

NEBRASKA ADMINISTRATIVE CODE

TITLE 78 - NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

CHAPTER 6 - COUNTY ATTORNEY CONTINUING LEGAL EDUCATION

001 Purpose - To prescribe procedures for curriculum, annual required hours, certification of sponsors of courses, and tuition.

002 Reference - Nebraska Statute 23-1212

003 General - The Statute directs the Commission, after consultation with the Nebraska County Attorney Standards Advisory Council, with the responsibility of establishing a curriculum and administering continuing legal education for all county attorneys and their deputies beginning January 1, 1981. This rule and regulation is prepared to implement the responsibilities set forth in the Statute.

004 Curriculum - The curriculum established for the continuing legal education of all county attorneys and deputy county attorneys shall contain topics directed at all aspects of the civil and criminal statutory duties and shall include instruction which will:

- (a) provide a working knowledge of electronic speed measurement principles; and
- (b) instruct on the investigation and prosecution of crimes against children.

005 Hours - Beginning on January 1, 1995, annual hours of continuing legal education required for county attorneys and deputy county attorneys shall be fifteen hours. Beginning on January 1, 1997 the required annual hours shall be twenty hours of which up to 5 hours of applicable self-instruction/training credit may be obtained through use of satellite, Internet, video or audio tape presentations. Such requirement shall be waived for county attorneys or deputy county attorneys in any year where such county attorney or deputy county attorney assumes office after July 1 of that year.

005.01 County attorneys and deputy county attorneys shall receive, whether elected or appointed, the following instruction:

(a) during the first year of their term of office, a working knowledge of speed measurement principles not to exceed one hour of credit. The instruction may be received from a law enforcement officer certified in operating electronic speed measurement devices. Instructions may be offered on an individual or group basis or by a certified sponsor offering electronic speed measurement principle as a part of the course; and

(b) during the first two years of their term of office, a total of eight hours of instruction on the investigation and prosecution of crimes against children and a minimum of one hour each year thereafter.

005.02 County attorneys and deputy county attorneys may receive up to 10 hours of credit once every four years per individual for county attorneys office management courses.

005.03 County attorneys or deputy county attorneys may receive up to 5 hours of credit annually for self-instruction/training through the use of satellite, Internet, video or audio tape presentations which meet the curriculum guidelines set forth in 004. Upon submittal of a signed CLE-4 form by the county attorney or deputy county attorney affirming receipt of training in this manner, credit shall be awarded relevant to the length of the presentation.

006 Course and Instructor Approval - Instruction and course development will be by individuals or organizations approved by the Commission. The following requirements shall be met:

006.01 The course shall have significant intellectual and/or practical content for the Office of County Attorney as defined in Section (004).

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006.02 Each instructor shall be qualified by practical and/or academic

experience to teach the course. Legal subjects will normally be taught by an attorney.

006.03 While written materials need not be distributed for every course, thorough, high quality, readable, and carefully prepared written materials should be distributed to all participants at or before the time the course is offered whenever practicable.

006.04 Instruction shall be given in a suitable classroom or laboratory setting. No course will be approved which involves correspondence work or self-study. Video, motion picture or sound tape presentations may be used, provided an instructor is in attendance at all presentations to comment and answer questions. Interactive teleconferencing may be approved.

006.05 Credit will not normally be given for speeches given at luncheons or banquets unless such speeches fall within the curriculum requirements set forth in (004).

006.06 A list of all participants shall be maintained by the sponsoring individual or organization and shall be transmitted to the Commission following the presentation of the course, along with the total number of hours to be credited to the course.

006.07 Credit shall be awarded on the basis of one hour for each classroom hour actually spent in attendance at an approved course.

006.08 Proposed tuition per participant shall be submitted.

006.09 An individual or organization which seeks approval of a course shall submit all information required by Form CLE-1.

006.10 Any individual or organization may announce, as to a course that has been given approval, that "this course has been approved by the Nebraska Commission on Law Enforcement and Criminal Justice for ___ hours of continuing legal education credit for Nebraska county attorneys and deputy county attorneys."

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007 Out-of-State Training - Every county attorney or deputy desiring credit for attending out-of-state continuing legal education programs shall:

007.01 Submit Form CLE-2 for approval along with a curriculum outline or brochure including proposed tuition per participant.

To be approved for credit, the course shall meet the curriculum requirement set out in 004 and, where applicable, the course requirements set out in 006.

007.02 Report attendance as required in Section 012.

008 Sustaining Course Approval - The Commission recognizes the established history of specific courses and the general courses offered by certain sponsoring organizations on a continuing basis for in- and out-of-state training. Such courses and sponsoring organizations have a record which establishes that those courses meet the curriculum and course requirements as established in 004 and 006. While the Commission reserves the right to audit programs for compliance with this rule and regulation, it has examined and does approve the following specific courses and general courses provided by the following sponsoring organizations for credit:

008.01 Nebraska County Attorneys Association

008.02 National College of District Attorneys, University of Houston College of Law, Houston, Texas

008.03 National District Attorneys Association (training seminars only), Chicago, Illinois

008.04 Northwestern University College of Law, Evanston, Illinois (short courses for prosecutors)

008.05 National Judicial College (child support enforcement responsibilities), Reno, Nevada

008.06 Hastings College of Law (trial advocacy for prosecutors), San Francisco

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008.07 All courses which have been approved for continuing legal education credit by the certifying agency of any state where mandatory continuing legal education is required and which meet the curriculum established in 004.

009 Partial Credit for Attending Certain Courses - Due to the varied nature of the duties of a county attorney and deputy county attorneys, the Commission recognizes that only parts of certain courses will fall within the curriculum requirements of 004. In such cases credit will be allowed for attendance at those parts of the course which meet the curriculum guidelines. To receive such credit, county attorneys and deputy county attorneys shall follow the procedure established for approval of out-of-state training set out in 007, 007.01, 007.02, and 007.03.

010 Credit for Teaching - Credit to a county attorney or deputy for teaching an approved course shall be awarded on the basis of one hour for each 60 minutes spent preparing for and teaching in the course but not to exceed five hours per course taught.

An exception to the 5 hour credit limit may be granted in cases where a county attorney or deputy teach and serve on a faculty of a course approved by the County Attorneys Standards Advisory Council or the Executive Director and are required to: (a) attend all of the lectures, demonstrations, performance exercises and workshop exercises attended by the participants, and (b) perform all of the lecture, demonstration, performance, critique, and administrative assignments required of the faculty. In these cases, credit may be awarded in the same amount allowed to the participants in the course.

010.01 Form CLE-3 will be submitted for person seeking teaching credit.

011 Office Roster - Every county attorney shall submit an annual roster of deputy county attorneys that are in office as of June 30 and by August 1 of each year to ensure compliance with Section 005.

012 Reporting Attendance - Every county attorney and deputy shall submit by January 31 of each year following the calendar year of training an affidavit of attendance of approved course.

012.01 Form CLE-4 shall be used for this purpose.

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013 Noncompliance - When a county attorney or deputy county attorney has not fulfilled the required number of hours of annual mandatory continuing legal education, the following will apply:

013.01 Noncompliance Review and Hearing:

013.01A The Commission may designate the Executive Director or some other person(s) to make the initial determination with respect to any noncompliance, which determination shall be reviewed by the Commission before notice of noncompliance is sent to any county attorney or deputy county attorney.

013.01B If a county attorney or deputy county attorney fails to meet the statutory requirements for continuing legal education or fails to file a proper affidavit with respect thereto on Form CLE-4, then the Commission shall cause a Notice of Noncompliance to be sent to such county attorney or deputy county attorney by certified mail directed to the last know address as indicated on records maintained in the Commission office. Such notice shall advise the county attorney or deputy county attorney of the existence and nature of such noncompliance and that the county attorney or deputy county attorney may file a request for hearing with the Commission within thirty (30) days of the date of mailing of the notice. If no hearing is requested during this period, the Commission shall then report such noncompliance to the Attorney General within sixty (60) days after the mailing of such notice, for further proceedings in accordance with Nebraska Statute 23-1212.

013.01C If a hearing is requested by a county attorney or deputy county attorney determined to be in noncompliance, the Commission shall conduct a hearing at which the county attorney or deputy county attorney may be represented by counsel and shall make a stenographic or tape recorded record of all proceedings at the hearings. The hearing may be held before the full Commission or by a Hearing Panel comprised of not fewer than three Commission members designated by the Chairman of the Commission. The Commission or Hearing Panel may admit any relevant evidence, including hearsay.

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Prevailing rules of privilege shall apply. If the hearing is conducted before a Hearing Panel, its findings and recommendations

shall be transmitted to the Commission.

013.01D If, after such hearing, the Commission determines that a county attorney or deputy county attorney is in noncompliance with this rule and regulation, it shall notify the Attorney General within fifteen (15) days for further proceedings in accordance with Nebraska Statute 23-1212.

013.01E If failure was not willful or negligent, the county attorney or deputy shall be permitted to make up the outstanding hours of continuing legal education on or before a deadline designated by the Commission.

014 Evaluation of Education - The Council will make a continuing evaluation of the effectiveness of the continuing legal education including the number of required hours and make recommendations to the Commission.

015 Expenses of Training. From funds appropriated by the Legislature to the Commission for use by the Nebraska County Attorneys Association and/or other organizations as permitted by the Commission's enabling legislation to develop and conduct annual training seminars and conferences, the Commission shall reimburse at a rate consistent with state guidelines for expenses relating to a conference or seminar designed for county attorneys and deputy county attorneys to fulfill the mandatory CLE requirements.

015.01 Upon an application by the Nebraska County Attorneys Association and/or other organizations as permitted by the Commission's enabling legislation for reimbursement of expenses relating to sponsorship of the seminar or conference for county attorneys and deputy county attorneys. The Commission shall, upon receipt of the itemized listing of expenses and attendance roster, reimburse the sponsor at a rate consistent with state guidelines for expenses including the administrative costs in developing the program. The Commission shall limit reimbursement of administrative costs to no more than 10% of total costs.

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The Commission shall not reimburse, whether in whole or in part, any registration fee for a county attorney or a deputy county attorney to fulfill mandatory continuing legal education requirements.

015.02 From the funds appropriated under Legislative Bills 1246 and 1246(A), in the 1990 session of the Nebraska Legislature, the Commission shall subcontract with the Nebraska County Attorneys Association and/or other organizations as permitted by the Commission's enabling legislation for developing and conducting an annual seminar on child abuse, and a trial manual on the investigation and prosecution of crimes against children.

015.03 Prior to making reimbursement to the Nebraska County Attorneys Association and/or other organizations as permitted by the Commission's enabling legislation, the Commission shall receive written documentation for all costs requested for reimbursement.

Effective Date:

Revised from: June 8, 1998

NEBRASKA CRIME COMMISSION
COUNTY ATTORNEY'S CLE ATTENDANCE REPORT *

NAME: _____ TITLE:

COUNTY EMPLOYED:

PERIOD COVERED: JANUARY 1, 20__ THROUGH DECEMBER 31, 20__

APPROVED COURSES ATTENDED DURING THIS PERIOD			
SPONSORING AGENCY	NAME OF COURSE	ATTENDANCE DATES	NO. HOURS ATTENDED

TOTAL HOURS ATTENDED

SELF-INSTRUCTION/TRAINING RECEIVED DURING THIS PERIOD**			
TRAINING TITLE & PRESENTER	MEANS OF PRESENTATION	TRAINING DATES	HOURS OF TRAINING

TOTAL HOURS SELF-INSTRUCTION

Radar training requirement (1 hour) met in first year of office? YES ___ NO

Investigation & prosecution of crimes against children training requirement met?
 (8 hours during first 2 years and 1 hour each following year) YES ___ NO

I swear or affirm that the information herein, is to the best of my knowledge, complete and accurate.

Signature

Date

Mailing Address: 301 Centennial Mall South, P.O. Box 94946, Lincoln, NE 68509-4946 - (402)471-2194

**This report is required to be submitted by January 31 of each year.*

*** Up to 5 hours of self-instruction/training is allowable annually.*

FORM CLE-4 (6/98)