruction or other accredited activity shall equal one (1) credit hour.
 - (iv) Each 75-99 minute session of instruction or other accredited activity shall equal one and one-half (1.5) credit hours.
- (b) The program shall have significant intellectual or practical content and its primary objective shall be to increase the professional legal competency of attorneys in ethics and professionalism, skills, law practice management, areas of professional practice, and/or diversity, inclusion and elimination of bias.
- (c) The continuing legal education course or program shall be offered in New York, or offered out of state and not accredited by a New York Approved Jurisdiction, by a provider that has substantial, recent experience in offering continuing legal education, or that has demonstrated an ability to effectively organize and present continuing legal education to attorneys. *[revised effective December 6, 2013]*

- (d) The continuing legal education course or program shall be taught by instructors with expertise in the subject matter being taught and shall be specifically tailored to a legal audience.
 - (i) The faculty of the course or program shall include at least one attorney in good standing, who shall actively participate in the course or program.
 - (ii) The faculty of the course or program shall not include any disbarred attorney.
- (e) Thorough, high quality, readable and carefully prewritten materials shall be made available to all participants at or before the time the course or program is presented, unless the absence of materials, or the provision of such materials shortly after the course or program, is approved in advance by the CLE Board.
- (f) Written materials for approved courses and programs shall satisfy the following additional criteria:
 - (i) Materials shall be prepared or compiled specifically for the accredited course or program, and shall specifically address each topic presented in the course or program;
 - (ii) Materials shall be prepared or adopted and approved by the speaker and shall be distributed to the attendees at or before the time the course or program is to be held, unless the absence of materials, or the provision of such material shortly after the program, is approved in advance by the CLE Board;
 - (iii) Materials shall reflect that they are timely or that they have been updated with specific reference to the course or program;

- (iv) Materials shall cover those matters that one would expect for a comprehensive and professional treatment of the subject matter of the course or program; and
- (v) Brief outlines without citations or explanatory notations shall not constitute compliance with Program accreditation criteria.
- (g) The course or program shall be conducted in a physical setting that is comfortable and conducive to learning.
- (h) The cost of continuing legal education courses or programs to the participating attorney, apart from optional meals, lodging and travel, shall be reasonable.
- (i) Except in situations where courses are offered free of charge or where the CLE Board has determined that a financial aid policy is not appropriate, a financial aid policy shall be submitted with all applications.
 - (i) The CLE Board will review a provider's financial aid policy and procedures for New York attorneys who wish to participate in its courses or programs but who are unable to participate due to cost considerations.
 - (ii) Financial aid policies shall be described in detail in the application. The description shall include the specific procedures to be followed by applicants seeking financial aid as well as the specific criteria for the receipt of such aid. The types of financial aid available may include, but are not limited to, discounts, reduced fees, scholarship awards or waivers of course fees.

- (iii) Upon grant of accreditation, providers shall include a statement that they have a financial aid policy and shall identify the procedure for applying for consideration in all their continuing legal education announcements, advertisements and brochures for courses and programs offered to New York attorneys, whether those announcements, advertisements and brochures are printed or distributed electronically.
- (iv) Provider applications that do not include a financial aid policy for courses or programs offered for a fee are ineligible for CLE Board review.
- (j) The continuing legal education course or program, whether presented in traditional live classroom format or in nontraditional format, shall include a procedure to be used by the provider to verify that the attorney completed the entire course or completed an entire session of the course. A provider's attendance verification procedure may not rely solely on statements made by a participating attorney. Applications that do not include appropriate procedures to verify that an attorney completed the entire course or an entire session of the course shall not be approved.
- (k) Programs that cross academic lines, such as accounting-tax seminars, that are designed in part for a legal audience and otherwise meet the standards of quality and accreditation criteria set forth in the Program Rules and these Regulations and Guidelines may be considered for approval by the CLE Board.

(5) **Nontraditional Format Courses** – A nontraditional format is any format other than the traditional live classroom format. Nontraditional formats include, but are not limited to, the various forms of audio recordings and video recordings, live broadcasts, teleconferences, videoconferences, webconferences and online courses. In addition to the requirements set forth in the Program Rules and these Regulations and Guidelines, sponsoring organizations that wish to have a course approved in one or more nontraditional formats (or individual attorneys applying on their own behalf for credit for completion of a nontraditional format course) shall submit the following for each format:

- (a) a description of the method of participation (group setting and/or individual participation);
- (b) a description of the procedures used by the provider to verify that an attorney completed an entire course or an entire session of a course, noting that a provider's attendance verification procedures may not rely solely on statements made by participating attorneys, and must be appropriate for both the method of presentation and the format; and
- (c) a sample of each type of nontraditional format, for example, on a flash drive or with a password and instructions for online access. Where submission of a sample may not be possible (e.g., for a webconference or teleconference), the provider shall submit a description of the technology used (including whether the program is live or archived and the level of interactivity). Individual attorneys applying on their own behalf need only submit a description of the technology used, and not a sample.

- (6) **Announcement Pending Approval** – Providers of courses or programs for which accreditation has been sought but not yet approved may announce:

“Application for New York accreditation of this course or program is currently pending.”

- (7) **Announcement** – Providers of approved courses and programs may announce in information brochures or registration materials the following:

“This course or program has been approved in accordance with the requirements of the New York State Continuing Legal Education Board for a maximum of _____ credit hours, of which _____ credit hours can be applied toward the _____ requirement, and _____ credit hours can be applied toward the _____ requirement.”

(B) **Accredited Provider Status**

- (1) **Accreditation** – Continuing legal education courses or programs sponsored by Accredited Providers that meet the standards for accreditation of individual courses as set forth in section 8(A)(4) of these Regulations and Guidelines are deemed approved for credit for a period of three (3) years from the date of the grant of such status, for traditional live classroom settings only, unless otherwise indicated in the CLE Board approval letter.
- (2) **Eligibility** *[revised effective January 1, 2016]* – Accredited Provider status is limited to legal organizations that have sponsored, organized and administered eight (8) or more separate and distinct continuing legal education courses or programs within the prior three (3) years,

with at least five (5) programs presented during the 18 months prior to the date of the application, and at least three (3) programs presented between 18 and 36 months prior to the date of the application. These programs must be offered in New York, or offered out of state and not accredited by a New York Approved Jurisdiction, and must meet the standards set forth in section 8(A)(4)(a)-(j) of these Regulations and Guidelines. A “legal organization” is defined as a provider whose courses are (1) taught primarily by attorneys and (2) designed primarily for attorney audiences. Committees, departments or divisions of New York Accredited Providers are not eligible for Accredited Provider status unless otherwise approved by the New York State CLE Board.

- (3) **Application** – An organization seeking Accredited Provider status shall complete the New York State Continuing Legal Education Board “Application for Accredited Provider Status.” A completed application form and supporting information must accompany all requests for Accredited Provider status. A maximum of one application for Accredited Provider status will be approved per continuing legal education provider.
 - (a) **Application Deadline** – An application for Accredited Provider status may be submitted as soon as the eligibility requirements for Accredited Provider status have been satisfied.
 - (b) **Course or Program Sampling** – All applications for Accredited Provider status shall include a list of CLE courses sponsored, organized and administered by the applicant within the prior three (3) years. The list shall include the title, date, location and faculty names for each course or program, and shall indicate which faculty members, if any, are attorneys. The application shall also be accompanied by supporting information for three

(3) of those courses or programs, two (2) presented during the 18 months prior to the date of the application, and one (1) presented 18 to 36 months prior to the date of the application.

- (c) **Supporting Information** – Applications for Accredited Provider status shall be accompanied by all required attachments for each course or program submitted for the CLE Board’s review. Failure to do so will delay consideration of the application. Required attachments for each submitted course or program include, but are not limited to:
- (i) timed course or program outline;
 - (ii) faculty biographies, including educational background and degrees; and for attorney faculty members, the jurisdiction(s) in which admitted to practice law;
 - (iii) complete set of written materials distributed to attendees;
 - (iv) computation of New York credit hours;
 - (v) breakdown of categories of credit;
 - (vi) financial aid policy as required under section 8(A)(4)(i) of these Regulations and Guidelines;
 - (vii) attendance verification procedures; and
 - (viii) sample or description of any nontraditional course format(s) as required under section 8(B)(5) of these Regulations and Guidelines.

- (4) **Standards for Approval** – Accredited Provider status may be granted, at the discretion of the CLE Board, to applicants satisfying the following criteria:
- (a) The provider has met the eligibility requirements set forth in section 8(B)(2) of these Regulations and Guidelines.
 - (b) The provider has established CLE Board-approved financial aid policies and procedures in accordance with section 8(A)(4)(i) of these Regulations and Guidelines. Upon grant of Accredited Provider status, providers shall include a statement that they have a financial aid policy and shall identify the procedure for applying for consideration in all of their continuing legal education announcements, advertisements and brochures in accordance with section 8(A)(4)(i) of these Regulations and Guidelines.
 - (c) The provider has established CLE Board-approved procedures for verifying that an attorney completed a course, or completed a session of a course, for each format and method of participation (group setting and/or individual participation) for which approval is sought, in accordance with sections 8(A)(4)(j) and 8(B)(5) of these Regulations and Guidelines.
- (5) **Nontraditional Formats** – A nontraditional format is any format other than the traditional live classroom format. Nontraditional formats include, but are not limited to, the various forms of audio recordings and video recordings, live broadcasts, teleconferences, videoconferences, webconferences and online courses. In addition to the requirements set forth in the Program Rules and these Regulations and Guidelines, providers that wish to have one or more nontraditional formats approved shall submit the following for each format:

- (a) a description of the method of participation (group setting and/or individual participation);
 - (b) a description of the procedures used by the provider to verify that an attorney completed an entire course or an entire session of a course, noting that a provider's attendance verification procedures may not rely solely on statements made by participating attorneys, and must be appropriate for both the method of presentation and the format; and
 - (c) a sample of each type of nontraditional format, for example, on a flash drive or with a password and instructions for online access. Where submission of a sample may not be possible (e.g., for a webconference or teleconference), the provider shall submit a description of the technology used (including whether the program is live or archived and the level of interactivity).
- (6) **Announcement Pending Approval** – Providers of courses or programs for which Accredited Provider status has been sought but not yet approved may announce:
- “Application for New York Accredited Provider status is currently pending.”
- (7) **Announcement** – Where a provider has applied for and has been approved as an Accredited Provider, the provider may announce in information brochures or registration materials the following:
- “[Provider] has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education.”

(8) Renewal of Accredited Provider Status

- (a) An Accredited Provider may request renewal of its Accredited Provider status for an additional three-year period. The request shall be made in writing to the CLE Board at least 45 days before the end of the accreditation period.
- (b) The CLE Board shall determine if there are pending or past breaches of the Program Rules or of these Regulations and Guidelines, and the Board, at its discretion, may condition renewal of the Accredited Provider status upon the provider meeting additional requirements specified by the CLE Board. The provider shall be furnished with written notice by first class mail or electronic mail of the CLE Board's determination to approve, conditionally approve, or deny the request for renewal of Accredited Provider status.
- (c) If a request for renewal is timely, the Accredited Provider status shall continue until the CLE Board acts on the application.
- (d) If an application for renewal is not received by the CLE Board at least 45 days before the end of the accreditation period, the provider's Accredited Provider status will terminate at the end of the period. Any application received thereafter shall be considered by the CLE Board as an initial request for Accredited Provider status.
- (e) Eligibility for renewal of Accredited Provider status is limited to legal organizations that have sponsored, organized and administered, during their three-year accreditation period, eight (8) or more separate and distinct continuing legal education courses or programs offered in New York, or offered outside

of New York and not approved by an Approved Jurisdiction, that meet the standards set forth in section 8(A)(4)(a)-(j) of these Regulations and Guidelines.

(C) Hybrid Accreditation of Individual Courses or Programs

- (1) **Application** *[revised effective December 6, 2013]* – Sponsoring organizations that do not meet the criteria for Accredited Provider status may seek hybrid accreditation for repeat presentations of individual courses or programs offered in New York, or offered out of state and not accredited by a New York Approved Jurisdiction, by completing the New York State Continuing Legal Education Board “Application for Accreditation of an Individual Course Activity.” Applicant shall indicate that it is seeking hybrid accreditation of its course or program. A completed application form and supporting information shall accompany all requests for accreditation of CLE courses and programs.

- (2) **Accreditation Period** – Continuing legal education courses that are granted hybrid accreditation by the CLE Board may be approved for credit for a period of up to three (3) years from the date of the grant of such status, in traditional live classroom settings only, unless otherwise indicated in the CLE Board approval letter.

Examples:

- (a) Multiple presentations of continuing legal education courses given over the course of a year (e.g., single course or program presented five [5] times a year) meeting the Board’s accreditation criteria may be approved for credit for one (1) year without separate application to the Board for each presentation within the year.

- (b) Repeat presentations of a continuing legal education course given over the course of several years (e.g., single course or program presented twice a year over the last four [4] years) meeting the Board's accreditation criteria may be approved for a period of up to three (3) years.
- (3) **Modifications or Updates** – Modifications or updates that substantially change the course during the accreditation period, including, but not limited to, substantial changes to the course material or to the faculty presenting the program, must be submitted to the CLE Board for approval, prior to the date of the program.
- (4) **Supporting Information** – Applications for hybrid accreditation of individual courses or programs shall be accompanied by all required attachments. Required attachments for each submitted course or program include, but are not limited to:
 - (a) timed course or program outline;
 - (b) faculty biographies, including educational background and degrees; and for attorney faculty members, the jurisdiction(s) in which admitted to practice law;
 - (c) complete set of written materials for the course or program;
 - (d) computation of New York credit hours;
 - (e) breakdown of categories of credit;
 - (f) financial aid policy as required under section 8(A)(4)(i) of these Regulations and Guidelines;
 - (g) attendance verification procedures; and

- (h) sample or description of any nontraditional course format(s) as required under section 8(A)(5) of these Regulations and Guidelines.
- (5) **Application Deadline** – Applications for hybrid accreditation of individual courses or programs shall be postmarked at least 60 days prior to the occurrence of the course or program. All applications should be submitted as far in advance of the date of the course or program as possible to ensure a timely response by the CLE Board.
 - (6) **Standards for Accreditation** – Hybrid accreditation of individual courses or programs may be granted at the discretion of the CLE Board to applicants satisfying the requirements of the Program Rules and section 8(A)(4) of these Regulations and Guidelines.
 - (7) **Nontraditional Format Courses** – A nontraditional format is any format other than the traditional live classroom format. Nontraditional formats include, but are not limited to, the various forms of audio recordings and video recordings, live broadcasts, teleconferences, videoconferences, webconferences and online courses. In addition to the requirements set forth in the Program Rules and these Regulations and Guidelines, sponsoring organizations that wish to have a course approved in one or more nontraditional formats shall submit the following for each format:
 - (a) a description of the method of participation (group setting and/or individual participation);
 - (b) a description of the procedures used by the provider to verify that an attorney completed an entire course or an entire session of a course, noting that a provider’s attendance verification procedures

may not rely solely on statements made by participating attorneys, and must be appropriate for both the method of presentation and the format; and

- (c) a sample of each type of nontraditional format, for example, on a flash drive or with a password and instructions for online access. Where submission of a sample may not be possible (e.g., for a webconference or teleconference), the provider shall submit a description of the technology used (including whether the program is live or archived and the level of interactivity).

- (8) **Announcement Pending Approval** – Providers of courses or programs for which hybrid accreditation has been sought but not yet approved may announce:

“Application for New York accreditation of this course or program is currently pending.”

- (9) **Announcement** – Providers of courses or programs that have been approved for hybrid accreditation may announce in information brochures or registration materials the following:

“This course or program has been approved in accordance with the requirements of the New York State Continuing Legal Education Board for a maximum of _____ credit hours, of which _____ credit hours can be applied toward the _____ requirement and _____ credit hours can be applied toward the _____ requirement.”

(10) Extension of Hybrid Accreditation

- (a) A provider may request extension of its hybrid accreditation for an additional period of up to three (3) years. The request shall be made, at least 45 days before the end of the accreditation period, by completing the New York State Continuing Legal Education Board "Application for Extension of Hybrid Accreditation."
- (b) The CLE Board shall determine if there are pending or past breaches of the Program Rules or of these Regulations and Guidelines, and the Board, at its discretion, may condition extension of the hybrid accreditation period upon the provider meeting additional requirements specified by the CLE Board. The provider shall be furnished with written notice by first class mail or electronic mail of the CLE Board's determination to approve, conditionally approve, or deny the request for extension of its hybrid accreditation.
- (c) If a request for extension is timely, the hybrid accreditation shall continue until the CLE Board acts on the request.
- (d) If a request for extension of the hybrid accreditation is not received by the CLE Board at least 45 days before the end of the accreditation period, the provider's hybrid accreditation will terminate at the end of the period. Any request received thereafter shall be considered by the CLE Board as an initial application for hybrid accreditation.

SECTION 9. REVOCATION

Accredited Provider status or hybrid accreditation of courses may be revoked by the CLE Board if the requirements of the Program Rules and these Regulations and Guidelines are not met or, if upon review of the provider's performance, the CLE Board determines that the content of the course, the program materials, the quality of the CLE activities or the provider's performance does not meet the standards set forth in the Program Rules and these Regulations and Guidelines. In such event, the Board shall send the provider a 30-day notice of revocation by first class mail containing a written statement of the reasons for the revocation and affording an opportunity for the provider to request a review of the revocation by making an explanation and submitting facts in opposition. The CLE Board shall provide such additional hearing as thereafter may be required. Unless there are special circumstances, the CLE Board shall determine the request within 180 days of receipt of such request. The decision of the CLE Board shall be final after such review.

SECTION 10. OBLIGATIONS OF ACCREDITATION

- (A) **Attendance List** – Providers of continuing legal education courses or programs shall retain an official attendance list of participants in the program, including the name, time, date and location (city and state) of the course, for at least four (4) years.
- (B) **Certificates of Attendance** – Providers of continuing legal education courses or programs shall, within 60 days after the occurrence of the course or program, or within 30 days after the CLE Board's written notice of accreditation of the course or program, whichever is later, issue CLE credit, using the "New York CLE Certificate of Attendance," to all persons completing the course or program. The certificate of attendance shall be completed by the provider and shall be signed by the provider or an

agent thereof. Providers may not issue blank certificates of attendance. A sample certificate of attendance shall be retained by the provider for at least four (4) years.

- (1) Credit shall be awarded only for attendance at an entire course or program, or for attendance at an entire session of a course or program. No credit shall be awarded for attending a portion of a course or a portion of a session.
 - (2) Attorneys who attend multiple breakout sessions must be issued a certificate of attendance completed by the provider indicating the specific sessions attended by the attorney.
 - (3) Certificates of attendance shall not be sent to the CLE Board unless specifically requested by the CLE Board.
- (C) **Evaluation Surveys** – At the conclusion of the course or program, each participant shall be given a written evaluation questionnaire to complete addressing the content, instruction and written materials of the particular course or program, and, where applicable, the physical setting and/or technology. Providers shall retain the completed questionnaires for at least four (4) years.
- (D) **Individual Courses or Programs** – Providers of individual courses or programs shall complete and submit to the CLE Board a “New York State Continuing Legal Education Board Course Summary” form for each course or program accredited by the CLE Board for which New York CLE credit was awarded to at least one attorney during the calendar year.
- (E) **Accredited Providers** *[revised effective April 5, 2017]*
- (1) **Announcement** – New York Accredited Providers shall include in all brochures, announcements and advertisements for a course or program the specific subject matter of the course or program.

- (2) **Year-End Report** – New York Accredited Providers shall complete a “New York State Continuing Legal Education Board Accredited Provider Year-End Report” for each calendar year during any part of which Accredited Provider status has been granted. The report shall describe the accredited continuing legal education activities for which New York CLE credit was awarded during the calendar year. The report shall be submitted to the CLE Board between January 1 and January 31 of the following year.
- (F) **Retention of Documents** – In addition to the requirements of sections 10(A), 10(B) and 10(C) of these Regulations and Guidelines, Accredited Providers shall retain for a period of at least four (4) years, for each program conducted in New York, or conducted out of state and not accredited by a New York Approved Jurisdiction, or presented in a nontraditional format for which New York CLE credit was issued, (i) a copy of the timed agenda, (ii) a course brochure or a copy of the course announcement or advertisement and (iii) a copy of the course materials.
- (G) **Publication of Financial Aid Policy** – Providers approved by the New York State CLE Board shall publish in all announcements, advertisements and brochures the existence of a financial aid policy for courses or programs offered to New York attorneys as required by section 8(A)(4)(i) of these Regulations and Guidelines.
- (H) **Publication of Transitional and/or Nontransitional Courses or Programs** – Providers shall indicate in their announcements, brochures and advertisements whether a course or program is (i) transitional and appropriate for newly admitted attorneys only, (ii) nontransitional and not acceptable for newly admitted attorneys, or (iii) appropriate for both newly admitted and experienced attorneys.

- (I) **Notification of Changes in Provider Information** – Providers of accredited continuing legal education programs shall notify the New York State Continuing Legal Education Board of any change in address and/or contact person within 30 days of the effective date of the change.

SECTION 11. CLE BOARD REVIEW OF APPLICATIONS, NOTIFICATION OF DECISION AND APPEALS

- (A) **Review** – Upon receipt of the written and completed application, the CLE Board with the assistance of the staff shall:

- (1) examine and evaluate the application pursuant to the accreditation standards established by §1500.4 of the Program Rules and these Regulations and Guidelines;
- (2) approve, conditionally approve, or deny all or any portion of the application; and
- (3) determine the number of credit hours and the breakdown of categories of credit for individual courses or programs.

- (B) **Decision**

- (1) **Written Notice** – The individual or organization requesting accreditation shall be provided with written notice of the CLE Board’s determination to approve, conditionally approve, or deny the application for accreditation by first class mail or electronic mail at an address reflected on the application for accreditation.
- (2) **Contents of Notice** – The written notice shall include, but is not limited to, the following:

- (a) If the application for accreditation of an individual course or program is approved, the notice shall state the number of approved credit hours allocated to the course or program and the breakdown of categories of credit (i.e., ethics and professionalism, skills, law practice management, areas of professional practice, and/or diversity, inclusion and elimination of bias).
- (b) If the application is denied, the notice shall state the reasons for the determination and advise the applicant of the right to seek a review of the determination. Applicants whose applications have been denied must immediately notify all attorney registrants by first class mail or electronic mail that the course or program has been denied CLE accreditation. If an appeal of the denial is pending, the provider may notify the registrants of this fact.

(C) **Appeal**

- (1) **Review** – Any person or organization whose application for Accredited Provider status or for accreditation of a continuing legal education course or program, or publication, has been denied may seek review of the CLE Board’s decision by filing a written request with the CLE Board’s Application Review Committee stating the reasons for the request.
- (2) **Time for Filing** – Any request for review of the CLE Board’s decision shall be sent by first class mail to the Application Review Committee within 14 days following the date of the notice of denial.
- (3) **Additional Information** – The applicant may present additional written information to the Application Review Committee.

- (4) **Decision of Application Review Committee** – Following its review, the Application Review Committee may take such action as it deems appropriate. The Committee will notify the applicant by first class mail of its finding and the action. Unless the applicant files a petition for review, the CLE Board’s decision shall be final.

SECTION 12. CLE BOARD AUDIT

Providers shall permit the CLE Board and its staff to attend, free of charge, any continuing legal education course or program. Such attendance shall not qualify for continuing legal education credit.

SECTION 13. NONACCREDITED ACTIVITIES

The following categories of courses or programs shall not qualify for continuing legal education credit:

- (A) Courses or programs designed primarily for nonattorneys that do not advance the legal knowledge, legal education and legal skills of attorneys;
- (B) Bar review courses or programs taken in preparation for bar examinations;
- (C) Law courses not taught at the law school level (e.g., law courses at colleges, universities, graduate schools, paralegal schools);
- (D) Courses or programs taken in preparation for licensure exams for nonlawyer professionals; and
- (E) Business meetings or committee meetings of legal and law-related associations.

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