

# Regulations

---

These regulations express the standard procedures of the Tennessee Commission on Continuing Legal Education. For compelling reasons, the Commission may suspend or alter any part of these regulations in particular matters. These Regulations were last reviewed, modified, and adopted by the Commission on March 18, 2008.

## Definitions

**Commission:** The Tennessee Commission on Continuing Legal Education

**Rule:** The Rule for Mandatory Continuing Legal Education, Rule 21 of the Supreme Court of Tennessee

**General Credit:** Credit applicable only to the general CLE requirement

**EP Credit:** Credit applicable only to the Ethics & Professionalism requirement

**Dual Credit:** Credit applicable to either the general or EP requirements

## Section 2 Regulations

### 2A. Exemption Due To Physical Disability

1. Exemptions from the requirements of the Rule due to physical, mental or emotional disability may be made by the Commission upon receipt of an application from the affected attorney. An attorney receiving such an exemption shall be required to reaffirm when filing his or her Annual Report Statement that the circumstances warranting such exemption continue. In any case, such exemption shall not extend past the resumption of the regular, active practice of law.

### 2B. Inactive Status with Board of Professional Responsibility

1. Attorneys on inactive or suspended status with the Board of Professional Responsibility shall not be exempt from the Rule.
2. Attorneys who are not actively practicing law in any United States jurisdiction will, upon request, be granted exceptional relief by designation as “inactive” for years while they are not practicing.
3. An attorney returning to active status from either inactive or suspended status must earn and report CLE credits sufficient to meet the requirements of the years while inactive or suspended, to a maximum of five (5) years prior to having his or her license reinstated.
4. The provisions of this section are applicable only to MCLE requirements and attorneys are advised to check independently with the Board of Professional Responsibility on applicable provisions of the rules administered by that organization.

## **2C. Non Residents**

1. Attorneys who reside outside of Tennessee and do not practice law in Tennessee may receive exceptional relief from the Rule upon application to the Commission.
2. Attorneys who move out of Tennessee during a calendar year and cease practicing law in Tennessee may receive exceptional relief from the Rule for that calendar year upon application to the Commission.
3. Attorneys who move into Tennessee on or before August 31 shall be subject to the Rule for that calendar year. Attorneys who move in after August 31 shall be subject to the Rule beginning the following calendar year.

## **Section 3 Regulations**

### **3A. Computation of Credit**

1. One hour of credit will be awarded for each sixty (60) minutes of instruction, not including introductory remarks, keynote speeches, luncheon speeches, or breaks (but including question and answer periods). Portions of an hour will be rounded down to the nearest hundredth of an hour.
2. Each teacher involved in a joint or panel portion of an approved activity shall receive credit as though he or she were the only teacher.
3. Approved on-site commentators at satellite or video seminars will receive credit at the rate of two hours for each hour of the program if they have either viewed the program in advance or otherwise engaged in preparation appropriate to the role of commentator.

## **Section 4 Regulations**

### **4A. Credit Earned While Exempt**

1. Hours of credit earned during a year in which the attorney earning them is exempt from the requirements of the Rule may be carried forward to succeeding non-exempt years only to the extent they would have carried forward had the attorney not been exempt.

### **4B. Credit for Published Writing**

1. An attorney seeking credit under Rule 21, §4.07(b) shall submit an Affidavit of Authorship in the form available from the Commission. Credit will be awarded in the amount of 1 hour for every 1,000 words, not including footnotes, endnotes or citations of authority. The attorney shall submit a word count and a statement of the percentage, if any, of the article devoted to ethics/professionalism issues to receive appropriate credit toward the ethics/professionalism requirement.
2. Attorneys seeking credit as joint authors shall complete an Affidavit of Joint Authorship, available from the Commission. The authors must indicate the

division of labor for the article and how the total credits allowed should be divided.

## **Section 5 Regulations**

### **5A. In-House Activities**

1. An "in-house activity" shall be defined as an activity conducted primarily for the benefit of attorneys of a single firm, corporation, or governmental department except as follows:
  - a. Any joint training activity conducted for the attorneys of a governmental department shall not be considered "in-house" if it
    1. is available to all attorneys in that department on a state-wide basis, and
    2. at least 50% of the hours of approved instruction are taught by persons with no continuing relationship or employment with the department.
2. In-house activities will not be approved for continuing legal education credits in Tennessee.
3. Notwithstanding technical compliance with this regulation, the Commission may deny accreditation to activities lacking substantive merit as a continuing legal education activity.

### **5B. Remote Locations and Distance Learning**

1. **Remote Locations:** Seminars consisting of viewing or hearing the presentations at remote sites via electronic transmission as part of an organized CLE event for multiple participants at that site will receive credit if participants have a reasonable opportunity to submit questions to the speaker at the broadcast's origination site. Programs presented via video tape replay must have a live commentator as required by Rule 21. Further, the Commission encourages the use of live commentators at satellite programs to enhance the educational value of such programs. Remote locations of live seminars are not considered a "distance learning format" pursuant to Rule 21 Section 4.08 and are not subject to the per year maximum on such credits established by that section.
2. **Distance Learning:** Pursuant to Rule 21, Section 4.08 and 5.01 (f), the Commission approves the following distance learning formats:
  - a. on-line programs with interactive components, accredited for actual time spent for programs involving video or audio components, but to a maximum of one (1) hour of credit for text-only programs,
  - b. "real-time" or "streamed" seminars whether through "conference call" or via the internet ("webcast") if the submission of questions or other interactive components are included, and

- c. interactive stand-alone programs without a web component if they include participation monitoring, or a testing component, and completion certification from the sponsor, ac-credited for normal completion time, but to a maximum of one (1) hour of credit for text-only programs.

#### **5C. Seminars Held Outside the United States**

1. All seminars held outside the United States, even those sponsored by presumptively approved providers, must be individually approved by the Commission.

#### **5D. Attorney Request for Accreditation**

1. Any attorney may request approval in advance of an activity to be held outside Tennessee by completing and submitting a Uniform Application for Accreditation form available from the Commission. No activity conducted in Tennessee will be approved in advance except on application by the provider.

#### **5E. Submission of Written Materials**

1. A provider requesting single program approval need not submit materials provided to participants unless requested to do so by the Commission or its staff.

#### **5F. Applications for Reconsideration**

1. Upon request from an attorney or provider, the Commission will review decisions made by staff. Requests for such review must be in writing, state the basis for the applicant's position that staff has erred, and include all relevant materials for the Commission's consideration. In-person presentations or discussion are at the discretion of the Commission.
2. The Commission will reconsider denial of credit to an activity only upon an application showing that the Commission misapprehended a material fact concerning such application, or that the program, subject matter or audience for the activity has substantially changed. The Commission will not consider an application which fails the foregoing requirements.
3. Suggestions for changes in MCLE requirements or the Commission's policies, procedures, or regulations will be considered at the discretion of the Commission.

#### **5G. [Deleted by Commission action August 8, 2009.]**

#### **5H. Ethics and Professionalism Credit**

1. Dual credit will be granted to programs or topics within programs to the extent that the subject matter is the Rules of Professional Conduct or ethical considerations applicable to attorneys.
2. Dual credit will also be granted to programs or topics:

- a. designed to sustain or increase the capacity of attorneys to strive for and to achieve the highest, aspirational levels of professionalism, including programs aimed at increasing attorney well-being, optimism, resilience, relationship skills, and energy and engagement in their practices,
  - b. designed to help lawyers re-connect with, strengthen, and apply their values, strengths of character, and sense of purpose toward achieving outstanding professionalism,
  - c. designed to protect lawyers or help them recover from the deleterious effects on professionalism of stress, substance abuse, and poor staff, financial, or time management, or
  - d. designed to support the development of organizational cultures within firms, law departments, and legal agencies that recognize, support, and encourage outstanding professionalism.
3. All programs accredited under this section must be clearly and primarily designed and intended for attorneys, not a general audience.
  4. Programs and topics focused on advertising legal services will be denied all credit, except to the extent they deal with the ethical restrictions concerning advertising.
  5. In addition to the other requirements set forth in this Regulation 5H, in order to qualify for credit, the topics must be presented in a session separate and apart from the general credit topics, with specific time allocated to only such topics.

#### **5I. Law Firm Sponsored Courses**

1. Courses otherwise appropriate for credit which are sponsored by law firms will be accredited if they are open in some significant manner to a broad spectrum of the bar either in a geographical area or in the field of practice. However, programs strictly limited to in-house counsel for clients will not be accredited.

#### **5J. Credit for Individual Coaching**

The Commission, after consideration as a body and not through staff, will give dual credit for “Courses” consisting of individual coaching sessions on topics described in 5H.2 above if:

1. The coaching sessions must be submitted in advance as a complete offering involving a set number and length of sessions, defined topics, content to be covered, readings or other material to be assigned, the qualifications and experience of the coach, a general description of actions expected of participating attorneys, and price.
2. Courses will be accredited under this section only for the time included in the approved coaching sessions. Time invested by the attorney outside such sessions to complete readings or assignments will not receive credit.
3. The Coach agrees to report and pay for attendance for the attorney upon completion of the sessions including adequate performance by the attorney on assignments made by the Coach as part of the program.

4. Accreditation of a “Course” under this section will be for one calendar year only (or the portion of a year remaining at the time of approval). Courses must be re-submitted annually.

## **Section 8 Regulations**

### **8A. Attendance Report and Evaluation Summaries for Activities Held in Tennessee**

1. Pursuant to Rule 21 § 8.04, the per-hour charge for attendance reporting is \$2.00.
2. The alphabetical list of attendees required by Rule 8.02 shall include the following information:
  - a. a number list of attendees and speakers alphabetized by last name,
  - b. Board of Professional Responsibility numbers for attendees and speakers,
  - c. an indication of which persons on the list were speakers,
  - d. hours of credit earned by each participant (including additional hours awarded for teaching), and
  - e. total number of hours of credit.
3. In lieu of the printed list under subparagraph 1, a provider may report attendees through the online attendance reporting system available at [www.cletn.com](http://www.cletn.com) at a discount of \$1/hr of attendance reported.
4. For any course submitted for accreditation through [www.Form1.org](http://www.Form1.org), the Commission will accredit the provider's account \$1 for use against attendance reporting fees only.

### **8B. Reporting Fee Waiver**

1. The per/hour fee assessed to sponsors on in-state programs is hereby waived if:
  - a. The program is priced to attorneys at \$10/hr or less;
  - b. The gross proceeds from the program are contributed to:
    1. Tennessee Lawyers Assistance Program, or
    2. an organization whose primary purpose is to provide legal services to those who cannot afford them, such as:
      1. Memphis Area Legal Services
      2. West Tennessee Legal Services
      3. Southeast Tennessee Legal Services
      4. Legal Aid Society of Middle Tennessee
      5. Legal Aid of East Tennessee; and
  - c. Attendance is reported electronically through the attendance reporting system available at [www.cletn.com](http://www.cletn.com).

## **Section 10 Regulations**

### **10A. Disciplinary History Review**

In reviewing the history of disciplinary complaints against an applicant for certification, the Commission will consider the following factors:

1. The nature and seriousness, or lack thereof, of the acts or omissions alleged. In this regard, matters dismissed as frivolous by the Board of Professional Responsibility (the “Board”) will normally not be considered by the Commission at all, and matters administratively dismissed will be considered only if they are part of a pattern of alleged action or inaction by the applicant raising questions concerning the competency of the attorney, or the adequacy of the applicant’s communications with clients or law practice management systems. The underlying facts of all other complaints including those receiving “administrative” or “investigative” dismissals, or dismissed by the Board, may be reviewed by the Commission in accordance with these regulations.
2. The nature of any discipline imposed.
3. The relation of the complaints to the specialty area.
4. The age and experience of the attorney at the time of the complaint.
5. The subsequent passage of time and the lawyer’s experience and reputation since the incident.
6. Any evidence of reform or rehabilitation.
7. The candor and integrity of the attorney in reporting the complaint to the Commission.
8. The client references received on the attorney. The Commission may request additional client references for this purpose.
9. Whether the conduct complained of is part of a pattern of behavior which raises questions concerning the ethics, client communication practices, or practice management systems of the attorney in the specialty area .
10. Any other factors deemed relevant by the Commission.