

INDIANA STATE BAR ASSOCIATION
TRUST & ESTATE SPECIALTY BOARD
RULES, POLICIES AND REGULATIONS

Adopted: March 26, 2012

Amended: May 6, 2022

1. Introduction. The Trust & Estate Specialty Board (the “Board”) has adopted procedures and standards for the recognition and regulation of Board Certified Indiana Trust & Estate Lawyers (“BCITELs”) in accordance with Article 2.2 of the Indiana State Bar Association Trust & Estate Specialty Board Plan for Trust & Estate Practice Specialty Certification (“the Plan”), most of which are set forth in the Plan. The standards and procedures set forth in the Plan may be amended in the same manner as the Plan may be amended. In addition to the standards and procedures set forth within the Plan, the Board has adopted and made public the following rules, policies and regulations to implement the Plan and the standards and procedures set forth in the Plan. The rules, procedures and regulations are not part of the Plan and are effective only insofar as they do not conflict with the Plan as in effect from time to time. The rules, policies and regulations may be revised, revoked, supplemented or restated by the Board from time to time.

2. Governance.

2.1 Annual Meeting. The annual meeting of the Board will be held on the last Friday of April of each year, or at such other time as may be set by the Co-Chairs, for the purpose of electing Board members and for transacting such other business as may come before the meeting. It will be at such place within the State of Indiana as may be determined by the Co-Chairs.

2.2 Special Meetings. The Board will hold special meetings upon call by the Co-Chairs or by any four or more members of the Board. Special meetings will be held at such time and place within the State of Indiana as is specified in the call of the meeting.

2.3 Notice of Meetings. Notice of the date, time of day and place of the annual or any special meeting of the Board will be communicated to each Board member so as to become effective on a day at least three days before the day of the meeting. The notice need not describe the purpose of the meeting unless Special Matters (as defined in Section 2.3.6 below) are to be considered. The notice may be communicated orally (in person or by telephone) or by voicemail, email or other electronic means capable of verification, in which case it will become effective on the day it is so communicated. Alternatively, the notice may be mailed, in which case it will become effective at the earliest of the following: (i) on the day five days after the day on which is deposited in the U.S. Mail, if it is sent to

the member via U.S. Mail, with express, priority mail or first class postage prepaid; (ii) on the day five days after the day on which it is left with the private carrier, as evidenced by the private carrier receipt, if it is sent to the member via a private carrier service regularly engaged in the commercial delivery service business, fees prepaid or billed to the sender; or (iii) on the date shown on the return receipt, if it is sent to the member via registered, certified, express or priority United States mail or via a private carrier service regularly engaged in the commercial delivery service business, return receipt requested, and the receipt is signed by or on behalf of the member.

2.4 Election and Terms of Board Members. Board members will be elected at each annual meeting of the Board. At the annual meeting in even-numbered years, five members will be elected for terms beginning on the day after the meeting and ending on the day after the second next-following annual meeting. At the annual meeting in odd-numbered years, four members will be elected for terms beginning on the day after the meeting and ending on the day after the second next-following annual meeting. (*Amended 05/06/2022*)

2.5 Quorum. The presence of four Board members normally will be enough to constitute a quorum for the transaction of any business properly to come before the meeting. However, for purposes of acting on Special Matters, the presence of a majority of the entire Board will be required to constitute a quorum.

2.6 Manner of Acting.

2.6.1 Matters Other Than Special Matters. The affirmative vote of a majority of the Board members present and voting at a meeting at which a quorum is present normally will be sufficient in order for the Board to act.

2.6.2 Special Matters. The affirmative vote of a majority of the entire Board will be required for action on Special Matters. (With regard to the removal of a Board member, the member being removed will be disregarded in determining both the number of members then serving and entitled to vote and the number of such members constituting a majority.)

2.3.6 Special Matters Defined. The following are classified as Special Matters: (i) proposals to amend the Plan; (ii) proposals to amend these Rules, Policies and Regulations; and (iii) proposals to remove a Board member.

2.7 Meeting Form and Participation. The Board, and all standing and special committees, may conduct any meeting, or permit a Board member or committee member to participate in any meeting, through the use of any means of communication by which all Board members or committee members participating may simultaneously hear each other during the meeting. A Board member or committee member participating in a meeting by such means will be considered present in person at the meeting.

2.8 Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board, or of any standing or special committee, may be taken without a meeting if a written consent describing such action is signed by each Board member or committee member and such written consent is included in the minutes or filed with the Board or committee records reflecting the action taken. Action taken by written consent shall be effective when the last Board member or committee member signs the consent, unless the consent specifies a prior or subsequent effective date. A consent signed as described in this section shall have the effect of approval at a meeting and may be described as such in any document.

2.9 Standing Committees. The Board may create such standing committees as it deems necessary or advisable. Standing committees shall continue in existence until expressly terminated by the Board. Ordinarily, all members of present or proposed standing committees, including the chairs thereof, will be appointed by the Co-Chairs. The chairs of standing committees must be Board members. Other members of standing committees must be BCITELs but need not be Board members. The following standing committees have been created by the Board:

2.9.1 Testing Committee. Development of test, supervision of practice test, development of answer key, grading of tests, working with psychometrist, etc.

2.9.2 Applications Committee. Development of application forms, screening of applicants, and preparing recommendations to the Board as to acceptance or denial.

2.9.3 CLE and Certification Committee. Develop and plan all CLE programs in advance of test. Recommend policy on qualifying CLE. At Applications Committee's request, review Applicant's CLE courses for suitability. Work on communications, web page content, publicity, etc.

2.9.4 By-Laws and Appellate Coordination Committee. Develop and keep rules, policies and regulations up to date. Provide feedback to and from Appellate Committee as needed and oversee provision to Appellate Committee of notice of all appeals.

2.10 Special Committees. The Co-Chairs may create such special committees as they deem necessary or advisable. The Co-Chairs will appoint the members of such special committees, including the chairs thereof. The chairs and members of such committee must be BCITELs but need not be Board members. The following are among the special committees that from time to time be appointed:

2.10.1 Appellate Committee. One or more Appellate Committees will be appointed to hear and act on appeals from application denials and test failures.

Appeals from Board members may not be heard or acted upon by an Appellate Committee, if any Board member is a chair or member of such committee.

2.10.2 Recertification Committee. The Applications Committee may not act on applications for recertification made by Board members. If any chair or member of the Applications Committee is a Board member, a Recertification Committee will be appointed to act on applications for recertification made by Board members.

2.11 Indemnification. To the fullest extent permitted by law, the Board shall indemnify any member or party who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, because the member or person is or was a member, officer, employee or agent of the Board or of any standing or special committee of the Board or is or was serving at the request of the Board as a director, officer, employee or agent of another entity, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with the action, suit or proceeding, actual or threatened, if the member or person acted in good faith and in a manner reasonably believed to be in the best interest of the Board, the legal profession and the administration of justice, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. This right of indemnification shall inure to the member or person and the member's or person's legal successors and representatives.

3. Continuing Legal Education Requirements.

3.1 Introduction. Certification Applicants are required to have completed 45 hours of Trust & Estate Law CLE within the three calendar years ending with the calendar year in which their application is made. Recertification Applicants are required to have completed 60 hours of Trust & Estate Law CLE within the five calendar years ending with the calendar year in which their application is made. Hours may be completed by attending CLE programs or by participating as a speaker, panelist or moderator in such programs.

3.2 Approval by CLE Commission. For purposes of the Trust & Estate Law CLE requirements, only CLE programs approved for CLE credit by the Indiana Commission for CLE will be considered. Notwithstanding the foregoing, the Applications Committee or a Recertification Committee may allow Trust & Estate Law CLE credit for a program that was not approved by the Commission, if the Applicant cannot obtain Commission approval because the time for requesting approval has expired, and if the Committee believes Commission approval would have been granted had it been timely requested.

3.3 Approval by Applications or Recertification Committee. In this Section 3.3, the "applicable Committee" means the Applications Committee for initial Certification Applicants and the Recertification Committee for Recertification Applicants. The Trust & Estate Law CLE

requirements are stated in Section 3.2.5 of the Plan for initial Certification Applicants and are stated in Section 4.2.5 of the Plan for Recertification Applicants. For both initial Certification Applicants and Recertification Applicants, the CLE programs that count toward satisfaction of the requirements are those that provide instruction in the knowledge and skill areas listed in Section 1.5.2 of the Plan, which are the listed areas of substantive Trust & Estate Law that are also required to be addressed in the examination taken by initial Certification Applicants. Additionally, certain hours of CLE in “Related Areas” as defined in Section 1.2.14 of the Plan may count toward satisfaction of the requirements in accordance with Sections 3.2.5.2 and 4.2.5 of the Plan. The applicable Committee independently determines what CLE hours do and do not qualify as Trust & Estate Law and Related Areas CLE hours, independently of the Commission’s approval of the hours for CLE credit. (*Amended 05/06/2022*) Hours of Trust & Estate Law CLE will be counted by the applicable Committee the same way hours of CLE credit are counted by the Commission. For example, under current Commission guidelines, twice the number of hours will be credited for speaking as are credited for attending. It is contemplated that Trust & Estate Law CLE programs for which credit is allowed generally will be advanced level programs attended primarily by lawyers having substantial experience in Trust & Estate Law matters. It further is contemplated that an Applicant’s CLE generally will cover numerous areas of Trust & Estate Law and, thus, that the Trust & Estate Law CLE hours for which credit is allowed will not all relate to the same area of Trust & Estate Law or type of Trust & Estate Law practice. An Applicant’s CLE should indicate that he or she is proficient and current in all of the areas needed to enable him or her to be recognized as a Trust & Estate Law specialist. The following specific rules and guidelines apply:

3.3.1 Audience. CLE programs must be designed for and marketed mainly to estate planning professionals in order for Trust & Estate Law CLE credit to be allowed. CLE programs may also be in Related Areas as defined in Section 1.2.14 of the Plan and in accordance with Section 3.2.5 and 4.2.5 of the Plan. (*Amended 05/06/2022*) CLE courses given in states other than Indiana may qualify for credit provided they are designed for and targeted to lawyers generally and not merely to lawyers practicing in the state other than Indiana.

3.3.2 Multiple Topics. In the case of CLE programs that include subjects in addition to Trust & Estate Law and/or Related Areas as defined in Section 1.2.14 of the Plan and in accordance with Section 3.2.5 and 4.2.5 of the Plan and that are not designed primarily for lawyers or other estate planning professionals having substantial experience in Trust & Estate Law matters, the applicable Committee has the discretion to allow credit only for the portions of such programs that are directly related to Trust & Estate Law. (*Amended 05/06/2022*)

3.3.3 Ethics Programs. Programs that qualify for Commission ethics credit will be treated as Trust & Estate Law CLE programs if they relate specifically to Trust & Estate Law practice. In addition, Trust & Estate Law CLE credit (not to exceed

the product of one hour times the number of years under review) will be allowed for general practice ethics CLE.

3.3.4 Guidelines.

3.3.4.1 If an Applicant reports and claims credit for attendance or speaking hours at a CLE program whose title contains words related to the Specialty Areas as described in Section 1.5.2 of the Plan (*Amended 05/06/2022*), the applicable Committee may assume that all of the reported hours count toward compliance with the Applicant's Trust & Estate Law CLE requirement.

3.3.4.2 If an Applicant reports and claims credit for attendance or speaking hours at a CLE program whose title contains words related to the Related Areas as described in Section 1.2.14 of the Plan (*Amended 05/06/2022*) that make it unclear how much of the program content actually was devoted to Trust & Estate Law but that suggests that some Trust & Estate Law content could have been involved in the program, the applicable Committee may, but is not required to, assume that one hour out of every six attendance hours reported and claimed for that program was devoted to Trust & Estate Law content, and that all speaking hours claimed by the Applicant for that program were devoted to Trust & Estate Law content, unless further inquiry or supplemental information obtained from the Applicant (see Section 3.3.4.4 below) show that a larger or smaller number of attendance hours or speaking hours or both consisted of Trust & Estate Law content and should be approved and counted toward compliance with the Applicant's Trust & Estate Law CLE requirement.

3.3.4.3 If an Applicant reports and claims credit for attendance or speaking hours at a CLE program whose title contains words related to the Related Areas as described in Section 1.2.14 of the Plan (*Amended 05/06/2022*) that do not suggest any clear or obvious connection with Trust & Estate Law content, the applicable Committee may assume that none of the reported hours count toward compliance with the Applicant's Trust & Estate Law CLE requirement, unless the Applicant shows otherwise by providing additional information to the Committee (see Section 3.3.4.4 below).

3.3.4.4 The applicable Committee may notify the Applicant that further information is needed in order to determine whether all, part or none of the reported hours of attendance at a particular CLE program will be counted toward compliance with the applicable Trust & Estate Law

CLE requirement. It may invite the Applicant to provide a copy of the advertising brochure, the table of contents, or portions of the course materials for the CLE program, as specific evidence of the portion of the program that was devoted to Trust & Estate Law. Based on the further information provided by the Applicant, the applicable Committee may approve a larger or smaller number of hours (including zero hours) than the one-hour-in-six convention in Section 3.3.4.2 above.

3.3.4.5 If the Applicant does not provide further information in response to an invitation from the applicable Committee pursuant to Section 3.3.4.4 above, the Committee may follow the guidance in either Section 3.3.4.1 above or Sections 3.3.4.2 and 3.3.4.3 above, depending on the title of the CLE program for which the Applicant reported attendance.