

# Supreme Court of Florida

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No. 68,708

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THE FLORIDA BAR

RE: AMENDMENT TO RULES REGULATING  
THE FLORIDA BAR (CONTINUING  
LEGAL EDUCATION).

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[July 16, 1987]

AS MODIFIED

OVERTON, J.

We have before us The Florida Bar's request to modify the continuing legal education requirement, including the modifications which we required in our March 19, 1987 opinion. In that opinion, we approved in principle the proposed mandatory continuing legal education program, but directed that it be modified in the following particulars:

(1) a separate mandatory judicial educational requirement should be established in the judicial administration rules for the Florida judiciary, administered by the Florida Court Education Council, rather than through the proposed Integration Rule; (2) the full-time federal judiciary should be exempt; (3) a special provision should be prepared relating to continuing education for full-time government lawyers; and (4) this entire plan should be reviewed by this Court three years from the date the program is implemented.

With regard to the first requirement concerning mandatory education for the state judiciary, this Court will consider that program in a separate judicial administrative rule proceeding in the immediate future. The modified proposed rules have now

satisfied our concerns of the second and third items by exempting the federal judiciary and including a special provision for government lawyers.

We hereby approve the attached continuing legal education requirement rule, to be effective January 1, 1988, and direct that The Florida Bar provide a comprehensive review of this continuing legal education program during the year 1991 and file its report with this Court no later than December 31, 1991.

It is so ordered.

MCDONALD, C.J., and EHRLICH, SHAW, BARKETT and KOGAN, JJ., Concur

Original Proceeding - Rules Regulating The Florida Bar

Joseph J. Reiter, President, The Florida Bar, West Palm Beach, Florida; Ray Ferrero, Jr., President-elect, The Florida Bar, Ft. Lauderdale, Florida; Phyllis Shampanier, Chairman, Integration Rule and Bylaws Committee, Miami Beach, Florida; William E. Loucks, Chairman, CLER Oversight Committee, Daytona Beach, Florida; John F. Harkness, Executive Director, The Florida Bar, Tallahassee, Florida; John N. Hogenmuller, Director, Programs Division, The Florida Bar, Tallahassee, Florida; Dean Frank T. Read, University of Florida College of Law, Gainesville, Florida; and Patricia A. Seitz, Miami, Florida,

for Board of Governors of The Florida Bar, Petitioner

George O. Wilson, III, Chairman, Tampa, Florida, Jack O. Hackett, II, Chairman-elect, Punta Gorda, Florida, and Stephen C. Page, Secretary/Treasurer, Stuart, Florida, for General Practice Section, The Florida Bar; Henry P. Trawick, Jr., Sarasota, Florida; Joseph W. Little, Gainesville, Florida; and Alan R. Schwartz, Chief Judge, District Court of Appeal, Third District, as member, Executive Committee, Florida Conference of District Court of Appeal Judges, Miami, Florida, and John M. Scheb, Judge, District Court of Appeal, Second District, as President, Florida Conference of District Court of Appeal Judges, Lakeland, Florida,

Respondents

1 CONTINUING LEGAL EDUCATION REQUIREMENT RULE

2 6-10.1 Continuing legal education requirement.

3 (a) Preamble. It is of primary importance to the public and  
4 to the members of The Florida Bar that attorneys continue their  
5 legal education throughout the period of their active practice of  
6 law. To accomplish that objective, each active member of The  
7 Florida Bar (hereinafter referred to as "member") shall meet certain  
8 minimum requirements for continuing legal education.

9 (b) Effective date. Continuing legal education requirements  
10 established by this rule shall become effective on January 1, 1988.

11 (c) Reporting requirement. Each member except those exempt  
12 under rule 6-10.3(c)(4) and (5) shall report compliance with  
13 continuing legal education requirements in the manner set forth in  
14 the policies adopted for administration of this plan.

15 (d) Fees. The board of governors of The Florida Bar may  
16 require a reasonable fee to be paid to The Florida Bar in connection  
17 with each member's report concerning compliance with continuing  
18 legal education requirements.

19 (e) Rules. The board of certification, designation and  
20 education of The Florida Bar shall adopt policies necessary to

21 implement continuing legal education requirements subject to the  
22 approval of the board of governors.

23 6-10.2 Administration.

24 (a) Board of certification, designation and education. The  
25 board of certification, designation and education shall administer  
26 the continuing legal education requirements as herein provided. Any  
27 member affected by an adverse decision of the board of  
28 certification, designation and education may appeal as provided in  
29 rule 6-2.11.

30 (b) Delegation of authority. The board of certification,  
31 designation and education may delegate to the staff of The Florida  
32 Bar any responsibility set forth herein, except that of granting a  
33 waiver or exemption from continuing legal education requirements.

34 (c) Scope of board of certification, designation and education  
35 activities. The board of certification, designation and education  
36 shall cooperate with and answer inquiries from staff pertaining to  
37 continuing legal education requirements and make recommendations to  
38 the board of governors concerning continuing legal education  
39 requirements, including but not limited to:

40 (1) Approved education courses;

41 (2) Approved alternative education methods;

- 42 (3) Number of hours credit to be allowed for various  
43 education efforts;
- 44 (4) Established educational standards for satisfaction and  
45 completion of approved courses;
- 46 (5) Additional areas of education and/or practice approved  
47 for credit under continuing legal education  
48 requirements;
- 49 (6) Modification or expansion of continuing legal education  
50 requirements;
- 51 (7) Adoption of additional standards or regulations  
52 pertaining to continuing legal education requirements;
- 53 (8) Amount of reporting or delinquency fees; and
- 54 (9) General administration of continuing legal education  
55 requirements.

56 (d) Maintenance of records. The Florida Bar shall maintain  
57 a record of each member's compliance or noncompliance with  
58 continuing legal education requirements.

59 6-10.3 Minimum continuing legal education standards.

60 (a) Applicability. Every active member except those exempt  
61 under rule 6-10.3(c)(4) and (5) shall report concerning compliance  
62 with continuing legal education requirements and subject only to the  
63 exemptions contained herein, every active member shall comply with  
64 the educational requirements of the continuing legal education  
65 requirements.

66           (b) Minimum hourly continuing legal education requirements.  
67 Each member shall complete a minimum of thirty (30) credit hours of  
68 approved continuing legal education activity every three (3) years.  
69 Two (2) of the hours must be in the area of legal ethics.

70           (c) Exemptions.

71           (1) Active military service.

72           (2) Undue hardship.

73           (3) Nonresident members not delivering legal services or  
74 advice on matters or issues governed by Florida law.

75           (4) Members of the full-time federal judiciary.

76           (5) Justices of the Florida Supreme Court and judges of the  
77 district courts of appeal, circuit and county courts and  
78 such other judicial officers and employees as may be  
79 designated by the Supreme Court.

80           (d) Course approval. Course approval for credit shall be as  
81 set forth in policies adopted pursuant to this rule; provided that  
82 special policies shall be adopted for courses sponsored by  
83 governmental agencies for employee attorneys, which policies shall  
84 exempt such courses from any course approval fee and may exempt said  
85 courses from other requirements as determined by the board of  
86 certification, designation and education.

87           ~~(d)~~ Accreditation of hours. Accreditation shall be as set  
88 forth in the policies adopted pursuant to this rule. If a course is  
89 presented or sponsored by or has received credit approval from an

90 organized state bar (whether integrated or voluntary), such course  
91 shall be deemed an approved course for purposes of this rule and  
92 payment of a course approval fee shall not be required.

93 (f) Full-time government employees. Credit hours shall be  
94 given full-time government employees for courses presented by  
95 governmental agencies. Application for credit approval may be  
96 submitted by the full-time government attorney before or after  
97 attendance, without charge.

98 6-10.4 Reporting requirements.

99 (a) Reports required. Each member except those exempt under  
100 rule 6-10.3(c)(4) and (5) shall file a report showing compliance or  
101 noncompliance with continuing legal education requirements. Such  
102 report shall be in the form prescribed by the board of  
103 certification, designation and education.

104 (b) Time for filing. The report shall be filed with The  
105 Florida Bar no later than the last day of such member's applicable  
106 reporting period as set forth in the rules and regulations.

107 6-10.5 Noncompliance and sanctions.

108 (a) Extended time for compliance. If a member fails to  
109 complete the minimum required continuing legal education hours by



110 the end of the applicable reporting period, the report of  
111 noncompliance shall be accompanied by a specific plan for completing  
112 the necessary hours within one hundred twenty (120) days of the  
113 reporting date or the member shall establish eligibility for an  
114 exemption under rule 6-10.3(c). Any specific plan shall be deemed  
115 approved by the board of certification, designation and education  
116 unless within thirty (30) days after receipt of the report, the  
117 board of certification, designation and education notifies the  
118 member that the plan has not been approved. Completion of a  
119 specific plan shall be reported by the member to the board of  
120 certification, designation and education no later than fifteen (15)  
121 days following the expiration of the applicable time for the plan.  
122 Failure of the member to complete the plan within the specified time  
123 or to report within the time set forth for reporting such completion  
124 shall invoke the sanctions set forth below.

125 (b) Notice of noncompliance. If a member fails to comply  
126 with these rules in any respect the board of certification,  
127 designation and education shall promptly send a notice of  
128 noncompliance to such member. The notice shall specify the nature  
129 of the noncompliance and state that if a specific plan is not  
130 submitted or if a hearing to establish an exemption or show  
131 reasonable cause for noncompliance is not requested, the member's  
132 name shall be filed with the Supreme Court of Florida. The Florida  
133 Bar shall recommend that all members on such list be treated in the  
134 same manner as members delinquent in the payment of dues. Nothing  
135 contained in this paragraph shall be construed to extend the periods

136 of time for completing a specific plan as set forth in paragraph (a)  
137 above.

138 (c) Hearing on notice of noncompliance. If a hearing is  
139 requested, such hearing shall be governed by section 6.11 of the  
140 policies adopted pursuant to this rule. The party requesting the  
141 hearing may be represented by counsel. Witnesses shall be sworn,  
142 and, if requested by the affected member a complete electronic  
143 record or transcript of the proceedings and testimony shall be made,  
144 at the expense of the affected member. If it is determined that  
145 compliance has been accomplished, the matter shall be dismissed and  
146 the board of certification, designation and education's records  
147 shall reflect such compliance.

148 (d) Procedures upon noncompliance after hearing. If it is  
149 determined after hearing that compliance has not been accomplished  
150 the board of certification, designation and education shall:

151 (1) If reasonable cause for noncompliance has been  
152 determined, allow the member requesting a hearing  
153 fifteen (15) days to file a specific plan for correcting  
154 the noncompliance. Such specific plan shall require  
155 compliance within one hundred twenty (120) days  
156 following the filing of the specific plan. Unless the  
157 board of certification, designation and education  
158 rejects the specific plan within thirty (30) days after  
159 its filing, the specific plan shall be deemed accepted.  
160 Evidence of completion of the plan shall be reported to

161 the board of certification, designation and education  
162 not later than fifteen (15) days following the  
163 expiration of the time period for such specific plan.  
164 If the member fails to file an acceptable specific plan  
165 or fails to complete the plan within the time provided  
166 or fails to file evidence of completion of the plan  
167 within the time provided, the board of certification,  
168 designation and education shall proceed as though there  
169 was no reasonable cause for noncompliance.

170 (2) Upon a finding by the board of certification,  
171 designation and education of no reasonable cause for  
172 noncompliance, file a record of the matter, including a  
173 copy of the findings and determination and  
174 recommendation of the board of certification,  
175 designation and education with the Supreme Court of  
176 Florida. Notice of the findings of the board of  
177 certification, designation and education shall be served  
178 on the affected member of the Bar.

179 (3) Upon filing of a notice of confirmation of noncompliance  
180 or of the record of a board of certification,  
181 designation and education hearing determining  
182 noncompliance, the Supreme Court of Florida shall enter  
183 an order as it deems appropriate, which may include  
184 suspension.

185           (e) Appeal to the board of governors. A decision of the  
186 board of certification, designation and education may be appealed to  
187 the board of governors of The Florida Bar. Appeals to the board of  
188 governors shall be governed by the policies promulgated under these  
189 rules.

190           (f) Appeal to the Supreme Court of Florida. A decision of  
191 the board of governors may be appealed by the affected member to the  
192 Supreme Court of Florida. Appeals to the Court shall be governed by  
193 the policies promulgated under these rules.

194           (g) Exhaustion of remedies. A member must exhaust each of  
195 the remedies provided under these rules in the order enumerated  
196 before proceeding to the next remedy.

197           (h) Tolling time for compliance. An appeal shall toll the  
198 time a member has for showing compliance with continuing legal  
199 education requirements.

200 6-10.6 Reinstatement. Any member suspended from the practice of law  
201 for failure to meet continuing legal education requirements may be  
202 reinstated by the Court upon a showing that the noncompliance has  
203 been corrected and upon payment to the board of certification,  
204 designation and education of a uniform reinstatement fee, as  
205 established by the board of governors.

206 6-10.7 Confidentiality. Unless directed otherwise by the Supreme  
207 Court of Florida, the files, records and proceedings of the board of  
208 certification, designation and education, as they relate to or arise  
209 out of any failure of a member to satisfy the continuing legal  
210 education requirements, shall be deemed confidential and shall not  
211 be disclosed, except in the furtherance of the duties of the board  
212 of certification, designation and education or upon request of the  
213 member, in writing, or as they may be introduced in the evidence or  
214 otherwise produced in proceedings under these rules. Nothing herein  
215 shall be construed to prohibit The Florida Bar from advising that a  
216 member has been suspended from the active practice of law for  
217 failure to meet continuing legal education requirements.

218 6-10.8 Disciplinary action. The board of certification, designation  
219 and education may refer misrepresentation of a material fact  
220 concerning compliance with or exemption from continuing legal  
221 education requirements for disciplinary proceedings under chapter 3  
222 or chapter 4 of the Rules Regulating The Florida Bar.

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600 FLORIDA CONTINUING LEGAL EDUCATION REQUIREMENTS

6.01 Administration.

- (a) The BCDE shall administer the CLER program.
- (b) The BCDE shall advise each member of such member's reporting date.

6.02 Reports.

- (a) Time for filing. All reports shall be filed no later than the last day of the member's applicable reporting period.
- (b) Staggered reporting periods. To implement the orderly administration of CLER the board of governors may provide for staggered periods for reporting compliance with CLER.
- (c) Form and content. Reports shall be typewritten on forms approved by the board of governors. Each question shall be answered or shown as "not applicable."

18 (d) Reporting compliance. In reporting compliance, the  
19 member shall provide the following information regarding  
20 each CLE activity:

21 (1) Title and sponsor;

22 (2) Date and location;

23 (3) Involvement;

24 (4) Number of approved CLER credit hours; and

25 (5) Other activity constituting CLE credit.

26 (e) Specific plan for compliance. If the member has not  
27 complied with the requirements of the program, at the  
28 time of filing a report, he shall include a specific  
29 plan outlining how compliance will be accomplished.  
30 Compliance shall be accomplished within one hundred  
31 twenty (120) days of the reporting date.

32 (f) Supplemental information. To ascertain compliance the  
33 BCDE or staff may require the member to provide  
34 information in addition to that called for on the  
35 reporting form.

36 (g) Division of membership for reporting purposes. The  
37 membership of The Florida Bar will be divided into three

38 (3) groups which shall report compliance as set forth  
39 below:

40 (1) Each group shall be divided into twelve (12)  
41 approximately equal subgroups which will each  
42 report in the month assigned.

43 (2) Each subgroup of groups one, two and three shall  
44 report on or before the last day of the month  
45 indicated below:

46 ~~{The following assumes that the effective date is~~  
47 ~~July. These dates can be altered according to the~~  
48 ~~actual effective date if different.}~~

49	Subgroup	Reporting Month
50	A	July
51	B	August
52	C	September
53	D	October
54	E	November
55	F	December
56	G	January
57	H	February
58	I	March
59	J	April
60	K	May
61	L	June

62 (3) Group one shall report completion of ten (10) hours  
63 of approved CLER credit on or before ~~one year from~~



64                   ~~effective date~~ January 1, 1989 and shall report  
65 completion of thirty (30) hours of approved CLER  
66 credit each three (3) years thereafter in the month  
67 assigned under (2) above.

68                   (4) Group two shall report completion of twenty (20)  
69 hours of approved CLER credit on or before ~~two~~  
70 ~~years from effective date~~ January 1, 1990 and  
71 shall report completion of thirty (30) hours of  
72 approved CLER credit each three (3) years  
73 thereafter in the month assigned under (2) above.

74                   (5) Group three shall report completion of thirty (30)  
75 hours of approved CLER credit on or before ~~three~~  
76 ~~years from effective date~~ January 1, 1991 and  
77 shall report completion of thirty (30) hours of  
78 approved CLER credit each three (3) years  
79 thereafter in the month assigned under (2) above.

80                   (6) The Florida Bar shall distribute forms for  
81 reporting compliance at least ninety (90), but no  
82 more than one hundred and twenty (120) days prior  
83 to a member's reporting deadline.

84                   (h) Processing. The BCDE shall conduct a preliminary review  
85 of each report.

86 (1) A member not in compliance with the CLER shall be  
87 notified in writing. Noncompliance shall include  
88 but not be limited to the filing of an incomplete  
89 report.

90 (2) Only members not in compliance shall receive notice  
91 from The Florida Bar.

92 (i) Exemptions. The following members are exempt from  
93 compliance with CLER:

94 (1) A member on extended active military service during  
95 the applicable reporting period who files a report  
96 establishing that status. A member exempt under  
97 this section shall not engage in the delivery of  
98 legal services within the State of Florida or give  
99 advice on matters of Florida law except as required  
100 by his military duties.

101 (2) A member who establishes to the satisfaction of the  
102 BCDE special circumstances unique to that member  
103 which constitute undue hardship. Such member shall  
104 report, in the form prescribed, such special  
105 circumstances constituting undue hardship. Upon  
106 receipt of a timely filed report the BCDE shall  
107 review the special circumstances unique to the  
108 member and determine whether same constitute undue  
109 hardship, thereby exempting said active member from

110 CLER for the applicable period of the report. If  
111 the BCDE determines no undue hardship exists, the  
112 member shall file a specific plan for compliance as  
113 required by rule 6-6.5, Rules Regulating The  
114 Florida Bar.

115 (3) A member who has permanently resided outside the  
116 State of Florida, who has not engaged in the  
117 delivery of legal services within the State of  
118 Florida for the preceding year, who has not given  
119 advice or rendered services on matters or issues  
120 involving or determined by Florida procedural or  
121 substantive law for such preceding year, and who  
122 intends to continue such status for the next  
123 succeeding twelve (12) months shall, upon request  
124 and satisfactory certification of such facts to the  
125 BCDE, be exempt from complying with CLE as  
126 established by this rule. A member exempted under  
127 this section shall not engage in the delivery of  
128 legal services within the State of Florida or give  
129 advice on matters of Florida law.

130 (4) Members of the full-time federal judiciary.

131 (5) Justices of the Supreme Court of Florida and judges  
132 of the district courts of appeal, circuit and  
133 county courts and such other judicial officers and

134 employees as may be designated by the Supreme  
135 Court.

136 (46) A member exempted under sections 6.02(i)(1) or  
137 6.02(i)(3) shall demonstrate compliance with this  
138 rule and completion of thirty (30) hours of CLER  
139 before such member may engage in the delivery of  
140 legal services within the State of Florida or give  
141 advice or render services on matters or issues  
142 involving or determined by Florida procedural or  
143 substantive law. In order to renew an exemption  
144 under sections 6.02(i)(1), 6.02(i)(2) or 6.02(i)(3)  
145 of this provision for the next reporting period, a  
146 member shall recertify the continuing existence and  
147 application of the factual status upon which an  
148 exemption under this paragraph was last approved  
149 and request renewal of such exemption. Nothing  
150 herein shall be construed to be in opposition to  
151 rule 2.060, Fla.R.Jud.Admin., dealing with practice  
152 by foreign attorneys.

153 (7) A member exempted under section 6.02(i)(4) and (5)  
154 shall not be subject to the provisions of (6) next  
155 above. Members exempt under 6.02(i)(4) and (5)  
156 shall be assigned a reporting period at the  
157 expiration of that exemption.

158 6.03 CLER Fees

159 (a) Late fee. Any report filed or postmarked after the  
160 deadline for such report shall be deemed late and an  
161 additional fee of twenty-five dollars (\$25.00) shall be  
162 assessed for processing the late report.

163 (b) Course approval fee--sponsors. A nonrefundable fee of  
164 one hundred dollars (\$100.00) per course shall be paid  
165 by sponsors seeking CLER credit. Local and state bar  
166 associations or groups, governmental agencies and those  
167 course sponsors approved under paragraph 6.05(g) of  
168 these policies, shall be exempt from the payment of  
169 course approval fees. Sponsors of courses previously  
170 approved for designation or certification credit will  
171 not be required to pay an additional course approval  
172 fee. No course approval fee is required for courses  
173 offered at no charge to participants.

174 6.04 Calculation and allowance of educational credit

175 (a) Calculation of one hour. Fifty (50) minutes is  
176 equivalent to one credit hour.

177 (b) Carry-over prohibited. The CLE required to maintain  
178 active membership in The Florida Bar must be taken after  
179 the previous reporting period and within the current  
180 reporting period or extension. CLER credit may not be

181 counted for more than one reporting period and may not  
182 be carried forward to subsequent reporting periods.

183 (c) Request for extension. If a member requests extended  
184 time for compliance under rule 6-6.5, Rules Regulating  
185 The Florida Bar, CLE received before the expiration date  
186 may be considered along with other factors relative to  
187 the propriety of an extension.

188 (d) Reasonable cause. Any extension must be based upon a  
189 showing of reasonable cause for noncompliance during the  
190 normal reporting period.

191 (e) Evidence of compliance. A report in proper form showing  
192 participation in thirty (30) hours of approved CLE  
193 including the two-hour ethics requirement shall  
194 constitute compliance with CLER.

195 6.05 Course approval administration

196 (a) Application for approval. To apply for approval of a  
197 course under CLER, the sponsoring organization shall  
198 submit an application containing a description of the  
199 course and a description of the sponsoring organization  
200 with appropriate supporting documentation. An  
201 application should be submitted well in advance of the  
202 advertising of the course if the advertising materials  
203 are to contain a statement regarding approval.

- 204 (b) Approval fee. The course approval request shall be  
205 accompanied by a fee of one hundred dollars (\$100.00)  
206 for all sponsors seeking course approval and not  
207 otherwise exempt under the CLER rule or these policies.  
208 Authorization for the evaluation fee has been granted by  
209 the Supreme Court of Florida.
- 210 (c) Incomplete applications. A course will not be evaluated  
211 if the sponsor does not submit all of the information  
212 required in the application.
- 213 (d) Authority of staff. Staff shall make an administrative  
214 ruling granting or denying approval in accordance with  
215 standards adopted by the BCDE, and may refer the  
216 application to an advisory committee for assistance in  
217 making its decision. Staff shall refer novel questions  
218 or matters of first impression to the BCDE. The BCDE  
219 may waive any standard if it finds the waiver would be  
220 in the best interest of the CLER program.
- 221 (e) Notice of approval. Approval shall include a statement  
222 of the number of hours of credit awarded.
- 223 (f) Courses approved for designation or certification.  
224 Separate approval is not required for credit under CLER  
225 if the course has received designation or certification  
226 credit.

227 (g) List of approved sponsors. The BCDE may develop a list  
228 of sponsors whose courses shall be deemed "approved" for  
229 CLER credit purposes. Such list shall be limited to  
230 courses offered out-of-state, which must relate solely  
231 to an area of substantive or procedural law or  
232 professional responsibility and which must be sponsored  
233 or sanctioned by organized state bars or not-for-profit  
234 organizations created or sanctioned by such state bars  
235 or members of the Association of Continuing Legal  
236 Education Administrators.

237 6.06 Credit requests

238 (a) Requests for credit. An individual may request CLER  
239 credit for a course which has not been previously  
240 approved.

241 (b) Audio or video cassettes. CLER credit for study  
242 involving previously unapproved audio or video cassettes  
243 may be given in the same manner as for live CLE courses.  
244 Credit will be granted in the same manner as course  
245 approvals.

246 Members shall be entitled to the same CLER credit for  
247 viewing a videotape or listening to an audiotape as for  
248 attending the approved live program.



249 The "life" of an audio-video tape is eighteen (18)  
250 months. That period may be extended if the subject  
251 matter represents the current status of the law.

252 6.07 Course approval standards. The BCDE shall approve CLE  
253 activities consistent with the following guidelines:

254 (a) Such CLE activities shall have significant intellectual  
255 or practical content and the primary objectives thereof  
256 shall be to increase or maintain the participant's  
257 professional competence as a lawyer;

258 (b) The CLE activity shall constitute an organized program  
259 of learning dealing with matters directly related to the  
260 practice of law, professional responsibility or ethical  
261 obligations of lawyers; and

262 (c) The CLE activity shall have materials which are prepared  
263 and activities conducted by an individual or group  
264 qualified by practical or academic experience in a  
265 setting physically suitable to the educational activity  
266 of the program. High quality and carefully prepared  
267 written materials should be distributed to all attendees  
268 at or before the time the CLE activity is conducted. It  
269 is recognized that written materials are not suitable or  
270 readily available for some types of subjects; the  
271 absence of written materials for distribution should,  
272 however, be an exception.

273 6.08 Credit approval

274 (a) Courses for nonlawyers. A course designed for an  
275 audience other than attorneys may receive less than full  
276 credit.

277 (b) Courses on nonlaw subjects. A course on a nonlaw  
278 subject may be approved for appropriate credit if  
279 knowledge of the subject would enhance the proficiency  
280 of a lawyer in the performance of legal services in the  
281 area.

282 (c) Ethics credit. For an activity to qualify for ethics  
283 credit, it must be at least twenty-five (25) minutes in  
284 length, which shall be equal to one-half hour of CLER  
285 credit.

286 (d) Demonstrations and moot court. Trial and appeal  
287 demonstrations and moot court participation may be given  
288 the same credit that would be given for lectures on the  
289 same subject.

290 (e) Law office management and economics. Any six-hour  
291 generalized law office economics seminar may receive two  
292 (2) hours of CLER credit if it otherwise meets the  
293 standards set by the BCDE. Additional credit may be  
294 awarded if the program deals with a specific area of  
295 law.

296

(f) University courses--attendance and instruction.

297 (1) The following formula shall be used to calculate  
298 credit for attendees and instructors of approved  
299 law school, graduate law and graduate nonlaw  
300 courses:

301 (a) Attendance. Two (2) times university assigned  
302 quarter hours; three (3) times university  
303 assigned semester hours.

304 (b) Instruction. Four (4) times university  
305 assigned quarter hours; five (5) times  
306 university assigned semester hours.

307 (2) Credit for teaching university courses shall not  
308 exceed one-half the hours required to comply with  
309 the CLER requirement within a three year period.

310 (3) For courses taught by an individual more than once  
311 during a three-year period, credit shall be reduced  
312 fifty (50) percent each time the course is  
313 repeated.

314 (g) Laws of other states. Credit may be given for a course  
315 or part of a course whose content is exclusively the law  
316 or procedure of another state or territory of the United  
317 States.

318 (h) Legal drafting. Courses on legal drafting may be  
319 approved if the course content reasonably relates to the  
320 preparation of any legal document related to the  
321 rendering of legal services.

322 6.09 Credit for other CLE activities

323 (a) Lecture.

324 (1) Satisfactory performance as a lecturer in an  
325 approved CLE seminar may entitle an attorney to  
326 credit.

327 (2) A lecturer may receive five (5) hours of credit for  
328 a one-hour presentation provided at least five (5)  
329 hours were devoted to research and preparation.

330 (3) More than five (5) hours of credit may be awarded  
331 if the contribution was extraordinary, complex and  
332 time consuming. The amount of credit will be based  
333 upon the effort involved and the percentage of  
334 preparation and presentation time determined to  
335 have enhanced the contributor's proficiency in his  
336 or her law practice.

337 (4) Repetition of a presentation after the first  
338 delivery may be a basis for additional CLER credit.

339

(b) Workshop leader or panelist.

340

(1) Satisfactory performance as a workshop leader or  
341 panelist in an approved CLE activity may entitle an  
342 attorney to CLER credit.

342

343

(2) The amount of CLER credit will be based upon the  
344 effort involved and the percentage of preparation  
345 and presentation time determined to have enhanced  
346 the contributor's proficiency in the practice of  
347 law.

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(c) Writing.

349

(1) Credit may be granted for writing articles, books  
350 and chapters in books.

350

351

(2) The amount of credit awarded will be based upon the  
352 effort involved and the percentage of preparation  
353 time determined to have enhanced the contributor's  
354 proficiency in the practice of law.

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(d) Legislative service

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Credit for CLER will be given for service as a state or  
357 federal legislator at the rate of ten (10) hours of CLER  
358 credit for each full year of such service during the  
359 applicable reporting period.

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360 6.10 Complimentary audiotapes.

361 Each year, The Florida Bar shall prepare audiotapes of  
362 approved CLE material which will fulfill the entire CLE  
363 credit requirement for such year. During the first week of  
364 January of each year, the audiotapes shall be provided to  
365 each county law library or voluntary bar association, without  
366 charge or cost, and these recipients shall make the  
367 audiotapes available to all members without charge to such  
368 member(s). Copies of such tapes shall also be provided  
369 without charge or cost to out-of-state bar associations whose  
370 members desire use of same to comply with CLER, provided the  
371 out-of-state bar association demonstrates a need and agrees  
372 to provide the tapes at no cost to members of The Florida  
373 Bar. A copy of these tapes may be purchased by any member  
374 from The Florida Bar at the cost to The Florida Bar.

375 6.11 Procedures on noncompliance and appeal.

376 (a) Determination of noncompliance. Reports shall be  
377 reviewed to determine compliance. Noncompliance shall  
378 include, but not be limited to, incomplete reports,  
379 unexecuted reports, failure to timely file a report and  
380 failure to report sufficient CLER credit without a  
381 specific plan for compliance.

382 (b) Notice of noncompliance. The BCDE shall prepare and  
383 serve notice of noncompliance on a member determined to

384 be in noncompliance. Notice shall be effective if in  
385 writing and served at the member's record bar address or  
386 last known address, if any.

387 (c) Hearing on noncompliance. A member shall have thirty  
388 (30) days from service of the notice of noncompliance  
389 within which to request a hearing or show compliance.  
390 All hearings shall be held within thirty (30) days of  
391 filing the request for hearing. Notice of the time and  
392 place of hearing shall be given at least ten (10) days  
393 in advance. The hearing shall be held as soon as  
394 practical and may be heard by any panel or combination  
395 of panels of the BCDE. The member and The Florida Bar  
396 shall be the parties in the hearing.

397 (d) Finding and recommendation of BCDE. The panel shall  
398 make findings of fact and a determination of whether  
399 compliance has been accomplished. The panel's findings  
400 and determination shall be deemed the findings and  
401 determination of the BCDE.

402 The member of the BCDE who presided over and conducted  
403 the hearing shall report the findings of fact and  
404 determination of whether the member has complied with  
405 these rules and upon a finding of noncompliance shall  
406 determine whether there was reasonable cause for such  
407 noncompliance. A copy of the report shall be served on

408 the member in the same manner as the notice of  
409 noncompliance.

410 (1) Determination of noncompliance. If noncompliance  
411 has been determined, but reasonable cause exists  
412 therefor, the member may be allowed fifteen (15)  
413 days in which to submit a specific plan for  
414 compliance. A specific plan shall require  
415 compliance within one hundred twenty (120) days of  
416 filing the plan. Staff shall review the plan, and  
417 unless rejected within thirty (30) days from  
418 filing, the specific plan shall be deemed accepted.

419 Failure to timely file a specific plan or failure  
420 to verify compliance with a specific plan within  
421 fifteen (15) days from time for completion, shall  
422 confirm the determination of noncompliance. Staff  
423 shall file a notice of confirmation of  
424 noncompliance in the Supreme Court of Florida.

425 (2) Determination of compliance. If compliance has  
426 been determined, the report of the member shall be  
427 accepted. Notice of acceptance of the report shall  
428 be filed with the Supreme Court of Florida.

429 (e) Suspension for noncompliance. In cases where notice of  
430 noncompliance or notice of confirmation of noncompliance  
431 has been filed with the Supreme Court of Florida, the



432 Court may enter an order suspending the member from the  
433 practice of law in Florida.

434 (f) Appeals. An appeal from a determination of the BCDE or  
435 the board of governors may be taken by the affected  
436 member.

437 (1) Appeal of BCDE decision.

438 a. Commencement. An appeal shall be commenced by  
439 petition filed with the executive director of  
440 The Florida Bar. The notice shall: (1)  
441 identify the decision of the BCDE by its date  
442 and nature; (2) contain a statement of the  
443 relief to which petitioner deems himself  
444 entitled; and (3) include copies of all  
445 supporting documents that were submitted to  
446 the BCDE by the petitioner. The notice shall  
447 contain statements of facts, argument and  
448 citations to authority.

449 b. Time for appeal. An appeal shall be commenced  
450 within thirty (30) days of mailing of notice  
451 of the BCDE decision.

452 c. Filing of appeal; filing fee. A fee of  
453 seventy-five dollars (\$75.00) payable to The  
454 Florida Bar shall be paid when the petition is

455 filed. The filing may be accomplished by mail  
456 to the Executive Director, The Florida Bar,  
457 Tallahassee, Florida 32301. Filing by mail  
458 shall be complete upon receipt.

459 d. Answer. An answer to the petition on behalf  
460 of the BCDE may be served on the petitioner  
461 within thirty (30) days after the petition has  
462 been filed with the executive director. Service  
463 by mail shall be complete upon mailing. The  
464 answer shall contain statements of fact,  
465 argument, and citations to authority.

466 e. Reply. The petitioner may file a reply within  
467 twenty (20) days of service of the answer.

468 No further pleadings shall be permitted.

469 f. Consideration of appeal.

470 i. Time of meeting. The board of governors  
471 shall consider the appeal at its next  
472 regularly scheduled meeting held twenty  
473 (20) days after the time for filing a  
474 response by the BCDE has expired. The  
475 executive director shall furnish notice,  
476 by mail, of the meeting to the board of  
477 governors, the affected member and the

478 BCDE. The notice shall be mailed no more  
479 than fifteen (15) days prior to the date  
480 the board of governors will consider the  
481 appeal.

482 ii. Record. The executive director shall furnish  
483 to the board of governors:

- 484 1. A copy of the BCDE decision;
- 485 2. A copy of the petition and all supporting  
486 material furnished by the petitioner;
- 487 3. A copy of the BCDE's answer and  
488 supporting material; and
- 489 4. A copy of the reply, if any.

490 iii. Oral argument. Oral argument may be requested  
491 by the affected member at the time of filing  
492 appeal from the BCDE's decision. The BCDE  
493 shall have the right of oral argument only if  
494 same is requested by the affected member. If  
495 the affected member does not request oral  
496 argument, the board shall make its decision  
497 solely upon the basis of the pleadings and  
498 materials before it.

499           iv. Board of governors' decision. Consideration  
500           by the board of an appeal is in the nature of  
501           en banc proceeding. The decision of the board  
502           shall be by a majority of those members  
503           voting. All members present at the meeting  
504           may participate in the discussion and  
505           deliberation by the board on the appeal.  
506           Members of the board who serve on the BCDE are  
507           recused from voting on the appeal.

508           v. Notice of decision. The executive director  
509           shall give notice, by certified mail, to the  
510           petitioner and the BCDE of the board's  
511           decision within fifteen (15) days of the board  
512           meeting.

513           (2) Evidence. No evidence may be presented at any stage of  
514           the appeal that was not presented to the BCDE before its  
515           decision.

516           (3) Computation of time. In computing any period of time  
517           prescribed or allowed by these rules, the provisions of  
518           rule 9.420 of the Florida Appellate Rules and the  
519           definition of "legal holiday" provided by rule 9.420(e)  
520           of those rules, shall apply.

521           (4) Appeal to the Supreme Court of Florida. An appeal to  
522           the Supreme Court of Florida of the board of governors'

523 decision may be taken by an affected member. Such  
524 appeal shall be by petition filed within thirty (30)  
525 days of the service of the board of governors' decision.  
526 The Florida Rules of Appellate Procedure shall govern  
527 such appeals.

528 6.12 Reinstatement. A suspended member may be reinstated upon  
529 payment of a reinstatement fee of two hundred fifty dollars  
530 (\$250.00) dollars, petition to the BCDE and certification by  
531 the BCDE of compliance with CLER. The issue of compliance  
532 shall be determined by a panel of the BCDE in the same manner  
533 as in section 6.11 above. A finding of noncompliance and  
534 denial of reinstatement may be reviewed as provided in  
535 section 6.11.

536 6.13 Confidentiality. All records, files and proceedings on  
537 noncompliance shall be confidential. Disclosure of the  
538 existence of proceedings on noncompliance may be made in  
539 response to inquiries regarding the status of the member on  
540 written request of the member, and as far as is necessary for  
541 the BCDE to develop facts and determine the issue of  
542 compliance with CLER.

543 6.14 Rules of procedure and burden of proof. All hearings before  
544 the BCDE shall be conducted under the Florida Rules of Civil  
545 Procedure and rules of evidence applicable to disciplinary  
546 proceedings. At all hearings the member shall have the  
547 burden of proving compliance.