



Pete Ricketts, Governor

## POLICY MEMORANDUM

Date: May 4, 2020

To: Nebraska County Attorneys and Deputy County Attorneys

From: Dr. Don Arp, Jr. - Executive Director, Nebraska Crime Commission

Subject: Waiver Questions & Clarification on the 5-hour self-study limit for training per NAC Title 78, Chapter 6.005

Neb. Rev. Stat. § 23-1216 states that the Nebraska County Attorney Standards Advisory Council is “responsible for establishing the annual number of hours of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children.” Statute also notes that these hours “shall not exceed thirty-six contact hours.” To operationalize the above, Title 78 Nebraska Administrative Code, Chapter 6 has been established. As you all are aware, the current number of hour has been set at twenty.

Several questions have been brought to the Crime Commission regarding the Covid-19 virus and its impact on obtaining continuing education hours for the year 2020. These questions generally relate to the waiver of the continuing education hours in whole or in part for 2020 and the five hour self-instruction cap for courses obtained through satellite or Internet.

Regarding the possibility of a waiver, neither state statute nor Chapter 6 provide for a waiver of the required hours for attorneys who have been appointed or have taken office prior to July 1<sup>st</sup> of the reporting year. Changes to the existing statutes and/or Chapter 6 would be required in order to permit such a waiver. Unfortunately, neither could be changed in time to permit waivers for 2020.

Regarding the self-instruction cap, Title 78, NAC Chapter 6, §005 states, “up to 5 hours of applicable self-instruction/training credit may be obtained through use of satellite, Internet, video or audio tape presentations.” There is no provision in Chapter 6 which permits increasing the number of hours for self-instruction; however, given the technological advances in remote instruction, it is necessary to provide guidance as to what type of courses are limited by this regulation.

**Subject to the 5-hour cap:** Video and/or audio presentations that are presented on or via any media but do not allow for learner participation, otherwise called ‘asynchronous learning’. This is similar to sitting and reading a textbook or similar instructional material without benefit of instructor direction and/or class interaction.

Don Arp, Jr., Executive Director

Nebraska Commission on Law Enforcement and Criminal Justice

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**Not subject to the 5-hour cap:** Virtual classroom/presentation where the presenter and audience members can see and/or hear each other and interact in 'real time'. Except for the remote delivery method, these sessions are functionally similar to sitting in a classroom and having the benefit of instructor direction and/or class interaction.

To this end, as Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice, and after consultation with the Nebraska County Attorneys Standards Advisory Council, it is my determination that only asynchronous learning experiences as detailed above are considered subject to the 5-hour self-study limitation of NAC Title 78, Chapter 6, §005.

A handwritten signature in black ink, appearing to read "Don Arp, Jr.".

Dr. Don Arp, Jr.  
Executive Director, Nebraska Commission on Law Enforcement and Criminal Justice

Don Arp, Jr., Executive Director

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