

# CHIEF JUSTICE'S COMMISSION ON PROFESSIONALISM

## Professionalism CLE Guidelines



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# **ACKNOWLEDGMENTS**

## **CHIEF JUSTICE’S COMMISSION ON PROFESSIONALISM**

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### **CLE WORKING GROUP**

The Chief Justice’s Commission on Professionalism gratefully acknowledges the hard work of the Commission’s CLE Working Group in reviewing and revising the Commission’s *Professionalism CLE Guidelines*.

**Ms. Rebecca Holmes Liles Grist, *Chair***  
Professor Patrick E. Longan  
Ms. Adwoa Ghartey-Tagoe Seymour

Honorable Sarah Hawkins Warren  
Mr. Raymond Kyle Williams

### **SPECIAL THANKS**

The Commission extends special gratitude to **PROFESSOR PATRICK E. LONGAN**, the William Augustus Bootle Chair in Professionalism and Ethics at the Mercer University School of Law, for creating multiple drafts of the *Professionalism CLE Guidelines* until the Commission reached a consensus on the final version.

## **Professionalism CLE Guidelines As Passed and Amended on 05-03-19**

### **Professionalism CLE Guidelines**

#### **Introduction**

In 1989, the Supreme Court of Georgia took two significant steps to confront the concerns and further the aspirations of the profession. First, it created the Chief Justice's Commission on Professionalism and gave it the primary charge of ensuring that the practice of law in this state remains a high calling, enlisted in the service not only of the client, but of the public good as well. This challenging mandate was supplemented by the Court's second step, that of amending the mandatory continuing legal education rule to require all active Georgia lawyers to complete one hour of professionalism CLE each year. The Court designated the Institute of Continuing Legal Education in Georgia (ICLE) as the sole sponsor of professionalism training and made the rule effective January 1, 1990. On May 31, 1991, the Supreme Court changed the rule to allow sponsors in addition to ICLE to conduct professionalism events so long as the sponsor is approved by the Commission according to its policies and procedures and complies with the Commission's professionalism CLE guidelines.

Now after approximately 30 years, the Commission recognizes the need to provide updated guidance to ICLE and any other proposed professionalism CLE sponsors as to the Court's high expectations regarding this training. Programming that does not satisfy these guidelines may not qualify for professionalism CLE credit. In adopting these guidelines, the Commission intends to ensure that ICLE, other CLE sponsors, and individual trainers or speakers understand the criteria for approval. These guidelines describe the process for applying for approval of professionalism CLE credit, set forth the applicable rules, and provide some additional commentary for the purpose of guidance.

#### **Application Process for Professionalism CLE**

The application requirements and process for professionalism CLE may be found on the Commission's website at <http://cjcpga.org/professionalism-cle-credit-application/>. Applications should be submitted at least 30 days prior to request for approval and should include the written materials and presentation materials that will be used during the professionalism CLE. Applications sent in after the date of the professionalism CLE program are **STRONGLY DISCOURAGED** and may result in attendees not receiving professionalism approval for the program, if no session of the CLE program is approved for professionalism CLE credit.

#### **Updates to Professionalism CLE Guidelines**

Like all rules and regulations that govern lawyers, the rules governing the professionalism CLE requirement may change from time to time. It is the responsibility of those applying for professionalism CLE credit to ensure that they have the most up-to-date version of the

Professionalism CLE Guidelines when applying for professionalism CLE. The most current Professionalism CLE Guidelines can always be found on the Commission's website at: <http://cjcpga.org/professionalism-cle-guidelines/>

#### Rules for Approval of Professionalism CLE Programs

**Rule 1: All general rules, accreditation standards, and regulations of the Commission on Continuing Lawyer Competency (CCLC) shall be observed.**

Professionalism CLE occupies a special niche but is nevertheless subject generally to rules that govern all CLE programs in Georgia as found in Part VIII of the Rules and Regulations of the State Bar of Georgia. These Professionalism CLE Guidelines impose some additional requirements especially for professionalism CLE programs with respect to evaluations (Rule 2) and written materials (Rule 3).

**Rule 2: All sponsors of professionalism CLE programs must solicit from each attendee an evaluation form to be completed and returned to the CLE sponsor or directly to the Commission.**

The evaluation should call upon attendees to evaluate the course and trainers and enable attendees to offer ideas or suggestions to the Commission on how best to address professionalism concerns. As a courtesy to CLE sponsors, the Commission offers CLE sponsors an electronic link to an evaluation for the professionalism component. CLE sponsors may use the electronic evaluation form supplied by the Commission upon the approval of CLE programs or they may create their own form as long as it contains at least the same questions on the Commission's evaluation form.

**Rule 3: All professionalism CLE programs must comply with the general standards from the CCLC that written materials ordinarily must be prepared. Regardless of whether other written materials are prepared, all professionalism CLE programs must include distribution of *A Lawyer's Creed and the Aspirational Statement on Professionalism* to all attendees.**

CCLC accreditation standards provide: "[t]horough, high quality, and carefully prepared written materials should be distributed to all attendees at or before the time the course is presented. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials for distribution should, however, be the exception and not the rule."<sup>1</sup> The general rule for professionalism CLE programs is the same: unless written materials are not suitable or readily available for a particular program, thorough, high quality and carefully prepared written materials must be provided. A short paper simply explaining the professionalism concepts that will be addressed in the presentation

and how those concepts relate to the presentation may satisfy this requirement. Samples of written materials for professionalism CLE programs are available at the Commission's website at <http://cjcpga.org/cle-cje-papers-and-presentations/>.

In addition to the general requirement of the CCLC regarding written materials, the Commission has determined that *A Lawyer's Creed and the Aspirational Statement on Professionalism* must be distributed at all professionalism CLE programs. This requirement applies even in those rare instances when other written materials are not required.

**Rule 4: The professionalism CLE application must demonstrate how the professionalism CLE program will adhere to the general goal of professionalism CLE programs in the legal profession as set forth in the Rules and Regulations of the State Bar of Georgia.<sup>2</sup>**

The professionalism CLE application should state the professionalism learning objective for the professionalism CLE program, should explain what professionalism concepts will be highlighted and should discuss the format in which the professionalism concepts will be taught.

**Rule 5: Professionalism CLE should primarily concern the promotion of lawyer professionalism as described in Georgia's *A Lawyer's Creed and the Aspirational Statement on Professionalism*.**

The foundational documents of the professionalism movement in Georgia are Georgia's *A Lawyer's Creed and the Aspirational Statement on Professionalism*. They were adopted by the Chief Justice's Commission on Professionalism in 1990 and became part of the Rules and Regulations for the Organization and Government of the State Bar of Georgia by order of the Supreme Court of Georgia. Taken together, these documents exist to guide Georgia lawyers about the meaning of professionalism and to constitute a public statement of the principles of professionalism. *The Aspirational Statement on Professionalism states: "It is the Court's hope that Georgia's lawyers, judges, and legal educators will use the [Aspirational Statement on Professionalism] to reexamine the justifications of the practice of law in our society and to consider the implications of those justifications for their conduct."* Lines 41 – 44.

The text of *A Lawyer's Creed and the Aspirational Statement on Professionalism* need not be explicitly taught at every professionalism program. Promotion of the principles set forth in those documents includes coverage of the meaning of professionalism, recognition of obstacles to professionalism and techniques for overcoming them, and motivation to practicing with professionalism. For example, a central component of professionalism is civility. Part of *A Lawyer's Creed* is to offer

“fairness, integrity and civility” to opposing parties and their counsel.” The *Aspirational Statement on Professionalism* provides that lawyers should “[b]e courteous and civil in all communications; ... [a]void rudeness and other acts of disrespect in all meetings including depositions and negotiations....” Therefore, programs that cover the meaning of civility, the causes of incivility, how to deal with another’s incivility, and/or the rewards of practicing with civility may qualify for CLE credit.

**Rule 6: Except as provided in Rule 7, professionalism CLE credit will not be approved for programs that teach substantive law.**

The definition of professionalism includes professional competence. A *Lawyer’s Creed* states that Georgia lawyers are expected to offer their clients “competence, diligence and good judgment.” Lines 2 – 3. The *Aspirational Statement on Professionalism* similarly recites that Georgia lawyers should aspire “[t]o achieve the excellence of our craft.” Line 67. However, general CLE requirements are in place to ensure that Georgia lawyers remain current on the substantive law. The special requirement for one hour of professionalism CLE per year occupies a separate niche. Therefore, with the narrow exception noted in Rule 7, training that is primarily to teach substantive law is unlikely to qualify for professionalism CLE credit.

**Rule 7: Professionalism CLE credit is permitted for training in substantive law that is specifically designed to enable lawyers to engage in pro bono representation that they otherwise would not be competent to provide.**

Professionalism requires the provision of pro bono services. In Georgia, A *Lawyer’s Creed* calls upon lawyers “[t]o make the law, the legal system, and other dispute resolution processes available to all....” Lines 21 – 22. One legitimate purpose of professionalism CLE is to equip lawyers to overcome obstacles to acting with professionalism. An obstacle to providing pro bono representation is the realistic fear of not having the competence to help indigent clients with the kinds of legal issues those clients face. A CLE program that equips lawyers with substantive training in order to overcome those fears may qualify for professionalism CLE. Such a program is not just about substantive competence but rather is directly related to helping lawyers implement an internalized commitment to professionalism.

Any lawyer claiming professionalism credit pursuant to Rule 7 will be deemed to be making a representation that the purpose of completing the professionalism CLE is to assist the lawyer with engaging in pro bono representation that the lawyer otherwise would not have been competent to perform. All CLE sponsors of such programs must advise attorneys in writing and prior to the beginning of the program that each person claiming professionalism credit is making such a representation.

**Rule 8: Professionalism CLE credit may not be approved for any program that primarily concerns the rules of professional conduct.**

There is significant and understandable overlap between the expectations of professionalism and the requirements of the *Georgia Rules of Professional Conduct* (Georgia's ethics rules), the *ABA Model Rules of Professional Conduct* and similar rules of attorney ethics in other states. For example, *A Lawyer's Creed* requires lawyers to "offer faithfulness" to clients, while the *Aspirational Statement on Professionalism* calls on lawyers to "put fidelity to clients and, through clients, to the common good, before selfish interests." Lines 2 and 49-50. The rules of professional conduct on conflicts of interest specifically regulate certain conduct related to client loyalty. However, the professionalism CLE requirement is distinct from the ethics CLE requirement. Therefore, programming that primarily discusses rules of professional conduct may not qualify for professionalism CLE.

**Rule 9: Programs related to the relationships between professionalism concepts and substance misuse, cognitive decline or wellness may qualify for professionalism CLE credit.**

One purpose of professionalism training is to prepare lawyers to recognize and assist in overcoming obstacles to professional conduct. Substance misuse and cognitive decline are two obstacles to professional conduct that warrant special recognition given lawyers' unique responsibilities as part of a self-regulating profession. Programs that are carefully tailored to an exposition of the relationships between professionalism concepts and substance misuse or cognitive decline may qualify for professionalism CLE credit. The CLE sponsor must make a clear and convincing showing in the written professionalism CLE application of the nexus between the professionalism concepts and the wellness content. An application that solely asserts that lawyer wellness is related to lawyer competency will be insufficient to demonstrate the nexus between the professionalism concepts and the wellness content. Moreover, programs devoted primarily to training in particular wellness techniques or regimens (yoga, meditation, nutrition, etc.) are too far afield from the core purposes of professionalism training to qualify for professionalism CLE credit.

The special requirement for one hour of professionalism CLE per year occupies a unique niche in lawyer education, and general CLE requirements are now in place to allow Georgia lawyers to obtain CLE credit for wellness programming.<sup>3</sup> Therefore, except for the narrow exception set forth in this Rule, training about wellness should not qualify for professionalism CLE credit. As a result, the Commission may construe this Rule narrowly to ensure it meets the general goals of professionalism CLE programs as set forth in Rules 4 and 5, above.

**Rule 10: The effective date of the rules will be July 1, 2019.**

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<sup>1</sup> Rules and Regulations of the State Bar of Georgia Rule 8-106 (B)(5).

<sup>2</sup> See Regulation 4 to Rule 8-104 (B) of the Rules and Regulations of the State Bar of Georgia Rule 8-104.

<sup>3</sup> See Regulation 6 to the Rules and Regulations of the State Bar of Georgia Rule 8-106 (A).