

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order

2021-RL-026

FILED

April 2, 2021

DOUGLAS T. SHIMA  
CLERK OF APPELLATE COURTS

**Rules Relating to Discipline of Attorneys and Continuing Legal Education**

The attached Supreme Court Rule 206 and Rules 800 through 811 are amended, effective April 2, 2021.

Dated this 2nd day of April 2021.

FOR THE COURT



MARLA LUCKERT  
Chief Justice

## Rules Relating to Discipline of Attorneys

### Rule 206

#### ATTORNEY REGISTRATION

(a) **Definitions.**

- (1) **“Licensing Period~~period~~”** means the period of one year beginning July 1 and ending June 30.
- (2) **“Registration fee”** means the fee established by Supreme Court order for a status listed in subsection (b)(1).
- (3) **“Attorney registration portal”** means the online registration portal where an attorney must complete annual registration and update registration information.

(b) **Annual Registration.** In the year an attorney is admitted to the practice of law by the Supreme Court, the attorney must register with the Office of Judicial Administration on a form provided by the Office of Judicial Administration no later than 30 days after taking the oath of admission under Rule 720. Each year thereafter, an attorney admitted to the Kansas bar, including a justice or a judge, must register with the Office of Judicial Administration as provided in this rule.

- (1) **Status.** An attorney may register as active, inactive, retired, or disabled due to mental or physical disability.
- (2) **Practice of Law.** Except as otherwise provided in subsection (b)(3), Rule 1.10, Rule 116, Rule 710, and Kansas Rule of Professional Conduct 5.5, only an attorney registered as active may practice law in Kansas.
- (3) **Pro Bono Exception.** An attorney registered as retired or inactive may practice law as provided in Rule 712B.
- (4) **Fee.** An attorney must pay an annual registration fee, which includes the annual continuing legal education fee, in an amount established by Supreme Court order. The attorney must pay the registration fee based on the attorney’s status shown in the records of the Office of Judicial Administration as of July 1. No registration fee will be charged to the following:

- (A) an attorney newly admitted to the practice of law in Kansas until the first regular registration date following admission;
- (B) an attorney who has retired from the practice of law, has reached the age of 66 ~~on or before June 30~~ July 1, and has requested a change to retired status; or
- (C) an attorney who is on disabled status due to physical or mental disability.

(5) **Exemptions.** The following attorneys are exempt from annual registration:

- (A) an attorney appearing pro hac vice in any action or proceeding in Kansas solely in accordance with Supreme Court Rules 1.10 or 116;
- (B) an attorney who has registered as retired or as disabled due to mental or physical disability; and
- (C) an attorney who has been transferred to disabled status by the Supreme Court under Rule 234.

~~(6) **Continuing Legal Education.** Payment of the annual continuing legal education fee and any applicable late fee under Rule 808 of the Rules Relating to Continuing Legal Education is required for an active attorney.~~

~~(7)~~(6) **Reaffirmation of Attorney Oath Under Rule 720.** During annual registration, an attorney must reaffirm the oath under Rule 720 in the manner directed by the Supreme Court.

(c) ~~**Registration Form; Statement of Registration Fee**~~ **Notice of Annual Registration.** By June 1 of each year, the Office of Judicial Administration will ~~mail~~ send to each registered attorney a notice of annual registration. ~~The Office of Judicial Administration may send the notice electronically, at the attorney's preferred address on record with the Office of Judicial Administration, a registration form that states the amount of the registration fee that must be paid by June 30 of the year in which the Licensing Period begins. As a substitute for mailing under this subsection, the Office of Judicial Administration may email to each registered attorney instructions for completing an online annual registration.~~

(d) **Registration Deadline.** ~~Online Annual registration, including payment of the registration fee, must be completed through the attorney registration portal by June 30 prior to the start of the next Licensing licensing Period period that begins July 1. Failure of an attorney to receive notice of annual registration a statement of the~~

~~registration fee or instructions for online registration~~ from the Office of Judicial Administration does not excuse the attorney from the registration requirement or payment of the fee. Annual registration is not considered complete until any required payment submitted through the attorney registration portal is accepted.

- (e) **Late Fee.** The Office of Judicial Administration will automatically assess a \$150 late fee to any attorney who completes annual registration after June 30. ~~Completion of online registration, including payment of the registration fee, after June 30 will cause a \$100 late fee to be assessed automatically.~~
- (f) **Failure to Complete Annual Registration.** An attorney required to register annually who has not completed online registration by June 30 or who fails to pay any late fee may be administratively suspended from the practice of law under the following procedure.
- (1) **Notice.** The Office of Judicial Administration will mail a notice to an attorney who has failed to register, pay the registration fee, or pay any late fee. The notice will state stating that the attorney's right to practice law is subject to being summarily suspended if the attorney does not complete registration, including payment, no later than 30 days from the date of the notice. after 30 days from the mailing of the notice if the registration form and any applicable fees are not received by the Office of Judicial Administration within that time. ~~The Office of Judicial Administration will mail the notice by return receipt delivery to the attorney's preferred address on record with the Office of Judicial Administration.~~
- (2) **Certification.** The judicial administrator will certify to the Supreme Court the name of an attorney who fails to register or pay the applicable fees under subsection (f)(1) before the expiration of the time period of time specified in the notice.
- (3) **Administrative Suspension.** The Supreme Court will issue an order suspending from the practice of law an attorney whose name the judicial administrator certifies under subsection (f)(2). The Office of Judicial Administration will provide a list of suspended active attorneys to the clerk of the district court and the chief judge of each judicial district and to the clerk of the appellate courts.
- (g) **Change of Status from Inactive to Active.** An attorney may apply for a change of status from inactive to active as follows.

- (1) **Inactive Less than Two Years.** An attorney who is registered as inactive for less than two years may change status to active by satisfying the following requirements:
  - (A) submitting a request for change of status to active to the Office of Judicial Administration;
  - (B) complying with any condition imposed by the Supreme Court;
  - (C) completing any requirement imposed by the Kansas Continuing Legal Education Board; and
  - (D) paying any fees imposed by the Supreme Court, ~~including plus a \$25~~\$50 fee for change ~~in~~of status.
  
- (2) **~~Inactive For~~for at Least Two but Less than Ten Years.** An attorney who has been registered as inactive for at least two years but less than ten years may change status to active by satisfying the following requirements:
  - (A) submitting an Application for Change of Registration Status Form to the Office of Judicial Administration; and
  - (B) complying with the requirements in subsection (g)(1)(B)-(D).
  
- (3) **Inactive Ten Years or More.** An attorney who has been registered as inactive for ten years or more may change status to active by satisfying the following requirements:
  - (A) complying with the requirements in subsection (g)(2); and
  - (B) if required by the Supreme Court after it reviews the application, completing a bar review course approved by the Supreme Court.
  
- (4) **Effective Date of Change of Status.** A change of an attorney's registered status from inactive to active is not effective until approved by the Supreme Court.
  - (A) A request for change ~~in~~of status to active effective prior to July 1 requires payment of the change of status fee under subsection (g)(1)(D) and the difference between the active fee and the inactive fee for the current ~~Licensing~~licensing ~~Period~~period. The attorney will then be responsible for paying the active fee for the next ~~Licensing~~licensing ~~Period~~period when it becomes due.

- (B) A request for change ~~in-of~~ status to active effective July 1 requires payment of the change of status fee and the active fee by June 30.
- (5) **Investigation.** The Supreme Court may order the disciplinary administrator to investigate the request for change of status.
- (6) **Continuing Legal Education.** An attorney whose status changes to active must comply with Rule 810.
- (h) **Change of Status from Retired to Active.** An attorney may apply for a change of status from retired to active by submitting an Application for Change of Registration Status Form to the Office of Judicial Administration ~~an Application for Change of Registration Status Form~~. The Supreme Court may take the following action:
- (1) order the disciplinary administrator to investigate the request for change of status;
  - (2) order the attorney to appear before a hearing panel of the Kansas Board for Discipline of Attorneys to consider the application; and
  - (3) impose appropriate conditions, costs, and registration fees before or upon granting the change of status.
- (i) **Change of Status from Active to Inactive or from Active to Retired.** An attorney who is registered as active may change status to inactive or retired. To be eligible for retired status, an attorney must have retired from the practice of law and have reached the age of 66 before July 1. A change of registration status under this subsection must be received by June 30 to be effective for the next ~~Licensing~~ licensing Period~~period~~. An attorney may change to inactive or retired status by satisfying the following requirements:
- (1) submitting a signed, written request to the Office of Judicial Administration for change of status to either inactive or retired; and
  - (2) completing any requirement imposed by the Kansas Continuing Legal Education Board.
- (j) **Reinstatement After Administrative Suspension.** An attorney who has been suspended under subsection (f)(3) or Rule ~~808-809~~ may seek an order of the Supreme Court to be reinstated to active or inactive status by satisfying the following requirements:

- (1) submitting an Application for Reinstatement Form to the Office of Judicial Administration;
  - (2) submitting to an investigation if the Supreme Court orders the disciplinary administrator to conduct an investigation of the attorney;
  - (3) paying all delinquent registration fees and a \$200 reinstatement fee, unless the Supreme Court for good cause waives any portion of payment;
  - (4) paying any additional amount ordered and complying with any additional condition imposed by the Supreme Court; and
  - (5) ~~completing the requirements under Rule 811~~ any requirement imposed by the Kansas Continuing Legal Education Board.
- (k) **Service Fee.** The Office of Judicial Administration will charge a \$30 service fee for a check that is returned unpaid. An attorney whose check is returned unpaid must pay the service fee before a change of status can be approved, annual registration can be considered complete, or reinstatement can be granted.
- (l) **Registration Card.** The Office of Judicial Administration will issue an annual registration card in a form approved by the Supreme Court to each attorney registered as active.
- (m) **Disciplinary Fee Fund.** The Office of Judicial Administration will deposit ~~at~~ the registration fees in the disciplinary fee fund. Compensation and expenses of the Office of the Disciplinary Administrator and the Kansas Board for Discipline of Attorneys will be paid from the fund. Payment from the fund will be made only on receipt of a voucher signed by a Supreme Court justice or the court's designee. Any unused balance in the fund may be applied to an appropriate use determined by the Supreme Court.
- (n) **Contact or Registration Information.** An attorney must use the attorney registration portal to provide the following:
- (1) legal name;
  - (2) residential address;
  - (3) business address;
  - (4) email address;

(5) business telephone number;

(6) personal telephone number; and

(7) if applicable, liability insurer and trust account information.

~~(o)(n)~~ **Change of Address and Contact or Registration Information.** No later than 30 days after a change occurs, an attorney must use the attorney registration portal to update any of the required information in subsection (n). A registered attorney must notify the Office of Judicial Administration no later than 30 days after a change of legal name, residential address, business address, email address, business telephone number, residence/personal telephone number, liability insurer, or trust account information.

~~(p)(e)~~ **Online Registration.** Online registration will be mandatory in 2021 and each year thereafter.



## Rules Relating to Continuing Legal Education

### Rule 800

#### PURPOSE AND SCOPE

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

### Rule 801

#### DEFINITIONS

- (a) **“Active attorney”** means an attorney who is required to pay the annual registration fee, is registered as active for the current licensing period under Rule 206(a)(1) and (b)(1) ~~for the current Licensing Period~~, and is not suspended or disbarred from the practice of law by the Supreme Court.
- (b) **“Approved program”** means a continuing legal education program that has been approved ~~pursuant to~~ under these rules.
- (c) **“Board”** means the body created under Rule ~~802(b)~~ 803.
- (d) **“Compliance period”** means the period of one year ~~from~~ beginning July 1 ~~through and ending~~ June 30.
- (e) **“Continuing legal education program” or “CLE program”** means a legal educational program, course, or activity designed to maintain and improve an attorney's professional competence.
- (f) **“Distance learning program”** means ~~a~~ any prerecorded program or a CLE program offered by live webinar or, live teleconference, ~~or any prerecorded program~~.
- (g) **“Ethics”** means the standards set by the Kansas Rules of Professional Conduct that an attorney must comply with to practice law in Kansas and remain in good standing.

- (h) **“Guidelines”** means a document that prescribes administrative requirements for CLE programs that are not set forth in these rules.
- (i) **“Inactive attorney”** means an attorney who is registered as inactive under Rule 206.
- (j) **“In-house program”** means a CLE program given for a select private audience from the same law firm, corporation, or single governmental entity and not open for attendance by other members of the general legal community. The term includes a program offered by invitation and a ~~program~~ not advertised to a broad attorney population.
- (k) **“Law practice management program”** means a CLE program specifically designed for attorneys on nonsubstantive topics that address ways to enhance the quality and efficiency of an attorney’s service to clients.
- (l) **“Live program”** means a CLE program offered in one of the following formats or any other format approved under these rules.
  - (1) **“Standard Classroom Setting.”** A CLE program that is presented in a suitable classroom setting devoted to the program.
  - (2) **“Satellite.”** A live CLE program that is broadcast to a classroom setting or a central viewing or listening location and advertised to a broad attorney population. There must be a live connection to the speaker to comment and answer questions. There is no minimum attendance requirement.
  - (3) **“Video Replay.”** A recorded CLE program presented in a suitable classroom setting or in a central viewing location advertised to a broad attorney population. The attorney must be able to contact the moderator, either in-person or by telephone or email, to comment or ask questions. There is no minimum attendance requirement.
  - (4) **“Live Webcast.”** A CLE program that is broadcast in real-time via internet in audio or audio plus video form to viewers in remote locations and accessed solely by an individual attorney. The attorney must be able to contact the moderator or presenters during the program to comment and ask questions.
  - (5) **“Live Teleconference.”** A CLE program that is broadcast in real-time via telephone in audio or audio plus video form to listeners in remote locations and accessed solely by an individual attorney. The attorney must be able to

contact the moderator or presenters during the program to comment and ask questions.

- (m) **“OJA”** means the Kansas Supreme Court’s Office of Judicial Administration and staff.
- (n) **“Prerecorded program”** means a CLE program accessed solely by an individual attorney in one of the following formats: audiotape, videotape, CD, podcast, CD-ROM, DVD, or another format approved pursuant to under these rules and defined in the Guidelines for Live Telephone/Webinars and Prerecorded Programming.
- (o) **“Professionalism”** means conduct consistent with the tenets of the legal profession by which an attorney demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other attorneys, witnesses, and unrepresented parties.

## Rule 802

### KANSAS CONTINUING LEGAL EDUCATION

- (a) **Administration.** The Supreme Court through OJA administers and regulates Kansas continuing legal education shall be administered and regulated by the Supreme Court through OJA.
- (b) **Continuing Legal Education Fee.** A continuing legal education fee is included in the annual registration fee under Rule 206.
- ~~(b) **The Board.** The Kansas Continuing Legal Education Board is established for the purpose of assisting the Supreme Court and OJA with administering and regulating continuing legal education. The Board replaces the Continuing Legal Education Commission.~~
- ~~(c) **Duties and Responsibilities.** The Board’s responsibilities include:~~
  - ~~(1) approving providers and programs;~~
  - ~~(2) determining the number of hours of CLE credit to be given for participating in a program;~~
  - ~~(3) granting or withdrawing approval of provider programs;~~

~~(4) — granting waivers and extensions of time to complete requirements; and~~

~~(5) — as defined in Rule 801(h).~~

~~(d) — **Membership.** The Board consists of nine members appointed by the Supreme Court. All attorney members must be registered under Rule 206. The members must include:~~

~~(1) — five practicing attorneys, at least one of whom has been admitted to practice law in Kansas for fewer than 10 years;~~

~~(2) — a faculty representative from each of the University of Kansas and Washburn University Schools of Law;~~

~~(3) — one nonattorney member; and~~

~~(4) — a justice or judge.~~

~~(e) — **Terms.** Each Board member is appointed for a three-year term. No member may serve more than two consecutive three-year terms. The Supreme Court will appoint a new member to fill a vacancy on the Board; the new member will serve the remainder of the unexpired term and is then eligible to serve an additional two consecutive three-year terms. A member is eligible for one or more additional terms after a break in service.~~

~~(f) — **Election of Officers.** At the first Board meeting held in each annual compliance period, the Board will elect from its members a chair and a vice chair.~~

~~(g) — **Meetings.** The Board will meet quarterly and at such additional times as the need arises. Five members constitute a quorum for the transaction of business.~~

~~(c) **Service Fee.** OJA will charge a \$30 service fee for a check that is returned unpaid.~~

~~(h)(d) **Confidentiality.** All files, records, proceedings, or other documents maintained by OJA that relate to or arise out of an attorney's compliance with or failure to satisfy continuing legal education requirements are private and confidential and must not be divulged except as provided in these rules, by Supreme Court order, or on request of the attorney affected. OJA has theis authorized, at its discretion, to disclose relevant information and to submit any part of its files to the Board for the furtherance of the Board's duties. This confidentiality provision does not apply to anonymous statistical abstracts.~~

## Rule 803

### KANSAS CONTINUING LEGAL EDUCATION BOARD

- (a) **The Board.** The Kansas Continuing Legal Education Board is established for the purpose of assisting the Supreme Court and OJA with administering and regulating continuing legal education. The Board replaces the Continuing Legal Education Commission.
- (b) **Duties and Responsibilities.** The Board's responsibilities include the following:
- (1) approving providers and programs;
  - (2) determining the number of hours of CLE credit to be given for participating in a program;
  - (3) granting or withdrawing approval of provider programs;
  - (4) granting waivers and extensions of time to complete requirements; and
  - (5) developing guidelines as described in Rule 801(h).
- (c) **Membership.** The Board consists of nine members appointed by the Supreme Court. All attorney members must be registered under Rule 206. The members are as follows:
- (1) five practicing attorneys, at least one of whom has been admitted to practice law in Kansas for fewer than 10 years;
  - (2) one faculty representative from the University of Kansas School of Law and one faculty representative from Washburn University School of Law;
  - (3) one nonattorney member; and
  - (4) one justice or judge.
- (d) **Terms.** Each Board member is appointed for a three-year term. No member may serve more than two consecutive three-year terms. The Supreme Court will appoint a new member to fill a vacancy on the Board; the new member will serve the remainder of the unexpired term and is then eligible to serve an additional two consecutive three-year terms. A member is eligible for one or more additional terms after a break in service.

- (e) **Election of Officers.** At the first Board meeting held in each annual compliance period, the Board will elect from its members a chair and a vice chair.
- (f) **Meetings; Quorum.** The Board will meet quarterly and when the need arises. Five members constitute a quorum for the transaction of business.

## **Rule 803-804**

### **MINIMUM REQUIREMENTS**

- (a) **Credit Hours.** An active attorney must earn a minimum of 12 CLE credit hours at approved programs ~~in during~~ each compliance period ~~as defined in Rule 801~~. Of the 12 hours, at least 2 hours must be in the area of ethics and professionalism.
- (b) **Carryover Credit.** ~~If an~~An active attorney may complete CLE credit hours at approved programs during a compliance period that exceed ~~exceeding~~ the number of credit hours required by subsection (a). ~~and To carry forward the credit hours to the next compliance period, the attorney must comply~~ complies with the requirements of ~~Rule 806~~Rule 807.; The following provisions apply to carryover credit.
- (1) ~~the~~An active attorney may carry forward ~~to the next compliance period up to~~ 10 unused general attendance CLE credit hours ~~from the compliance period during which the credit hours were earned.~~
- (2) An active attorney may carry forward ethics and professionalism CLE credit hours ~~in excess of the 2-hour requirement in subsection (a) as general attendance CLE credit hours but not as ethics and professionalism CLE credit hours.~~
- (3) CLE credit hours approved for teaching, authorship, or law practice management credit do not qualify for carryover credit.
- (c) **Reporting.** CLE credit hours at an approved program ~~for each attorney~~ must be reported for each attorney in the form and manner prescribed by OJA.
- (d) **Exemptions.** The following attorneys are exempt from the CLE requirement in subsection (a):
- (1) an attorney newly admitted to practice law in Kansas until the first compliance period following admission to practice;

- (2) an attorney registered under Rule 206 as inactive, retired, or disabled due to mental or physical disability;
  - (3) all active and retired federal and state judges or justices, bankruptcy judges, and full-time magistrates of the United States District Court for the District of Kansas who are not engaged in the practice of law, but federal and state administrative judges are not eligible for this exemption; and
  - (4) an attorney exempted by the Board for good cause ~~pursuant to~~ under subsection (e).
- (e) **Exemptions for Good Cause.** The Board may grant an exemption to the strict requirement of ~~these rules~~ to complete continuing legal education because of good cause, ~~e.g., such as~~ disability or hardship. An attorney must submit a request for exemption ~~must be submitted~~ to OJA in writing with a detailed explanation of the circumstances necessitating the request. An attorney with a disability or hardship that affects the attorney's ability to attend CLE programs may file annually a request for a substitute program in lieu of attendance and must propose a substitute program the attorney can complete. The Board must review and approve or disapprove a request for exemption on an individual basis. ~~An attorney who receives an exemption is responsible for the annual CLE fee required by Rule 808.~~
- (f) **Legislative Service.** Upon a request submitted to OJA, an attorney serving in the Kansas Legislature will receive a reduction of 6 of the 10 general attendance CLE credit hours required for the compliance period in which the attorney serves in the Legislature.
- (g) **Accommodation for Attorneys Employed Out-of-the Country.** An attorney employed full time outside the United States for a minimum of eight months during the compliance period may, upon written request to OJA and preapproval from the Board, complete the annual CLE requirement by ~~distance~~ learning prerecorded programs.

## Rule ~~804~~805

### PROGRAM APPROVAL

- (a) **Provider Live Program ~~Approval~~.** A provider sponsoring a live CLE program may request prior approval of the CLE program.
- (1) At least 60 days before the program, a provider should submit to OJA an application for approval of CLE activity and any additional information

requested by OJA. This time limit does not apply to an in-house CLE program ~~which is governed by Rule 804(e)~~805(c).

- (2) An application must be accompanied by a \$25 nonrefundable fee.
  - (3) OJA staff must notify the provider of the status of its review of the application no later than 30 days after OJA receives it. A program is not approved until OJA notifies the provider ~~is notified~~ of approval.
  - (4) A provider seeking approval of a CLE program must comply with Rule 806(a)~~805(a)~~.
- (b) **Individual Attorney Course Approval.** An attorney seeking CLE credit for attendance at a live CLE program that was not previously approved must submit to OJA an application for approval of CLE activity and any additional information requested. OJA must notify the attorney of the status of its review of the application no later than 30 days after OJA receives it. A program is not approved until OJA notifies the attorney ~~is notified~~ of approval.
- (c) **In-House Program.** To receive approval, an in-house CLE program must meet the following requirements:
- (1) A provider offering the CLE program is responsible for approval of the program. For purposes of Rule ~~804(e)~~805(c), a “provider” means a law firm, corporation, or single governmental entity hosting the CLE program.
  - (2) The ~~host~~provider must submit to OJA an application for approval of CLE activity and any additional information requested no later than 21 days before the in-house CLE program.
  - (3) The program must be scheduled at a time and location so that attorneys attending are free of interruptions from telephone calls and other office matters and so that Board members or a representative from OJA may audit the program.
  - (4) A provider seeking approval of an in-house program must also satisfy the requirements set forth in Rule ~~804(a)(2)-(4)~~805(a)(2) and 806(a).
- (d) **Interdisciplinary Program.** An attorney seeking CLE credit for an interdisciplinary program that crosses academic lines must submit to OJA an application as set forth in Rule ~~804(b)~~805(b). The attorney must include with the application a statement describing how the program is beneficial to the attorney’s practice.



- (e) **Prerecorded Programming Course Approval.** A provider seeking approval of a prerecorded program must submit to OJA an application for approval of prerecorded programming courses. The program must comply with the Guidelines for Live Telephone/Webinars and Prerecorded Programming. An application for approval of prerecorded programming courses must be accompanied by a \$100 nonrefundable fee. Approval will be valid for one year.
- (f) **Attendance Reporting.** ~~Upon Once the Board OJA approving approves a~~ program for CLE credit, OJA will issue a notice of accreditation/affidavit to the provider ~~a notice of accreditation/affidavit~~.
- (1) **In-State Program.** A provider holding an in-state program is responsible for distributing the appropriate Kansas affidavit for signature and for reporting the attendance to OJA within 30 days ~~after~~of the program.
  - (2) **Out-of-State Program.** For an out-of-state program, the attorney is responsible for submitting the executed affidavit to OJA within 30 days ~~after~~of the program.
  - (3) **Distance Learning Program.** For a distance learning program, the provider is responsible for reporting attendance in the approved format to OJA within 30 days ~~after~~of the program.
- (g) **Appeal of Determination.** If an application for approval of a CLE program or CLE credit is denied by OJA, the applicant may appeal the decision to the Board by submitting a letter of appeal to OJA within 30 days ~~after~~of when notice of the denial was issued. No other appeal may be taken.
- (h) **Standards.** To be approved, a CLE program must comply with the following requirements.
- (1) CLE credit must be awarded on the basis of 1 credit hour for each 50 minutes actually spent in attendance at instructional activities, excluding introductory remarks, meals, breaks, and other noneducational activities. One-half credit hour must be awarded for attendance of at least 25 but less than 50 minutes. No credit will be claimed or awarded for smaller fractional units.
  - (2) The program must have significant intellectual or practical content designed to promote attorney competence and primarily address matters related to the practice of law, ethics and professionalism, or law practice management.

- (3) The program must be presented by a person qualified by practical or academic experience to present the subject. Generally, a legal subject should be presented by an attorney.
- (4) Thorough, high quality, readable, useful, and carefully prepared instructional materials must be made available to all participants by the time the program is presented, unless the Board approves the absence of instructional materials. A brief outline without citations or explanatory notations is not sufficient. Instructional materials must satisfy the criteria set forth in the Guidelines for Instructional Materials.
- (5) A live program must be presented in, or broadcast to, a suitable classroom setting or central viewing or listening location devoted to the program. Generally, credit will not be approved for keynote speeches.
- (6) Integration of ethics or professionalism instruction into substantive law topics is encouraged, but integrated material does not count toward the two-hour minimum annual ethics and professionalism requirement.

### **Rule ~~805~~806**

#### **PROVIDER RESPONSIBILITY**

- (a) **Marketing Prior to Approval.** A provider of a CLE program ~~for which pending approval has been sought but not yet approved~~ must announce in any marketing that credit is pending. A provider may not advertise a CLE program as approved until the provider receives a notice of accreditation/affidavit is received.
- (b) **Late Report of Attendance.** A provider of an approved in-state CLE program held by June 30 of a compliance period must report the attendance for the program by July 31. Otherwise, the provider is responsible for the fees set forth in Rule ~~807(e)~~808(c).
- (c) **Audit of a Program.** A provider must allow Board members or a representative of OJA to attend, free of charge, any CLE program to audit compliance with these rules. Such attendance does not qualify for CLE credit for the A Board member or OJA representative auditing a CLE program will not receive CLE credit for attendance.
- (d) **Evaluations.** At the conclusion of an approved program, each participating attorney must be given the opportunity to complete an evaluation form addressing

the quality, effectiveness, and usefulness of the program. OJA may request copies of the evaluations.

- (e) **Record Retention.** A provider must keep attendance records and evaluation summaries for a program on file for a minimum of three years ~~attendance records and evaluation summaries for a program.~~

## **Rule ~~806~~807**

### **CREDITS**

- (a) **Credit for Attendance.** The number of CLE credit hours assigned to an approved program reflects the maximum that an attorney may ~~be earned~~ by attending the entire program. An attorney can only ~~Only actual attendance~~ earns CLE credit for actual attendance. No attorney will receive more than eight hours of credit in one day of CLE attendance.
- (b) **Carryover Credit.** An attorney will not receive carryover CLE credit hours that are to be carried forward under Rule 803(b)804(b) unless an application or affidavit is submitted to ~~must be received by OJA~~ by July 31 or submitted via U.S. mail postmarked by July 31. The application or affidavit must ~~and~~ reflect attendance during the compliance period in which the attorney earned the credit hours they were earned. ~~An attorney will not receive carryover credit if an application or affidavit is received after that date.~~
- (c) **Credit for Teaching.** An attorney can earn up to five CLE credit hours for each 50 minutes spent teaching an approved program. The attorney must file an application for approval of teaching credit that outlines program content, teaching methodology, and time spent in preparation and instruction. In determining the number of CLE credit hours to award, the Board will calculate time spent in preparation and teaching. For example, an attorney who spends 150 minutes preparing a program and 50 minutes teaching it will be awarded four credit hours. One-half credit hour will be awarded for teaching at least 25 but less than 50 minutes. No CLE credit hours will be claimed or awarded for smaller fractional units. A repeat presentation will only qualify for additional credit hours for time actually spent updating the presentation and teaching. Because CLE teaching credit hours are awarded as an incentive to attorneys to benefit the legal profession, instruction must be directed toward an audience composed primarily of attorneys. No CLE credit hours will be awarded for teaching undergraduate, graduate, or law school classes.

- (d) **Credit for Authorship.** CLE credit hours may be awarded for authorship of legal publications. The attorney ~~author~~ must complete an application for approval of authorship credit. ~~An~~ The attorney ~~author~~ can earn CLE credit hours if the attorney's research (1) has produced a published article, chapter, monograph, or book, personally authored, in whole or part, by the attorney, and (2) contributes substantially to the continuing legal education of the attorney author and other attorneys. One credit hour may be awarded for each 50 minutes spent directly ~~in~~ preparing the publication. Publication must occur during the compliance period for which the attorney requests CLE credit hours ~~are requested~~. An article, chapter, monograph, or book directed to a nonattorney audience does not qualify for authorship credit.
- (e) **Credit for Attendance Prior to Admittance.** No CLE credit hours will be awarded for any CLE program attended before the applicant is admitted to practice law in Kansas.
- (f) **Credit for Attending Law School Course.** An attorney can earn CLE credit hours for postgraduate education by enrollment in a course, either for credit or by audit, from a law school accredited by the American Bar Association. The Board will award one credit hour for each 50 minutes of class attendance.
- (g) **Duplicate Attendance.** No CLE credit hours will be awarded for attendance at a program the attorney previously attended during the compliance period.
- (h) **Law Practice Management Program.** An attorney can earn CLE credit hours for participation in an approved CLE program as defined in the Guidelines for Accreditation of Law Practice Management Programming. No more than two general attendance CLE credit hours will be applied toward the annual CLE requirement ~~to~~ for an attorney in any compliance period for attendance at a law practice management programs.
- (i) **Prerecorded Program Limitation.** No more than six CLE credit hours will be applied toward the annual CLE requirement ~~to~~ for an attorney in any compliance period for attendance at or participating in a prerecorded programs.
- (j) **Self-Study Prohibition.** An attorney cannot earn credit for a self-study program.

## Rule ~~807~~808

### REPORTING REQUIREMENTS AND NONCOMPLIANCE FEE

- (a) **Annual Report.** Every August, OJA will notify each active attorney when the annual report for the preceding compliance period is ~~generated~~available. If the report is accurate, the attorney is not required to respond; the report will be filed automatically as the attorney's annual report. If the report is not accurate, the attorney must notify OJA within 30 days of the date of the report.
- (b) **Failure to Comply.** If it appears an attorney has not earned the minimum number of CLE credit hours required for a compliance period, OJA must send notice of the apparent noncompliance to the attorney at the attorney's last known address by certified mail, return receipt requested. No later than 30 days after mailing of the notice, the attorney, ~~to avoid suspension from the practice of law,~~ must cure the failure to comply or show cause for an exemption to avoid suspension from the practice of law.
- (c) **Noncompliance Fee.** An attorney must pay a noncompliance fee of \$75 if either of the following provisions apply:
  - (1) report of attendance is successfully submitted electronically after July 31 or submitted via U.S. mail postmarked after July 31; or
  - (2) the attorney fails to complete the credit hours required under Rule ~~803(a)~~804(a) within the compliance period.
- (d) **Address Change.** Under Rule 206, an attorney must update the attorney's address through the attorney registration portal no later than~~An attorney must notify OJA within~~ 30 days after a change of the attorney's address.

## Rule ~~808~~

### FEES

- ~~(a) **Annual CLE Fee.** An active attorney must pay an annual CLE fee established by the Supreme Court.~~
- ~~(b) **Notice of Fee.** By June 1 of each year, OJA will send a statement to every attorney showing the annual CLE fee due for the next compliance period.~~

- ~~(c) **Failure to Receive Notice.** Failure of an attorney to receive a statement under subsection (b) does not excuse the attorney from paying the required fee.~~
- ~~(d) **Due Date and CLE Late Fee.** The annual CLE fee is due by June 30 prior to the start of the next compliance period that begins July 1. A payment is considered timely if successfully submitted electronically by June 30 or remitted via U.S. mail postmarked by June 30. Late payments must be accompanied by a \$50 late fee.~~
- ~~(e) **Attorney Returning to Practice.** An attorney whose status changes to active status after a period of disbarment or suspension and an attorney who is returning to active status after a period of time on inactive, retired, or disabled due to mental or physical disability status must pay the annual CLE fee required by subsection (a) for the current compliance period, together with any other fee required for a change in status.~~
- ~~(f) **Active Status with Attorney Registration and CLE.** Payment of the annual CLE fee and any applicable late fee is a prerequisite to completing registration as an active attorney under Rule 206.~~
- ~~(g) **Returned Check.** A service fee of the maximum amount allowed by law will be assessed for a check returned unpaid.~~

## Rule 809

### SUSPENSION FROM THE PRACTICE OF LAW

- (a) **Reasons for Suspension.** An active attorney who is required to submit CLE credit hours and fails to do so, or who fails to meet the minimum requirements of these rules, ~~or who fails to pay the annual CLE registration fee~~ will be suspended from the practice of law in ~~this state~~ Kansas.
- (b) **Notice of Noncompliance.** OJA must notify an attorney who appears to have failed to meet the requirements of these rules that the attorney's name will be certified to the Supreme Court for suspension from the practice of law ~~in this state~~, unless the attorney shows cause why the certification should not be made. Notice must be sent to the attorney at the attorney's last known address by certified mail, return receipt requested. Thirty days after the notice is mailed, if no hearing is requested under subsection (c), the Board must certify to the Supreme Court, for an order of suspension, the name of the attorney who has not met the requirements of these rules.

- (c) **Hearing.** An attorney to whom OJA has sent notice of noncompliance under subsection (b) may submit to OJA, no later than 30 days after the date the notice was mailed, ~~submit to OJA~~ a request for a hearing, stating the issues the attorney raises. The Board must grant a timely request for a hearing, ~~to consider the issues raised by the attorney.~~ The attorney's name must not be certified to the Supreme Court for suspension unless suspension is recommended by the Board after the hearing. OJA must provide for a record and the costs thereof when needed.

## Rule 810

### **CHANGE OF STATUS PROCEDURE FOR INACTIVE ATTORNEY RETURNING TO ACTIVE STATUS**

- (a) ~~Request for Change of Status.~~ An inactive attorney seeking to become an active attorney must submit to OJA a written request for change of status. This request is in addition to the request to the Attorney Registration Office for change of status required by Rule 206.
- (b) ~~Required Fees.~~ In addition to any amount to be paid to the Attorney Registration Office under Rule 206, a request for change of status submitted to OJA by an inactive attorney must be accompanied by a check or money order payable to "Kansas CLE" for or proof of electronic payment of the annual CLE fee for the current compliance period plus a change of status fee of \$25.
- (c) ~~Required Hours.~~ Any inactive attorney whose status changes to active under Rule 206 and is authorized to practice law in Kansas must complete the annual CLE requirement under Rule ~~803(a)~~804(a) by the end of the compliance period in which the attorney's status changes.

## Rule 811

### **CHANGE OF STATUS REINSTATEMENT PROCEDURE FOR SUSPENDED ATTORNEY**

- (a) **Reinstatement After Administrative Suspension.** To seek reinstatement, an attorney who has been suspended under Rule 809 or Rule 206(f)(3) must comply with the requirements in Rule 206(j) and must comply with subsection (b) or (c).
- (b) **Suspended Less than ~~1~~One Year.** An ~~suspended~~ attorney returning from suspension of less than ~~1~~one year must complete the following requirements:

- ~~(1)~~ submit to OJA a written request for change of status, accompanied by a check or money order payable to “Kansas CLE” for or proof of electronic payment of a change of status fee of \$100;
- ~~(2)~~(1) prior to reinstatement~~between the date of suspension and the date the attorney’s status changes~~, complete any hours required to satisfy any deficiency in CLE requirements under Rule ~~803(a)~~804(a) and pay any fees incurred prior to suspension; and
- ~~(3)~~(2) complete the annual CLE requirement under Rule ~~803(a)~~804(a) by the end of the compliance period in which the Supreme Court reinstates the attorney.~~attorney’s status changes~~; and
- ~~(4)~~ prior to the change in status, complete any requirements imposed by the Attorney Registration Office under Rule 206.

~~(b)~~(c) **Suspended 1 One Year or More**. An suspended attorney returning from suspension of ~~1~~one year or more must complete the following requirements:

- (1) complete the requirements in subsection (b); and
- ~~(1)~~ submit to OJA a written request for change of status, accompanied by a check or money order payable to “Kansas CLE” for or proof of electronic payment of a change of status fee of \$100;
- ~~(2)~~ ~~between the date of suspension and the date the attorney’s status changes~~, complete any hours required to satisfy any deficiency in CLE requirements under Rule 803(a) and pay any fees incurred prior to suspension;
- ~~(3)~~(2) prior to reinstatement~~between the date of suspension and the date the attorney’s status changes~~, complete an additional 12 hours of CLE credit, including 2 hours of ethics and professionalism, for each year of suspension~~during which the attorney was suspended unless waived or modified by Supreme Court order, of the Supreme Court~~;
- ~~(4)~~ complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which ~~the attorney’s status changes~~; and
- ~~(5)~~ prior to the change of status, complete any requirements imposed by the Attorney Registration Office under Rule 206.