

Idaho Bar Commission Rules

Governing Admission to Practice and Membership in the Idaho State Bar

*As promulgated by the Board of Commissioners of the Idaho State Bar
and adopted by Order of the Supreme Court of the State of Idaho.*

***SECTION IV** **Mandatory Continuing Legal Education**

*(*Section IV rescinded and replaced 3-17-14 – effective 5-2-14)*

RULE 400. Statement of Purpose. It is important to the public and members of the Bar that attorneys who are engaged in the active practice of law in Idaho continue their legal education. Continuing legal education enables attorneys to acquire new knowledge and skill sets and understand current trends and legal issues. These rules establish the minimum requirements for that continuing legal education.

***RULE 401. Definitions.** As used in these Rules, the following terms have the meanings set forth below:

- (a) **Accredited Activity.** A course, video, recording or other activity approved for CLE credit by the Board or its designee.
- (b) **Active or Active Member.** A member of the Bar as defined in I.B.C.R. 301.
- (c) **Attendance.** Being present in an audience, either in person or through an electronic medium, at a live Accredited Activity at the time the course is actually presented, or engaging in self-study using an accredited recorded program under Rule 404(a).
- (d) **Bar.** Idaho State Bar.
- (e) **Bar Counsel.** Legal counsel for the Board.
- (f) **Board.** Board of Commissioners, the duly elected governing body of the Bar.
- (g) **Canceled.** Status of an attorney as defined in I.B.C.R. 301.
- (h) **Certificate of Compliance.** Form certifying an attorney's compliance with applicable CLE requirements.
- (i) **CLE.** Continuing legal education.
- (j) **Course Provider.** The entity or individual responsible for the planning and presentation of a CLE activity, applying for accreditation of the CLE activity and paying the respective accreditation application fee.
- (k) **Court or Supreme Court.** Supreme Court of the State of Idaho.
- (l) **Credit Hour.** Sixty (60) minutes of actual attendance at an Accredited Activity, rounded to the nearest quarter of an hour.
- (m) **Executive Director.** The chief administrative officer of the Bar.
- (n) **House Counsel or House Counsel Member.** A member of the Bar as defined in I.B.C.R. 301.
- (o) **I.B.C.R.** Idaho Bar Commission Rules.
- (p) **New Admittee Credit-Approved (NAC-Approved).** An Accredited Activity addressing Idaho practice, procedure, and/or ethics that has been designated by the Bar as NAC-Approved in accordance with standards adopted by the Board.
- (q) **New Attorney Program.** The NAC-Approved Accredited Activity described in Rule 402(f).
- (r) **Resigned.** Status of an attorney as defined in I.B.C.R. 301.
- (s) **Rules.** Section IV of the I.B.C.R.

(t) **State.** State of Idaho.

*(*Rule 401 amended 2-25-16 – effective 7-1-16)*

RULE 402. Education Requirement - Report.

Except as provided in Rule 408, all Active and House Counsel Members shall complete and report CLE credits as provided in this section.

(a) **Minimum Requirements.**

- (1) Active and House Counsel Members shall complete a minimum of thirty (30) credit hours of Accredited Activity in every three (3) year reporting period.
- (2) Beginning with the attorney's next full reporting period after the effective date of these Rules and thereafter, at least three (3) CLE credits shall be in courses on legal ethics or professional responsibility, as approved by the Board or its designee. Such courses may include discussion of the Idaho Rules of Professional Conduct, professionalism and civility, client trust account administration and legal malpractice prevention.
- (3) No more than fifteen (15) of the required thirty (30) credits may be self-study credits.
- (4) Attorneys holding themselves out as specialists or certified specialists, as provided in Section X of the I.B.C.R., shall comply with the requirements of the applicable certifying organization for completion of CLE credits in the specialty area.
- (5) Fulfillment of the credit requirements specified in subsections (1) through (4) above may be concurrent.

(b) **Reporting Period.**

- (1) **General.** Except as provided in subsection (2), the reporting period for Active and House Counsel Members shall be every three (3) calendar years.
- (2) **Exceptions.**
 - (A) Upon an attorney's admission to the Bar as an Active or House Counsel Member, the reporting period shall begin on the date of admission and end on December 31 of the third full calendar year following admission.
 - (B) The reporting period for an attorney who transfers to active status under I.B.C.R. 306 shall begin on the effective date of the transfer and end on December 31 of the third full calendar year following transfer, provided:
 - (i) Any CLE credits obtained to satisfy transfer requirements shall not apply to the new reporting period; and
 - (ii) The reporting period for an attorney who transfers to Active status after less than one (1) year on another status shall be the same

reporting period that was applicable prior to the attorney's transfer from Active status.

- (C) The reporting period for an attorney whose license has been reinstated under I.B.C.R. 305 shall be the same reporting period that was applicable prior to the license cancellation, provided that any CLE credits obtained to satisfy requirements for reinstatement shall not apply to the reporting period.

*** (c) Certificate of Compliance.** An attorney who is required to complete CLE credits under subsection (a) shall submit a written Certificate of Compliance, on a form prescribed by the Board, verifying the attorney's CLE compliance for the applicable reporting period.

- (1) **Content.** The Certificate of Compliance shall set forth the record of the attorney's compliance with these Rules during the reporting period and shall contain at least:

- (A) A list of the Accredited Activities attended;
- (B) The dates of attendance;
- (C) The Course Provider;
- (D) The hours attended, rounded to the nearest quarter of an hour; and
- (E) The attorney's signature, under penalty of perjury.

- (2) **Place of Submission.** The Certificate of Compliance shall be submitted to the Executive Director.

- (3) **Time of Submission.** The Certificate of Compliance shall be submitted on or before February 1 of the year immediately following the conclusion of the reporting period.

*(*Section (c) amended 2-25-16 – effective 7-1-16)*

(d) Verification of Compliance. The Executive Director shall cause up to ten percent (10%) of the Certificates of Compliance submitted pursuant to subsection (c) to be randomly reviewed to verify compliance.

*** (e) Exemptions.** Exemptions from all or part of the CLE requirements of subsection (a) may be granted as follows:

- (1) **Eligibility.** An exemption may be granted:
 - (A) Upon a finding by the Executive Director of special circumstances constituting an undue hardship for the attorney; or
 - (B) Upon verification of the attorney's disability or severe or prolonged illness, in which case all or a specified portion of CLE credits may be earned through self-study.
- (2) **Request for Exemption.** An attorney may request an exemption by submitting a written request to the Executive Director setting forth the grounds for the exemption.
- (3) **Time for Submission.** A request for an exemption must be submitted to the Executive Director at least sixty (60) days prior to the end of the attorney's three (3) year reporting period.

*(*Section (e) amended 2-25-16 – effective 7-1-16)*

*** (f) New Admittee Education Requirement.** Commencing on the date of admission to the Bar and within one (1) year thereafter, attorneys shall complete and report the following CLE credits:

- (1) **NAC-Approved CLE Credits.** Attorneys shall complete at least ten (10) NAC-Approved CLE credits, which shall be counted towards satisfying the thirty (30) credit requirement set forth in subsection (a)(1).
- (2) **Idaho Substantive Law Requirement.** Of the ten (10) NAC-Approved CLE credits required in subsection (f)(1), attorneys shall complete Accredited

Activities addressing Idaho law on ethics, civil and criminal procedure, and community property. The Board shall approve and administer the Accredited Activities that satisfy the Idaho substantive law requirements of this Rule.

- (3) **New Attorney Program.** An attorney who has actively practiced law for less than three (3) years prior to admission to the Bar shall also complete the New Attorney Program, which shall consist of an introduction to practice, procedure and ethics. The New Attorney Program CLE credits shall count towards satisfying the NAC-Approved CLE credit requirement in subsection (f)(1).

- (4) **Extension.** An attorney may request an extension of time to complete these requirements by filing a written petition with the Executive Director within one (1) year of admission as an Active or House Counsel Member. The Executive Director may grant the extension upon a showing by the attorney that completion of these requirements would cause a substantial hardship.

- (5) **Noncompliance.** An attorney's failure to complete these requirements shall be grounds for a finding of noncompliance under Rule 406.

*(*Section (f) amended 2-25-16 – effective 7-1-16)*

RULE 403. Accreditation.

(a) Standards. Accreditation of CLE activities shall be consistent with the following standards:

- (1) The activity shall have significant intellectual or practical content, and the primary objective shall be to increase the attorney's professional competence and ability to deliver quality legal services in an efficient, competent and ethical manner;
- (2) The activity shall constitute an organized program of learning that addresses matters directly related to the practice of law, professional responsibility or ethical obligations of attorneys, provided:
 - (A) Courses included in the curriculum of a college or university undergraduate degree program do not qualify for accreditation as a CLE activity; and
 - (B) An attorney may receive credit for attendance at a non-legal educational program if the subject of that program relates specifically to the attorney's area of practice. For example, credit may be given for attendance at a medical-related program if the attorney's practice includes medical malpractice;
- (3) The activity shall be conducted by an individual or group qualified by practical or academic experience in the covered subjects;
- (4) The activity may include video, digital content or other presentation formats;
- (5) Materials used in the activity shall be thorough and of high quality, and should be distributed to participants prior to or during the activity; and
- (6) The activity may address law practice management to promote the efficient and competent delivery of legal services; however, no CLE credit shall be approved for marketing, client cultivation, general time management or stress reduction, computer training that is not specific to attorneys, general business topics, or vendor-sponsored activities designed solely to promote products or services.

*** (b) Accreditation.** A person or Course Provider may apply for accreditation of a CLE activity by filing with the Executive

Director a written application on a form prescribed by the Board.

- (1) **Contents of Application.** The application shall contain:
 - (A) The name of the Course Provider;
 - (B) A description of the CLE activity;
 - (C) Detailed descriptions of the subjects covered in the CLE activity;
 - (D) The name and qualifications of each presenter;
 - (E) The time schedule of a live CLE activity or the length, in minutes, of a recorded CLE activity;
 - (F) The name of the person or Course Provider requesting accreditation;
 - (G) The date and location of a live CLE activity or, if the CLE activity is recorded, the date and location that the attorney completes the CLE activity for self-study credit; and
 - (H) For a recorded CLE activity used for self-study credit, the date the activity was produced or initially recorded.
 - (2) **Time of Filing.**
 - (A) The application may be filed prior to the CLE activity.
 - (B) An application filed more than ninety (90) days after the CLE activity is completed shall be accompanied by a fifteen dollar (\$15) late fee.
 - (3) **Attendance Roster.** Upon completion of an Accredited Activity, the Course Provider shall forward to the Bar an attendance roster providing the printed name and Bar number for each attorney participant and the total number of general credits and, if applicable, ethics credits, earned by each attorney participant.
 - (4) **In-House and Self-Study Programs.** In-house or self-study programs that satisfy the requirements of subsection (a) may qualify for CLE credit upon written application.
- (*Section (b) amended 2-25-16 – effective 7-1-16)

RULE 404. Credit for CLE Activity. Attorneys may earn CLE credits for Accredited Activities that meet the standards of Rule 403(a), as follows:

- (a) **Credit for Attendance.**
 - (1) **General.** One (1) credit hour will be given for each hour the attorney actually attends an Accredited Activity.
 - (2) **Exceptions.** No credit will be given for:
 - (A) Time spent in introductory remarks, coffee and food breaks, business meetings, or other activities that do not involve educational aspects of the CLE activity; or
 - (B) Any course attended in preparation for, or prior to, admission to the practice of law, provided that credit will be given for NAC-Approved CLE credits as provided under Rule 402(f).
 - (3) **Self-Study Programs.**
 - (A) Credits for self-study programs are limited to no more than one-half of the total credits for each reporting period.
 - (B) Self-study programs include viewing or listening to legal educational programs that meet the standards set forth in Rule 403(a) and that were produced within the previous five (5) years.
 - (C) A CLE activity will be deemed a self-study program unless:
 - (i) Three (3) or more participants attend the CLE activity; and

- (ii) The participants have access to the presenter during the CLE activity or, in the case of a video, audio or other recording, a moderator is present during the CLE activity who is qualified to answer attendees' questions about the CLE topic.
- (b) **Credit for Teaching.**
 - (1) Except as otherwise provided below, an attorney who teaches an Accredited Activity shall receive three (3) credit hours for each hour of teaching.
 - (2) No credit will be given for:
 - (A) Preparation time;
 - (B) Time spent in introductory remarks, coffee and food breaks, business meetings, or other activities that do not involve educational aspects of the CLE activity;
 - (C) Presentations by attorneys that include the promotion of goods or services; or
 - (D) CLE activities for which the attorney is directly compensated other than as an honorarium or for expenses.
 - (3) An attorney who teaches an activity that meets the accreditation standards under Rule 403(a) that is directed primarily to nonlawyers shall receive only one (1) credit hour for each hour of teaching.
 - (4) For panel presentations, credit shall be calculated by multiplying the course hours by three (3) and dividing by the number of panel members.
- (c) **Credit for Published Legal Writing.**
 - (1) Published legal writing authored by attorneys may qualify for CLE credit as set forth below.
 - (2) Credit may be given if the writing:
 - (A) Contributes to the attorney's legal education;
 - (B) Is intended for an attorney audience; and
 - (C) Is an original writing that is published, in print or electronically, in a professional legal journal or publication.
 - (3) No credit will be given for:
 - (A) A writing that is prepared in the ordinary course of the attorney's employment or practice of law;
 - (B) Written materials prepared as part of a CLE course;
 - (C) A writing for which the attorney is directly compensated, other than as an honorarium;
 - (D) A writing prepared for or on behalf of a client or prospective client or for marketing purposes; or
 - (E) Editing or rewriting.
 - (4) Credit for writing will be as follows:
 - (A) One (1) credit hour will be given for each one thousand (1,000) words, provided that any writing submitted for credit shall include a minimum of one thousand (1,000) words;
 - (B) Attorneys are limited to a maximum of six (6) total credits for writing for each reporting period;
 - (C) Credits will be applied in the year in which the writing is actually published; and
 - (D) A writing that is co-authored by one or more attorneys is eligible for credit in proportion to the percentage of work contributed by each attorney.
 - (5) An attorney requesting credit for a published writing under this subsection shall include with the request a copy of the writing, a word count, and the name and address of the publisher. If the attorney is a co-author, the request shall also include a statement indicating the percentage of work contributed by the attorney.

- (d) **Carryover Credit.** No credit for attending or teaching a CLE activity shall apply to a reporting period other than the reporting period in which the credit is earned.

RULE 405. Processing Applications for Accreditation. Applications for accreditation under Rule 403(b) shall be submitted to the Executive Director.

*(a) **Application Fee.** All applications for accreditation of CLE activities shall be accompanied by a forty dollar (\$40) application fee, provided:

- (1) Applications submitted by non-profit Course Providers for live CLE activities that are two (2) hours or less in length and held in Idaho shall be accompanied by a twenty dollar (\$20) application fee; and
- (2) No application fee is required for accreditation applications submitted by the Supreme Court, the Bar and its sections or district bar associations, the Idaho Law Foundation, Inc., or individual members of the Bar.

(*Section (a) amended 2-25-16 – effective 7-1-16)

(b) **Credit Approval or Denial.** The Executive Director shall:

- (1) Examine and evaluate all applications for accreditation following the standards established by Rule 403(a);
- (2) Approve or deny all or any portion of a CLE activity for which accreditation is sought; and
- (3) Determine the number of credit hours allowed for each CLE activity.

*(c) **Decision.** The Executive Director shall provide written notice of the determination to approve or deny an accreditation application to the respective person or Course Provider.

(1) **Contents of Notice.**

- (A) If the application is denied, the notice shall state the reason for the denial and advise the applicant of the right to seek review of the decision.
- (B) If the application is approved, the notice shall state the number of credit hours allowed for the CLE activity.

(2) **Timing of Notice.** The notice shall be provided within twenty-one (21) days following receipt of the application.

(*Section (c) amended 2-25-16 – effective 7-1-16)

*(d) **Review.** Any person or Course Provider whose application for accreditation of a CLE activity has been denied may seek review of the Executive Director's decision by filing a written request with the Board, stating the reasons for the review request.

(1) **Time for Filing.** Any request for review of the Executive Director's decision shall be filed within fourteen (14) days of the notice.

(2) **Additional Information.** The applicant may present additional information to the Board for its consideration.

(3) **Decision of Board.** Following its review of the record, the Board shall issue a decision and advise the applicant of that decision. The decision of the Board is final.

(*Section (d) amended 2-25-16 – effective 7-1-16)

RULE 406. Noncompliance.

(a) **Grounds.** The following are grounds for a finding of noncompliance under these Rules:

- (1) Failure to complete the minimum CLE requirements under Rule 402(a);

(2) Failure to submit a Certificate of Compliance under Rule 402(c);

(3) Failure to complete the requirements of Rule 402(f); or

(4) Failure to complete the CLE requirement under I.B.C.R. 306(a)(1)(E) or any additional CLE credits required by the Board following Transfer to Active status.

(b) **Notice.** The Executive Director shall give, or cause to be given, written notice to each attorney who fails to comply with the CLE requirements of Rule 402 or I.B.C.R. 306. Such notice shall advise that:

(1) If the attorney has failed to complete the requirements of Rule 402(f), the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho;

(2) If the attorney has failed to complete the CLE requirement under Rule 402(a) or (c):

(A) The attorney must complete the CLE requirement by March 1 under I.B.C.R. 305; and

(B) If the attorney fails to complete the CLE requirement by the March 1 deadline, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho; or

(3) If the attorney has failed to complete the CLE requirement under I.B.C.R. 306:

(A) The attorney must complete the CLE requirement within thirty (30) days; and

(B) If the attorney fails to complete the CLE requirement by the thirty (30) day deadline, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho.

(c) **Cure of Defect.** An attorney may cure noncompliance with CLE requirements under I.B.C.R. 306 or Rule 402(a) or (c) by:

(1) Completing the minimum CLE requirements by the deadline contained in the Executive Director's notice under subsection (b);

(2) Paying the MCLE late fee under I.B.C.R. 304(e)(2), if applicable; and

(3) Submitting a Certificate of Compliance to the Executive Director certifying compliance with the CLE requirements.

(d) **Cancellation for Noncompliance.** The license of an attorney who fails to comply with the CLE requirements may be canceled pursuant to I.B.C.R. 305.

(e) **False Report.** If the Executive Director has reason to believe that an attorney has filed a false Certificate of Compliance under these Rules, the attorney's name shall be forwarded to Bar Counsel for review of the attorney's conduct under the Idaho Rules of Professional Conduct.

RULE 407. Confidentiality. The files, records and proceedings of the Board relating to an attorney's failure to comply with these Rules are confidential and shall not be disclosed except in furtherance of the Board's duties, upon request by the affected attorney, or as the files, record and proceedings may be introduced in evidence or otherwise produced in proceedings taken in accordance with these Rules.

RULE 408. Idaho Attorneys Licensed in Other States.

Except as otherwise provided in subsection (c) below, an attorney licensed in Idaho and also in another jurisdiction that requires attorneys to comply with mandatory CLE requirements may comply with the CLE requirements under these Rules as follows:

- (a) **General.** An attorney whose principal office for the practice of law is not in Idaho may comply with the CLE reporting rules by filing a compliance report, on a form prescribed by the Board, certifying that:
 - (1) The attorney is subject to the mandatory CLE credit requirements in the jurisdiction where his or her principal office for the practice of law is located;
 - (2) The attorney complied with that jurisdiction's mandatory CLE requirements within the past three (3) years by submission and approval of the required credits; and
 - (3) The attorney is currently in compliance with the mandatory CLE credit requirements in that jurisdiction.
- (b) **Certificate of Compliance.** An attorney submitting a compliance report under subsection (a) must provide a mandatory CLE certificate of compliance, or similar verification, from the other jurisdiction that includes the following information:
 - (1) Confirmation that the attorney is in compliance with the mandatory CLE requirements;
 - (2) The attorney's current mandatory CLE reporting period;
 - (3) The date that the attorney's previous mandatory CLE reporting period ended; and
 - (4) Confirmation that the attorney complied with the mandatory CLE requirements by submission of approved credits during the previous reporting period.
- (c) **Exceptions.**
 - (1) Satisfaction of CLE requirements in Alaska or Hawaii does not satisfy Idaho mandatory CLE requirements.
 - (2) Attorneys licensed in other jurisdictions are not exempted from the requirement to complete the requirements of Rule 402(f).
 - (3) Attorneys claiming specialty certification shall comply with Rule 402(a)(3), provided that such attorneys may conform their reporting period to that of the jurisdiction in which their principal place of business is located.
 - (4) Attorneys who transferred to Active status under I.B.C.R. 306 shall comply with the CLE requirements applicable to the Transfer.