

Faculty Attorney FAQs

The following frequently asked questions relate to the recent changes in the Program Rules and in the Regulations (effective January 1, 2008) requiring that the faculty of a CLE course include at least one attorney in good standing who must actively participate in the course.

Does the attorney have to be admitted in New York? No.

How do I determine whether the attorney is in good standing for the purpose of complying with the Board's requirement? An attorney who is admitted in New York must be in good standing in New York (duly admitted to practice, currently registered with the Office of Court Administration, not disbarred or suspended, and not in arrears in the payment of the biennial registration fee required by law). Attorneys not admitted in New York, must be in good standing in at least one jurisdiction.

May retired attorneys satisfy this requirement? Yes.

We sometimes use as instructors nonattorneys with expertise in subject areas relevant to the practice of our attorneys. May we offer such training for CLE credit? The Board recognizes that training by experts in nonlegal fields may be a valuable component of an attorney's continuing legal education, but requires that there be involvement by an attorney who can provide a nexus to the law. Where a course sponsor wishes to offer a course presented to a live audience by a nonattorney (accountant, economist, doctor, etc.) the sponsor must also have on the faculty an attorney who will ensure that the course is tailored to the needs of a legal audience, which includes being available to tie the presentation to the law and/or field questions from the audience. The attorney should also review the written materials. (Depending on the extent of the participation of the attorney who serves in this capacity, the attorney may be awarded credit as either a moderator or a speaker under section 3[D] of the Regulations.) Single topic programs presented in several parts might satisfy the Board's requirement without having the attorney physically present throughout every segment.

What if our nonattorney instructor records a CLE course in a studio setting, without a live audience? In this case, an attorney must, at a minimum, review the written materials, set the framework for the presentation, be present for the entire length of the program and tie the presentation to the law. (Depending on the extent of the participation of the attorney who serves in this capacity, the attorney may be awarded credit as either a moderator or a speaker under section 3[D] of the Regulations.)

May we continue to offer CLE credit for programs recorded prior to January 1, 2008 (available on CD, DVD, online, etc.) that feature nonattorney speakers? Yes, in fact you may offer programs recorded up to June 1, 2008, but only after an attorney has reviewed the entire course and the accompanying written materials. (The attorney who serves in this capacity may be awarded the same credit as attorney-attendees who complete the course for CLE credit.) Keep in mind that providers have an ongoing responsibility to review their programs from time to time to make sure that the content remains relevant and appropriate.

Are there any courses where the faculty need not include at least one attorney in good standing? Yes.

- Any course taught by a faculty member of an ABA-accredited law school, who is a law school graduate but not admitted to practice in any jurisdiction
- Legal research courses taught by a law school graduate who is not admitted to practice in any jurisdiction (for example, legal research courses for Lexis, Westlaw or other CLE sponsors)
- Court operations-related courses (for example, e-filing) taught by a nonattorney employee of a state or federal court system or court supported entity, who is authorized by his/her employer to teach such courses