

CONTINUING LEGAL EDUCATION (CLE) CREDITS AND PRO BONO

Most jurisdictions in the U.S. require their licensed attorneys to earn a minimum number of Continuing Legal Education (CLE) credits per compliance period to maintain good standing with their jurisdiction's bar association. Each jurisdiction makes its own determination about which programs are eligible for CLE credit. Typically, approved programs are classes with written course materials, such as webinars or in-person seminars, contingent on their duration and content. In recent years, however, more states have permitted attorneys to earn CLE credits through pro bono service.

There is much variation in the rules regarding pro bono service for CLE credit. ABA Model Rule 6.1 of the Model Rules of Professional Conduct recognizes the importance of a lawyer's duty to serve disadvantaged communities: "every lawyer has a professional responsibility to provide legal services to those unable to pay."¹ The ABA encourages lawyers to complete an annual 50-hour goal of pro bono service. Per its February 2017 Report on the Model Rule for Minimum Continuing Legal Education (MCLE) and Comments, the ABA does not take a position on whether pro bono credits should be counted toward CLE credits.²

At present, a majority of U.S. jurisdictions do not permit CLE credit to be earned through pro bono legal representation. As of June 2023, of the 46 U.S. states that have a CLE mandate, 21 states permit some pro bono service to count for CLE credit and 25 states do not count any pro bono service for CLE credit. Of the jurisdictions that count some pro bono for CLE, the requirements vary between 2-6 hours of pro bono service and 2-10 total pro bono credits per compliance period. Currently, five U.S. jurisdictions do not have a CLE mandate: District of Columbia, Maryland, Massachusetts, Michigan, and South Dakota.

Arguably, standardizing CLE credit for pro bono service has the immense potential to increase pro bono activity amongst lawyers because it goes beyond the traditional incentives currently in place in many jurisdictions.³ Per the April 2018 report from the ABA's Standing Committee on Pro Bono and Public Service, a survey of over 47,000 attorneys in 24 states responded that earning CLE credit for pro bono work is amongst the top three out of 19 actions that would motivate them to engage in more pro bono service. On a 1-5 scale, with 1 being not influential and 5 being very influential, at least 50% of the attorneys valued CLE credit for pro bono service as a 4 or 5.⁴ Such statistics develop the framework and support for increase pro bono service across U.S. jurisdictions.

¹ See American Bar Association, "ABA Model Rule 6.1" (October 2021),

https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mrpc-6-1.pdf.

² See American Bar Association, "Model Rule for Minimum Continuing Legal Education" (February 2017),

https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2017/2017_hod_midyear_106.pdf.

³ See Rima Sirota, *Making CLE Voluntary and Pro Bono Mandatory: A Law Faculty Test Case*, 78 La. L. Rev. 547, 578 (2018).

⁴ See American Bar Association, "Supporting Justice: A Report on the Pro Bono Work of America's Lawyers" (April 2018),

https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.pdf.

A contrary view advocates that CLE should be limited to coursework and not pro bono service because of CLE's key function to keep attorneys apprised of new developments in the law.⁵ However, CLE is *one* platform to satisfy this obligation. A lawyer's professional responsibility to be a competent advocate requires them to stay up to date on new legal developments, regardless of CLE programs to assist in that goal. This is illustrated by the five U.S. jurisdictions that do not have a CLE mandate yet expect their attorneys to be apprised of such new developments. Further, as of present, no jurisdiction allows an attorney to satisfy their CLE credit requirement solely through pro bono service.

Currently, the rules regarding CLE credit and pro bono service are treated separately in most jurisdictions. Lawyers are tasked with the challenge of maintaining their CLE credit requirements on top of their already demanding schedules to avoid compliance consequences while engaging in pro bono work to satisfy their ethical and professional obligations. Lack of time is the number one factor in discouraging pro bono service, with more than 50% of attorney labeling it as "very discouraging."⁶ The inability to earn CLE credit for pro bono service consequently gives the latter less priority due to these ongoing pressures.

In summary, jurisdictions remain varied in their approach towards counting pro bono service for CLE credit. The contrary arguments on both sides highlight the considerations jurisdictions consider when determining if CLE credit for pro bono services should be available.

The jurisdictions that have allowed for pro bono service to be counted for CLE credit have differences in their rules. Such common themes include:

- A varying number of pro bono hours for every hour of CLE credit.
- A varying maximum CLE credits from pro bono hours that may be reported during a state's given compliance period.
- A state-specific itemized list of pro bono organizations with which the attorney must perform pro bono services for in order to receive CLE credit.

Leaders of pro bono programs with attorneys in states that permit some pro bono service to count for CLE credit can leverage this information when encouraging colleagues to volunteer.

The chart below reviews the rules governing CLE credit for pro bono service in all fifty states and the District of Columbia. The chart contains a short excerpt of the language in the state's rule, including the conditions surrounding how credit is earned.

⁵ See Tom Lininger, *Exploring Strategies to Promote Access to Justice*, 31 Geo. J. Legal Ethics 357, 369 (2018).

⁶ See American Bar Association, "Supporting Justice: A Report on the Pro Bono Work of America's Lawyers" (April 2018),

https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.pdf.

Summary of State Status on CLE Credit for Pro Bono Service

State	Rule Pro Bono Service CLE Credit	Excerpt of the Rule Highlights ⁷
Alabama	Ala. State Bar Mandatory CLE R. 3.9	One hour of MCLE credit for every six hours of pro bono work, with a maximum of three MCLE credits in the twelve-month period from October 1 to September 30.
Alaska	No CLE credit for pro bono service	
Arizona	Ariz. Sup. Ct. R. 45(a)(4)	One hour of CLE credit for every five hours of pro bono service, with a maximum of five hours of CLE credit per educational year.
Arkansas	Ark. CLE Bd. Regul. R. 4.04(10)	One hour of CLE credit for every three hours of pro bono service, with a maximum of three CLE credit hours.
California	No CLE credit for pro bono service	
Colorado	Colo. R. Civ. P. 250.9	One hour of CLE credit for every five billable-equivalent hours of representation to an indigent client, with a maximum of nine CLE credit hours during each three-year compliance period.
Connecticut	No CLE credit for pro bono service	
Delaware	Del. CLE R. 9(D)	One hour of CLE credit for every six hours of pro bono service, with a maximum of six CLE credits per two-year compliance period.
District of Columbia	No CLE mandate	
Florida	No CLE credit for pro bono service	
Georgia	Ga. CLE R. 8-104 Regul. 4	Pro bono service may be used to satisfy the one-hour professionalism CLE requirement.
Hawaii	No CLE credit for pro bono service	
Idaho	No CLE credit for pro bono service	
Illinois	No CLE credit for pro bono service	
Indiana	No CLE credit for pro bono service	
Iowa	No CLE credit for pro bono service	
Kansas	No CLE credit for pro bono service	
Kentucky	No CLE credit for pro bono service	
Louisiana	La. Sup. R. XXX Regul. 3.21	One hour of CLE credit for five hours of pro bono services, with a maximum of three hours of CLE credit per calendar year.
Maine	No CLE credit for pro bono service	

⁷ Some rules include additional restrictions. See the text of the actual rules for complete information.

State	Rule Pro Bono Service CLE Credit	Excerpt of the Rule Highlights ⁷
Maryland	No CLE mandate	
Massachusetts	No CLE mandate	
Michigan	No CLE mandate	
Minnesota	Minn. State Bd. of CLE Ct. R. 6(C)	One hour of CLE credit for every six hours of pro bono legal representation, with a maximum of six credit hours per reporting period.
Mississippi	No CLE credit for pro bono service	
Missouri	No CLE credit for pro bono service	
Montana	No CLE credit for pro bono service	
Nebraska	No CLE credit for pro bono service	
Nevada	Nev. Sup. Ct. R. 210	One hour of CLE credit for each three hours of uncompensated legal services performed, with a maximum of four hours of CLE credit per year.
New Hampshire	No CLE credit for pro bono service	
New Jersey	No CLE credit for pro bono service	
New Mexico	N.M Minimum CLE R. 18-204(C)(1)	Rule 18-204 does not specify the amount of pro bono service equivalent to one CLE credit hour. It maintains that “[a]ttorneys may obtain up to four (4) self-study credits per licensing year. . . provided the following conditions are met . . . performing pro bono legal services through a BBC [The Board of Bar Commissioners of the State Bar of New Mexico] accredited legal service provider.” Volunteer attorneys provided to clients referred from the Modest Means Helpline (MMH) or Legal Resources for the Elderly Program (LREP) can receive one CLE credit hour for three hours of pro bono services. ⁸
New York	N.Y. State CLE Board Regul. and Guidelines § 3(D)(11)(d)	“One (1) CLE credit hour for every two (2) 6-minute hours (120 minutes) of eligible pro bono legal services. A maximum of ten (10) pro bono CLE credit hours may be earned during any one reporting cycle.” New York’s reporting cycles are biennial.
North Carolina	No CLE credit for pro bono service	
North Dakota	N.D State Bar Ass'n CLE Policies § I, Policy 1.19	One hour of CLE credit for every six hours of pro bono service, with a maximum of three CLE credit hours per reporting period.

⁸ See The State Bar of New Mexico, “Pro Bono Opportunities,” (last visited June 13, 2023), <https://www.sbnm.org/Bar-Foundation/Pro-Bono-Opportunities>.

State	Rule Pro Bono Service CLE Credit	Excerpt of the Rule Highlights ⁷
Ohio	Ohio Sup. Ct. R. X, § 5(G)	One CLE credit hour for every six hours of pro bono service, with a maximum of six credit hours during a biennial compliance period.
Oklahoma	No CLE credit for pro bono service	
Oregon	Or. State Bar Minimum CLE Regul. 5.300(b)(1)	One credit hour for each two hours of uncompensated activities, which include providing direct pro bono services to low-income clients referred by certified pro bono programs.
Pennsylvania	Pa. CLE R. 108(f)	PACLE includes that “one (1) hour of CLE credit may be earned for every five (5) hours of pro bono service performed through an Accredited Provider of Pro Bono CLE. A maximum of three (3) credits earned in this manner may be applied to the annual compliance requirement.” ⁹
Rhode Island	No CLE credit for pro bono service	
South Carolina	No CLE credit for pro bono service	
South Dakota	No CLE mandate	
Tennessee	Tenn. Sup. Ct. Mandatory CLE R. 21, § 4.08	One hour of credit for every five billable hours of pro bono service, with an annual maximum of three CLE credits.
Texas	No CLE credit for pro bono service	
Utah	Utah Code of Judicial Admin. R. 14-419	One CLE credit hour for every five hours of pro bono service, with a maximum of two CLE credits per compliance cycle.
Vermont	No CLE credit for pro bono service	
Virginia	No CLE credit for pro bono service	
Washington	Wash. Mandatory CLE R. 11(e)(7)	Rule 11(e)(7) does not specify how many pro bono service hours constitutes one CLE credit hour. Instead, it maintains that “providing pro bono legal services provided the legal services are rendered through a qualified legal services provider as defined in APR 1” can be used to earn CLE credit. The ABA maintains that “six CLE credit hours awarded each year for two hours of pro bono training and four hours of pro bono service.” ¹⁰

⁹ See PACLE, “Pro Bono Program,” (last visited June 13, 2023), <https://www.pacle.org/providers/pro-bono>.

¹⁰ See American Bar Association, “CLE Credit for Pro Bono,” (March 2020), https://www.americanbar.org/groups/probono_public_service/policy/cle_rules/.

State	Rule Pro Bono Service CLE Credit	Excerpt of the Rule Highlights ⁷
West Virginia	W. Va. State Bar Admin. R. 6.05(f)	One credit hour for every three hours of pro bono service, with a maximum of six hours of CLE credit for any two-year reporting period.
Wisconsin	Wis. Sup. Ct. CLE R. 31.05(7)	One hour of CLE credit for every five hours of pro bono service, with a maximum of six credits per reporting period.
Wyoming	Wyo. State Board of CLE R. 5(c)	One credit hour for two hours of pro bono service, with a maximum of five credit hours each calendar year.

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