

# PUBLIC SUBMISSION

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Proposed Continuing Legal Education Guideline

**Comment On:** PTO-P-2020-0042-0001  
Proposed Continuing Legal Education Guidelines

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## General Comment

Thank you for the opportunity to comment. My concerns fall along three lines:

### FAIRNESS

The August 2020 final rule notice indicated CLE would be optional. But these new guidelines (<https://www.federalregister.gov/documents/2020/10/09/2020-22420/proposed-continuing-legal-education-guidelines>) now indicate CLE will be mandatory. This change of position violates basic rules of fairness.

The USPTO responded to 80 questions in the August 2020 Final Rule by stating, in effect, "We won't respond to this question because we're not implementing the practitioner fee and CLE discount." And yet here we are. Again, this simply isn't fair.

What are the standards for "practitioner self-certification"? How would this process work? What are its record-keeping requirements?

### OVERHEAD AND BURDENS

The USPTO should not be in the business of determining the appropriateness of CLE. Different practitioners have different requirements, many of which have nothing to do with practice before the USPTO, per se.

CLE subject matter adjudications will require significant administrative overhead at the USPTO, especially considering the fact that the USPTO has neither experience nor expertise in the field of continuing legal education. Further, the USPTO has indicated it is willing to pay for this substantial overhead solely by shifting its cost burdens onto the backs of its practitioners.

The administrative requirements for CLE providers will also be quite burdensome, likely forcing out of the market those smaller CLE providers unable to support the USPTO's 50-state-plus record-keeping

mandate.

#### ADMINISTRATIVE RULE-OF-LAW

The USPTO suggests it should compete with the very CLE providers it proposes to regulate. This appears on its face, at least, as an administrative foul.

Patent agents have no current CLE requirement. The USPTO has provided no estimate of what the costs of CLE for these practitioners will be, as required under the Paperwork Reduction Act.

This proposal is effectively tantamount to an unnecessary duplication of state bar regulatory authority