

CHAPTER 3

ATTORNEYS AND THE PRACTICE OF LAW

ARTICLE 4

MANDATORY CONTINUING LEGAL EDUCATION FOR LAWYERS

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Mandatory Continuing Legal Education for Lawyers Rules

§ 3-401.1. Purpose and application.

By continuing their legal education throughout the period of their practice of law, attorneys can enhance their competence to serve their clients. Chapter 3, article 4, of the Nebraska Supreme Court Rules establishes minimum requirements for such continuing legal education (CLE) and the means by which the requirements shall be enforced. The mandatory CLE requirements of these rules shall apply to all active members of the Nebraska State Bar Association, unless otherwise provided herein. These rules shall become effective on July 1, 2009, except that those provisions mandating attorney compliance with the CLE requirements of the rules shall not become operative until January 1, 2010. Attendance at any accredited or approved CLE program, as approved by the Director of Judicial Branch Education

(Director) as set forth in these rules, in the three (3) months preceding January 1, 2010, may apply toward CLE requirements for the first reporting period upon application of the attorney and approval of the Director.

§ 3-401.2. Definitions.

For purposes of Neb. Ct. R. §§ 3-401.1 through 3-402.3, the following definitions shall apply:

(A) Reporting period: The initial reporting period shall begin January 1, 2010. The reporting period shall be an annual period, based on a calendar year, in which attorneys shall complete the required hours of CLE.

(B) Commission: Nebraska Supreme Court Continuing Legal Education Commission.

(C) Credit hour: Sixty (60) minutes spent by an attorney in an accredited or approved instructional program designed for CLE. Credit may be claimed for less than one (1) credit hour.

(D) In-house activity: A CLE program given by, for, or to a select private audience, such as a law firm, corporation, government agency, or governmental entity, not open for admission to other members of the legal community generally. When determining whether a program is in-house activity, the Director shall consider the attendees and programming literature, not the sponsor of the education.

(E) Active member: An attorney as defined by Neb. Ct. R. § 3-803(B)(1).

(F) Inactive member: An attorney as defined by Neb. Ct. R. § 3-803(B)(2).

(G) Program sponsor: Any person or organization presenting or offering to present one or more individual CLE programs.

(H) Accredited CLE sponsor: A person or organization whose entire CLE program has been accredited pursuant to these rules.

(I) Faculty member: A person qualified by practical or academic experience to teach or present at a CLE program.

(J) Professional responsibility: As used herein, professional responsibility includes instruction in the following areas: legal ethics; professionalism; diversity in the legal profession; malpractice prevention; recognizing and addressing substance abuse and mental health issues in the legal profession; Nebraska Supreme Court Rules Relating to Discipline of Attorneys; ethical standards as they relate directly to law firm management; and duties of attorneys to the judicial system, public, clients, and other attorneys.

§ 3-401.2(C) amended November 16, 2011.

§ 3-401.3. CLE commission; administration.

(A) There is hereby established the Nebraska Supreme Court Continuing Legal Education Commission consisting of seven members. The Nebraska Supreme Court shall appoint to the commission six resident members of this state who are active members of the Nebraska State Bar Association licensed to engage

in the practice of law in Nebraska. There shall be one such attorney member appointed from each of the six Nebraska Supreme Court judicial districts. The attorney members shall serve a term of three (3) years each. Of the six members initially appointed, two members shall serve for one (1) year, two members shall serve for two (2) years, and two members shall serve for three (3) years. The seventh member shall be a justice of the Nebraska Supreme Court appointed by the Chief Justice. No attorney member shall serve more than two consecutive terms as a member of the commission.

(B) The commission shall meet at such places and times as it determines. The members shall be entitled to reimbursement for reasonable travel, lodging, and other reasonable expenses incurred in the performance of duties relating to the commission.

(C) The Nebraska Supreme Court shall adopt rules governing the operations and activities of the commission.

(D) The administrator of the commission shall be the Director.

(E) The Director, on behalf of the commission, shall have the following duties with respect to CLE for attorneys:

(1) To exercise general administrative authority over the Nebraska Supreme Court program for CLE established by these rules;

(2) To accredit program sponsors, courses, programs, and other educational activities that will satisfy the educational requirements of these rules;

(3) To approve CLE activities other than accredited courses for credit toward the requirements of these rules;

(4) To establish and maintain a system for recording and monitoring attorney legal education credits required by these rules;

(5) To review and rule on attorney applications for waivers and extensions of time to the requirements of these rules;

(6) To notify attorneys pursuant to § 3-401.11 of their failure to comply with the requirements of these rules;

(7) To report promptly to the commission concerning any violation of these rules by any active member of the Nebraska State Bar Association;

(8) To set fees for sharing U.S. Postal mailing lists with CLE sponsors for correspondence with Nebraska attorneys.

(F) The Director, his or her representatives, and members of the CLE commission, and all others whose assistance is requested by any of the foregoing in connection with the enforcement of these rules, shall be immune from suit for any conduct in the course of their official duties under these rules.

§ 3-401.4. CLE requirement.

(A) Active members of the Nebraska State Bar Association admitted to engage in the active practice of law in this state shall complete a minimum of ten (10) hours of accredited or approved CLE in each annual reporting period. Of the ten (10) hours, at least two (2) hours shall be in the area of professional responsibility.

(B) CLE credit hours for each attorney shall be reported to the Director as set forth in these rules and in the manner prescribed by the Nebraska Supreme Court. Reporting shall be completed in electronic form using the MCLE on-line system.

(C) An attorney completing more than ten (10) CLE credit hours during the annual reporting period may receive credit in the next succeeding annual reporting period for the CLE credit hours earned in excess of ten (10) hours, provided that the excess CLE credit hours carried over into the next succeeding annual reporting period may not exceed five (5) hours. CLE credit hours in the area of professional responsibility are an annual requirement, and those credit hours shall not roll over.

§ 3-401.4(C) amended November 12, 2009; § 3-401.4(C) amended November 16, 2011.

§ 3-401.5. Exemptions.

The following attorneys are exempt from CLE requirements as set forth by these rules:

(A) Attorneys during the time they are on inactive status pursuant to Neb. Ct. R. § 3-803(B)(2).

(B) Members of the U.S. Armed Forces under the following circumstances:

(1) Attorneys who are on continuous Active Military Service under title 10 or title 32 of the U.S. Code or State Active Duty under the jurisdiction of any state or territory of the United States for a period of at least six (6) months during the annual reporting period.

(2) Active component members or members of the reserve forces of the U.S. Military who are serving in excess of thirty (30) days but less than six (6) months of continuous active duty military service under title 10 or title 32 of the U.S. Code or State Active Duty under the jurisdiction of any state or territory of the United States. Upon release or discharge from service as described in this paragraph, said attorneys shall have either six (6) months or until the end of the annual reporting period, whichever is longer, to obtain the required CLE credits.

(C) All persons subject to mandatory judicial branch education pursuant to Neb. Ct. R. § 1-501 et seq., including judges and attorneys.

(D) Attorneys who have been suspended or disbarred from the practice of law by order of the Nebraska Supreme Court, except as otherwise ordered by the Nebraska Supreme Court pursuant to § 3-401.12(C).

(E) Newly admitted attorneys shall be subject to this article beginning January 1 of the year following admission to the Nebraska State Bar Association. Credit shall not be given for any courses attended before admission to the practice of law in Nebraska.

(F) Attorneys who have reached the year in which their 70th birthday occurs.

§ 3-401.5(F) adopted January 12, 2011.

§ 3-401.6. Accredited CLE sponsors: procedure for accreditation of sponsors.

An accredited CLE sponsor is a person or organization who has qualified as such under this rule. The programs of an accredited CLE sponsor shall be automatically approved for CLE credit so long as its status as an accredited CLE sponsor remains active, the \$25 fee required by § 3-401.6(D) has been received by the Director no later than ten (10) days prior to the program being offered, the reporting requirements of § 3-401.9 have been agreed to by the sponsor, and there has been no revocation by the Director.

(A) An organization or person desiring to become an accredited CLE sponsor may apply for accreditation to the Director. Such application shall be submitted at least sixty (60) days prior to any educational activity. An accredited CLE sponsor's programs shall meet the educational standards of § 3-401.7. The Director may grant an application for accreditation as an accredited CLE sponsor if he or she is satisfied that the applicant's programs meet the standards set forth in § 3-401.7 and provided the applicant complies with the following:

(1) The person or organization submits to the Director, on a form approved for that purpose, information on CLE programs offered during the two (2) years immediately preceding the request for accredited CLE sponsor status. If the person or organization has been offering CLE courses for five (5) years or less, the Director may, at his or her discretion, request submission of course materials for inspection.

(2) The sponsor pays a one-time nonrefundable accreditation fee of \$200.

(B) Accreditation is not approved until the sponsor is notified in writing by the Director.

(C) The Director may, at any time, reevaluate the programs being presented by an accredited CLE sponsor. If, after such reevaluation, the Director finds there is cause for revocation of the accreditation of a sponsor, he or she shall provide written notice of such cause to the sponsor and shall allow the sponsor fifteen (15) days to show cause to the Director why such accreditation should not be revoked. If such sponsor fails to adequately show cause why the accreditation should not be revoked, the Director may revoke the accreditation and shall promptly notify the sponsor of such decision. In addition, if the Director in his or her judgment concludes that a course fails to meet the educational standards for approval set forth in § 3-401.7, he or she may deny or withdraw approval for the course even though offered by an accredited sponsor.

(D) An accredited CLE sponsor shall pay a nonrefundable fee of \$25 for each occasion a course or program is offered by that sponsor under these rules.

§ 3-401.6 amended November 12, 2009.

§ 3-401.7. Educational standards for CLE courses; application for approval of individual course by program sponsors other than accredited CLE sponsor.

(A) An individual CLE course offered by a program sponsor other than an accredited CLE sponsor may be approved for credit if the \$50 application fee required by § 3-401.7(D) has been received by the Director, the reporting requirements of § 3-401.9 have been agreed to by the program sponsor, and the course meets the following educational standards:

(1) It has as its goal the teaching of a subject matter primarily related to the practice of law or to a discipline in which further education of attorneys would be beneficial to the practice of law.

(2) It constitutes an organized program of learning, including lectures, workshops, or symposiums, which contributes directly to the professional competency of an attorney.

(3) It pertains to legal subjects or other subject matters having significant intellectual or practical content relating to the practice of law or to the education of attorneys with respect to professional responsibility.

(4) It is conducted or taught by attorneys or other persons who have the necessary academic or practical skills to conduct the course effectively and who have special education, training, and experience by reason of which they should be considered knowledgeable concerning the subject matter of the program.

(5) Each attendee must be provided with written or electronic course materials that substantively pertain to the subject matter of the program and are of a quality and quantity that indicate adequate time has been devoted to their preparation and they will be of value to the attendees in the course of the practice of law.

(6) If the course involves the use of distance learning formats, including, but not limited to, archived video or audio programs, webcasts, telephone broadcasts, or simultaneous broadcasts, the credits shall be subject to the 5-hour annual cap set forth in § 3-401.8(A). Further, those not physically attending must have substantially the same opportunity for interaction with those teaching the course as they would if physically present at the same location. No credit will be given for archived video or audio programs whose content is more than one (1) year old.

(B) An organization or person, other than an accredited sponsor, desiring prior accreditation of a course or program shall apply for accreditation or approval to the Director at least forty-five (45) days before the activity. The application shall include a brief resume of the activity; its dates, subjects, and instructors and their qualifications; and a copy of the program outline, brochure, or other documentation upon which the Director can make a determination as to the credits. The Director shall approve or deny such application in writing within thirty (30) days of receiving the application.

(C) An attorney seeking credit for participation in an education course or program for which credits were not approved in advance by the Director shall submit the course for approval through the on-line system and include in the submission a brief resume of the activity; its dates, subjects, and instructors and their qualifications; and a copy of the program outline, brochure, or other documentation upon which the Director can make a determination as to the credits to which the applicant is entitled. Within a reasonable time after receipt of the approval request and accompanying materials, not to exceed thirty (30) days, the Director shall assign the number of credits, if any, being granted through the on-line system.

(D) A person or organization seeking accreditation of a course or program as a program sponsor under this section shall pay a nonrefundable application fee of \$50 at the time of submitting the application to the Director. No application fee shall be required of an attorney who applies for accreditation solely as an attendee.

§ 3-401.7(B) amended September 9, 2009; § 3-401.7(A)(6) amended December 8, 2010, effective January 1, 2011; § 3-401.7(A)(6) amended February 24, 2011; § 3-401.7(C) amended November 16, 2011.

§ 3-401.8. Limitations on credits based on class type and credit for activities other than attending accredited or approved courses.

Subject to the annual credit number limitations set forth below, which apply to all CLE activities, an attorney may receive CLE credit for activities other than attendance at courses offered by accredited CLE sponsors or individual courses approved under § 3-401.7:

(A) Up to five (5) hours in the annual reporting period may be obtained through completion of computer-based legal education accredited by the Director.

(B) Up to five (5) hours in the annual reporting period may be obtained for approved “in-house” CLE programs as defined by § 3-401.2(D). “In-house” CLE must be approved by the Director and application for credit shall be in the manner prescribed by the Nebraska Supreme Court. In order for an in-house CLE program to be approved, the Director must approve it on application of the sponsor no fewer than thirty (30) days before the commencement of the program. The application must include a description of the dates, times, places, faculty members, and the subject matter of the program and an explanation of how the program meets the educational standards of § 3-401.7. In addition, the “in-house” program sponsor must agree to the reporting requirements of § 3-401.9, including payment of the sponsor’s fee of \$1 per approved credit hour for each attorney.

(C) Up to three (3) hours in the annual reporting period may be obtained for teaching pre-approved CLE programs. An attorney seeking credit for teaching approved CLE programs must make written application to the Director with an explanation of time spent in preparation of teaching the CLE materials. This credit shall be in addition to credit for attending the approved CLE program. No credit shall be given for teaching directed primarily to candidates for a law degree.

(D) Attendance at J.D.- or graduate-level law courses offered by American Bar Association (ABA)-accredited law schools, subject to the following conditions:

(1) Credit may be awarded for courses initiated and completed after admission to practice in Nebraska.

(2) Credit toward MCLE requirements shall be for the actual number of class hours attended, but the maximum number of credits that may be earned during any annual reporting period by attending courses offered by ABA-accredited law schools shall be the maximum annual CLE hours required by Neb. Ct. R. § 3-401.4.

(3) The course need not be taken for law school credit toward a degree; auditing a course is permitted. However, the attorney must comply with all law school rules for attendance, participation, and examination, if any, and complete the course to receive CLE credit.

(4) The law school shall give each attorney a written certification evincing that the attorney has complied with requirements for the course and has completed the course.

(E) Without limitation as to the number of hours, for attendance at educational activities that are not approved in advance, provided that the attorney seeking credit submits to the Director a written report which shall include a brief resume of the activity; its dates, subjects, and instructors, and their qualifications; a copy of the program outline or brochure; and an explanation of how the activity meets the educational standards of § 3-401.7, and that the Director approves the credit.

§ 3-401.8(D) and (E) amended February 3, 2010; § 3-401.8 amended June 9, 2010; § 3-401.8(C) amended December 8, 2010, effective January 1, 2011.

§ 3-401.9. CLE sponsor reporting of attorney attendance; course promotional material requirements; attorney self-reporting of course completion.

(A) As a condition of accreditation pursuant to § 3-401.6 or program approval pursuant to § 3-401.7 or § 3-401.8(B), sponsors of CLE programs shall agree to remit to the Director an alphabetical list of Nebraska attorney attendees and shall pay to the Director a fee of \$1 per approved credit hour for each Nebraska attorney who attends the program. This sponsor's fee, along with the list of attendees, shall be submitted to the Director in the manner provided by the Nebraska Supreme Court within thirty (30) days after the program is held.

(B) All accredited CLE sponsors qualified under § 3-401.6 and program sponsors of individual courses or programs approved under § 3-401.7 shall agree to the following as a condition of accreditation or program approval:

(1) An official record verifying all Nebraska attorneys' attendance at the activity shall be maintained by the sponsor for at least three (3) years after the completion date of the program.

(2) The sponsor shall include the attorney's name on the official record only if such attorney attended the program and there is verifiable proof of attendance at the educational activity.

(3) The official record of attendance shall state the name and bar number of the attorney, the date and location of the activity, and the title of the program attended along with the amount of CLE credit obtained from attendance at the activity.

(4) Sponsors shall provide a certificate of attendance to all attorneys attending CLE programming provided by the sponsor. The certificate of attendance shall state the date, location, title of the program, and the amount of CLE credit obtained from attendance at the activity.

(5) Accredited CLE sponsors and approved program sponsors shall include a statement in any materials promoting their approved educational activity, certifying that the sponsor is an accredited CLE sponsor or approved program sponsor under these rules. Examples: "[Sponsor] is an accredited CLE sponsor in the State of Nebraska" or "[Sponsor] certifies that this activity has been approved for CLE credit in the State of Nebraska."

(6) Sponsors shall not provide promotional material or other information to Nebraska attorneys that provides credit totals that differ from the credit total approved by the Nebraska MCLE Commission. In the case of distance learning courses lasting longer than 5 hours, and in the case of in-house programs, the course promotional material shall indicate the cap imposed upon such programs contained in §§ 3-401.8(A) and 3-401.8(B).

(C) Attorneys seeking CLE credit for any accredited or approved course involving distance learning formats, including, but not limited to, archived video or audio programs, webcasts, telephone broadcasts, simultaneous broadcasts, or computer-based legal education, as referenced in §§ 3-401.7(A)(6) and 3-401.8, or for any other similar accredited or approved course for which there will be no sponsor reporting, shall submit to the Director a written report of completion, signed by the attorney, which includes the name of or other identifying information regarding the course; information regarding the prior accreditation or approval of the course; the sponsor of the course, if applicable; the total time spent in study; and the date and location of completion.

§§ 3-401.9(B)(6) and (C) amended February 24, 2011.

§ 3-401.10. Report by attorneys to Director.

(A) On or before October 1 of each annual reporting period, the Director shall provide e-mail notification to all active attorneys to review their on-line accounts and make sure all education is reported in order to facilitate the timely filing of annual reports beginning December 1.

(B) On or before December 31 of the end of the annual reporting period, each attorney admitted to the active practice of law in this state shall make a report to the Director, in the manner prescribed by the Nebraska Supreme Court, concerning completion of accredited or approved CLE, including professional responsibility education, during the preceding reporting period.

(C) All attorneys who fail by December 31 of the end of the annual reporting period to file the report shall pay a penalty of \$25 by a credit card transaction through the on-line system.

§ 3-401.10(A) and (C) amended and (D) deleted November 16, 2011.

§ 3-401.11. Sanction for failure to satisfy CLE requirements.

(A) Any attorney who fails to comply with the provisions of this rule or who files a report showing on its face that he or she has failed to complete the required number of hours of CLE may have his or her right to practice law suspended by the Nebraska Supreme Court, provided that at least thirty (30) days prior to such suspension, the Director shall provide notice of noncompliance to the attorney by restricted certified mail, return receipt requested, addressed to the attorney at his or her last known address. The attorney shall be given forty-five (45) days to file with the Director an affidavit disclosing facts demonstrating the noncompliance was not willful and tendering such information, documents, sums, and penalties which, if accepted, would cure the delinquency.

(B) If compliance does not occur within forty-five (45) days as stated in § 3-401.11(A), a statement of noncompliance shall be filed by the Director with the commission. The commission shall enter an order to show cause why the attorney should not be suspended from the practice of law for failure to comply with these rules. A hearing may be requested by the attorney as set forth in § 3-402.3.

(C) If the commission finds that cause was not shown, a recommendation of suspension from the practice of law for failure to comply with these rules shall be made to the Nebraska Supreme Court by submission of the same to the Office of the Clerk of the Nebraska Supreme Court.

(D) The Nebraska Supreme Court shall enter an order to show cause why such attorney should not be suspended from the practice of law as an active member of the Nebraska State Bar Association. The Nebraska Supreme Court shall, after hearing thereon if requested, enter such an order as it may deem appropriate. If an order of suspension shall be entered, such attorney shall not practice law until restored to active status as set forth below.

§ 3-401.12. Reinstatement for inactive or suspended attorneys.

(A) Attorneys on inactive status as defined by § 3-401.2(F) as of December 31 of any year who apply for reinstatement to active status during the subsequent calendar year shall be required to complete ten (10) hours of approved CLE in the twelve (12) months immediately preceding the application as a condition of reinstatement. Such hours shall include two (2) hours of professional responsibility education as defined by § 3-401.2(J). Only those credits earned in the calendar year of reinstatement exceeding the ten (10) hours of credit required for reinstatement shall be counted toward the credit requirement for the year of reinstatement to active status.

(B) Attorneys suspended from the practice of law under these rules, prior to reinstatement to the practice of law in Nebraska, shall submit to the Nebraska Supreme Court a written request for reinstatement, together with a written statement from the Director which evidences the payment of any penalties as established by these rules and the making up of any deficiency in the CLE requirements incurred prior to suspension or, if applicable, during the suspension.

(C) An order of reinstatement by the Nebraska Supreme Court after any other type of suspension or disbarment shall specify the minimum number of CLE credits which the attorney is required to earn from the time of his or her reinstatement until the end of his or her next annual reporting period.

§ 3-401.12(A) amended April 21, 2011.

§ 3-401.13. Extension of time; waivers.

(A) If, due to disability, hardship, or extenuating circumstances, an attorney is unable to complete the hours of accredited CLE during the preceding reporting period as required by § 3-401.4, the attorney may apply to the Director for an extension of time in which to complete the hours. Such request for extension of time shall be filed with the Director by December 1 of the end of the annual reporting period. No extension of time to complete CLE shall be granted unless written application for the extension is made in the manner prescribed by the Nebraska Supreme Court. An extension of time shall not exceed a period of six (6) months immediately following the last day of the year in which the requirements were not met.

(B) If, due to disability, hardship, or extenuating circumstances, an attorney is unable to meet the minimum required hours for CLE during the annual reporting period as required by § 3-401.4, the attorney may apply to the Director for a waiver of the minimum education requirements. Such request for waiver shall be filed with the Director by December 1 of the end of the annual reporting period. No waiver shall be granted unless written application for the waiver is made in the manner prescribed by the Nebraska Supreme Court. A waiver of the minimum educational requirements shall not exceed one (1) year or ten (10) credit hours. After one (1) year, the attorney may reapply for an extension of the waiver if such disability, hardship, or extenuating circumstances still exist.

(C) The press of business shall not be considered a disability, hardship, or extenuating circumstance.

§ 3-401.14. Confidentiality.

Unless otherwise directed by the Nebraska Supreme Court, the files, records, and proceedings of the Director and the commission, as they relate to the requirements of this article, shall be deemed confidential and shall not be disclosed, except in furtherance of the Director's or commission's duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with these rules or as the records may relate to U.S. Postal mailing lists used exclusively to provide information on CLE programs to attorneys licensed in the State of Nebraska.

§ 3-401.15. Financing; purpose.

Funds collected pursuant to §§ 3-401.6 through 3-401.11 of these rules shall be used by the Director for the purpose of management and oversight of CLE as required by the Nebraska Supreme Court under its constitutional and inherent authority.

Nebraska Supreme Court Continuing Legal Education Commission Rules

§ 3-402.1. Authority of commission.

The commission shall have the authority to:

- (A) Grant and hold hearings, upon request, regarding the issues set forth in §§ 3-402.2 and 3-402.3.
- (B) Propose amendments to this article, § 3-401.1 et seq.
- (C) Issue orders to show cause relating to attorney noncompliance under § 3-401.11.
- (D) Determine issues of noncompliance and recommend suspension from the practice of law to the Nebraska Supreme Court.
- (E) In addition to the authority granted above, the commission shall perform any other duties as directed by the Nebraska Supreme Court.

§ 3-402.2. Review hearings before commission.

(A) If so requested, the commission shall grant a review hearing on the following issues relating to § 3-401.1 et seq.:

- (1) The Director's denial of accredited CLE Sponsor status to a person or organization pursuant to § 3-401.6.

(2) The Director's denial of individual course approval to a person, organization, or attorney as set forth in § 3-401.7.

(3) The Director's denial of an attorney's request for credit for activities other than attending accredited or approved courses as set forth in § 3-401.8.

(4) The Director's denial of an attorney's request pursuant to § 3-401.10(D) to obtain an extension of time to file the written reports required by § 3-401.10.

(5) The Director's denial of an attorney's application pursuant to § 3-401.13 to obtain an extension of time to complete or obtain a waiver of the minimum educational requirements as set forth in these rules.

(B) Upon granting a review hearing, the commission shall serve notice of the time and place of the hearing on the parties by certified mail, return receipt requested, at the last known address of the party requesting such hearing.

(C) The hearing shall be held upon not less than twenty (20) days' notice nor later than thirty (30) days after granting such request for hearing.

(D) The parties shall be permitted to be represented by counsel, shall be permitted to examine and cross-examine witnesses, and may file with the commission any statement, answer, affidavit, document, exhibit, or any such other evidence as may be relevant to the issue at hand.

(E) The commission shall have the right to receive any type of evidence it deems relevant and material. The hearing need not be conducted in accordance with the Nebraska Evidence Rules.

(F) At the conclusion of the hearing, the commission shall make written findings of fact and conclusions of law and order appropriate corrective action. A copy of the findings, conclusions, and order shall be sent to all parties to the hearing.

(G) A minimum of four (4) appointed commission members and the Nebraska Supreme Court Justice commission member must be present at any hearing.

(H) A majority vote of the commission members in attendance at the hearing is required in order to grant or deny relief. The Nebraska Supreme Court Justice commission member shall vote only in the event of a tie.

§ 3-402.3. Hearings before commission pursuant to § 3-401.11(B).

(A) When the commission has issued an order to show cause pursuant to § 3-401.11(B) based on a finding by the Director of noncompliance with these rules, an attorney may request and shall be entitled to a hearing before the commission.

(B) Upon request for such hearing, the commission shall serve notice of the time and place of the hearing on the parties by certified mail, return receipt requested, at the last known address of the party requesting such hearing.

(C) The hearing shall be held upon not less than twenty (20) days' notice nor later than thirty (30) days after the request for hearing.

(D) The parties shall be permitted to be represented by counsel, shall be permitted to examine and cross-examine witnesses, and may file with the commission any statement, answer, affidavit, document, exhibit, or any such other evidence as may be relevant to the issue of noncompliance.

(E) The commission shall have the right to receive any type of evidence it deems relevant and material. The hearing need not be conducted in accordance with the Nebraska Evidence Rules.

(F) At the conclusion of the hearing, the commission shall make written findings of fact and conclusions of law and a determination of whether or not cause has been shown. A copy of the findings, conclusions, and order shall be sent to all parties to the hearing.

(G) A minimum of four appointed commission members and the Nebraska Supreme Court Justice commission member must be present at any hearing.

(H) If the commission determines that cause was not shown, a recommendation of suspension from the practice of law for failure to comply with these rules shall be made to the Nebraska Supreme Court.

(I) A majority vote of the commission members in attendance at the hearing is required in order to grant or deny relief. The Nebraska Supreme Court Justice commission member shall vote only in the event of a tie.

Adopted November 26, 2008.