

## New York State CLE Board Regulations and Guidelines

### Section 3(D)(11)

(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, and cybersecurity, privacy and data protection-ethics credit is not available for participation in pro bono CLE activities. *[revised effective January 1, 2023]*
- (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*]