

**MEETING AGENDA**

**April 9, 2021**  
**10:00 A.M.**

**OPEN SESSION - 10:00am-11:30 am:**

- 10:00 – Review of Minutes
- 10:05 – Suggested Amendment to APR 11
- 10:30 – MCLE Updates
- 11:00 – MCLE Credit for Law Clerk Tutors

**CLOSED SESSION – 11:30am-12:00pm:**

- 11:30 – Issue Summary
  - Petitions, Appeals and Staff Liaison Decisions
  - End of Meeting

**Minutes**  
**January 8, 2021**

The meeting of the Mandatory Continuing Legal Education Board was called to order by Board Chair Ayanna Colman at 10:04 AM on Friday, January 8, 2021. This meeting was held via videoconference. Board members in attendance were:

Ayanna Colman, Chair  
Todd Alberstone, Vice Chair  
Sunitha Anjilvel, BOG Liaison  
Asia Wright  
Chris Bueter  
Merri Hartse  
Melissa Skelton (left at 10:45 AM)  
Robert Malae

Liaisons and Staff in attendance were:

Adelaine Shay	MCLE Manager/MCLE Board Staff Liaison
Robert Henry	Associate Director, Regulatory Services Department
Michael Tonkin	MCLE Analyst

**Review of Minutes for October 2, 2020**

The MCLE Board reviewed the minutes from their October 2, 2020 meeting. The Board approved without change.

**Discussion: Supreme Court/BOG Workgroup**

The MCLE Board discussed the invitation from WSBA President Kyle Sciuchetti to create a WSBA task force that would explore opportunities for collaboration between WSBA entities. The Board discussed their interest in the task force and who would be elected as the representative. MCLE Board member Robert Malae volunteered for the position, and the Board agreed to nominate Robert as their representative.

**Discussion: MCLE Updates**

MCLE Staff Liaison discussed general updates with MCLE, including: the status of the suggested amendment to APR 11, the MCLE budget, the current application fee waiver process, new MCLE system delay, and new MCLE staff. MCLE Board discussed potential outreach to stakeholders regarding the

suggested amendment posting on the Washington Supreme Court website, in order to solicit public comments.

**Discussion: MCLE Board Recruitment**

MCLE Staff Liaison gave an overview of the MCLE Board volunteer recruitment process for the 2021-2022 year, including requirements and timeline. The Board was reminded that there will be two position openings for the next term.

**MCLE Hardship Petitions**

The MCLE Board reviewed and decided by motion on one hardship petition. No listing of these motions is included in order to protect member confidentiality.

**Adjournment**

There being no further business at hand, the Board meeting was adjourned at 11:46 AM. The next regularly scheduled Board meeting will be held at 10:00 AM on Friday, April 9, 2021.

Respectfully submitted,



Adelaine Shay  
MCLE Board Staff Liaison

<b>DISCUSSION:</b> <b>Suggested Amendment to APR 11</b>
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The MCLE Board will discuss the status of the suggested amendment to APR 11, and potential outreach with regards to soliciting comments for the Washington Supreme Court public comment period.

**Background:**

On January 8, 2021, the Washington Supreme Court ordered that the suggested amendment be published on the Washington Reports, Washington Register, Washington State Bar Association, and the Administrative Office of the Court's websites. The Court is currently seeking public comments for the amendment, and the comment period is open until April 30, 2021. These updates have been posted to the MCLE Board website.

In addition to the six states that had a diversity, inclusion and/or elimination of bias requirement at the time of the MCLE Board's suggested amendment submission (California, Illinois, Minnesota, Missouri, New York, and Vermont), several other states have since either implemented or have suggested a similar credit requirement:

1. New Jersey will be implementing a requirement of two credits focused on diversity, inclusion and elimination of bias in 2021. Two mandatory credits in this category for each two-year reporting cycle.
2. The North Carolina CLE Board has proposed a diversity, inclusion and elimination of bias credit requirement (one credit per cycle) to be implemented in 2022. This proposal is currently published for public comment.
3. The Colorado Bar Association has proposed an equity, diversity, and inclusion credit requirement (two credits per cycle) along with several other CLE updates. The Colorado Supreme Court will conduct a hearing on the proposed rules and regulations on Tuesday, April 6, 2021.

Note: The following states have similar requirements: Oregon (Access to Justice CLE requirement) and Maine (Harassment/Discrimination CLE requirement). In addition, both Florida and West Virginia include "elimination of bias" in their ethics CLE definitions, but neither jurisdiction *require* credit in this topic.

**Discussion:**

Should the MCLE Board take additional action to solicit feedback during the public comment period (closing on April 30, 2021)?

- MCLE staff reached out to a number of stakeholders on February 22, 2021, in an effort to solicit comments.
- Public comments received as of April 2, 2021:  
[https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.commentDisplay&ruleId=5823](https://www.courts.wa.gov/court_rules/?fa=court_rules.commentDisplay&ruleId=5823)
- At their 3/18-3/19/2021 meeting, the WSBA Board of Governors approved a request from the WSBA Pro Bono and Public Service Committee to submit a comment to the Washington Supreme Court in support of the suggested amendment to APR 11.

**Enclosed Documents:**

- List of Stakeholders

- Stakeholder Email Sent 2/22/2021

## Suggested Amendment to APR 11 - Stakeholder Contact List

### Boards, Committees, Workgroups

- Access to Justice Board (ATJ)
- WSBA Diversity Committee
- Board of Bar Examiners
- Client Protection Board
- Commission on Judicial Conduct
- Committee on Professional Ethics
- Continuing Legal Education Committee
- Court Rules & Procedures Committee
- Character and Fitness Board
- Disciplinary Board
- Law Clerk Board
- Limited Practice Board
- LLLT Board
- Pro Bono and Public Service Committee
- Practice of Law Board
- 2014 WSBA MCLE Task Force

### Other Organizations (external)

- WSBA Accredited Sponsors
- Asian Bar Association of Washington
- QLAW
- Cardozo Society of Washington State
- Pierce County Minority Bar Association
- Washington Women Lawyers
- Loren Miller Bar Association
- Filipino Lawyers of Washington
- Korean American Bar Association
- Latina/Latino Bar Association of Washington
- Middle Eastern Legal Association of Washington
- Northwest Indian Bar Association
- Slavic Bar Association of Washington
- South Asian Bar Association of Washington
- Vietnamese American Bar Association of Washington
- Washington Attorneys with Disabilities Association
- Washington State Veterans Bar Association

Dear Members of the [insert Committee/Board/Association etc],

The MCLE Board wishes to update you on the status of the suggested amendment to APR 11.

On September 18, 2020, the MCLE Board presented the suggested amendment to the WSBA Board of Governors for their review. The Board of Governors voted to support the MCLE Board's suggested amendment and provided a [letter of support](#), which was then submitted to the Washington Supreme Court on October 15, 2020.

On January 8, 2021, the Washington Supreme Court [ordered](#) that the proposed amendment be published on the Washington Reports, Washington Register, Washington State Bar Association, and Administrative Office of the Court's websites. As per the Court order, the proposed amendment will be open for public comment until April 30, 2021. The MCLE Board appreciates all the input provided thus far and encourages everyone – even those who have previously commented – to provide their comments to the Court at this time. Comments may be submitted to the Court via mail or email (emails must be no greater than 1500 words).

**Mail:** P.O. Box 40929  
Olympia, Washington 98504-0929  
**Email:** [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

Please see the [MCLE Board website](#) and the [Washington Supreme Court website](#) for more information. You are welcome to share this information within your organization or networks - to those who may be interested in leaving a comment with the Washington Supreme Court.

Again, thank you for your time and valuable feedback throughout this process. Please let me know if you have any questions!

Kind Regards,

The MCLE Board

<b>DISCUSSION:</b> <b>MCLE Updates</b>
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The MCLE Staff Liaison will discuss current general updates with MCLE, including: MCLE Board recruitment, early MCLE certification for the 2018-2021 and 2019-2021 reporting periods, the annual meeting with the Washington Supreme Court, the first meeting of the new WSBA task force, the CLEReg 2021 Midyear Conference, MCLE staffing, and an Accredited Sponsor change of status.

**Discussion Topics:**

- **MCLE Board Recruitment**

The application process for the 2021-2022 MCLE Board year is currently open. Applications must be submitted by April 16, 2021. Nominations for open positions on each standing committee and board are made by a nomination team comprising the staff liaison, BOG liaison, and chair. Supreme Court boards may also share redacted applications with and solicit feedback from their board members. MCLE Board members may serve two consecutive terms.

For the 2021-2022 MCLE Board year, two MCLE Board member's terms will expire in September of 2021. One MCLE Board member will have finished their first term and will therefore be eligible to reapply to the MCLE Board for a second. The other MCLE Board member will have completed their second term, and is ineligible to reapply for a second term.

- **Early Certification**

MCLE staff are currently planning for an early opening to MCLE certification for both the 2018-2021 and 2019-2021 reporting periods. Due to the Court-ordered extension of the 2018-2020 reporting period (now 2018-2021), twice as many licensed legal professionals are now due to certify credits by February 1, 2022.

In order to meet and accomplish this increased workload (each individual certification must be reviewed by an MCLE analyst), staff are working with WSBA IT to open the MCLE certification summer 2021 – several months ahead of the normal certification opening month of November.

Due to this reporting period crossover for this reporting year – and the hardships arising from COVID-19 restrictions – it is expected that there will be a higher number of MCLE petitions submitted for MCLE Board review.

- **Annual Meeting with Washington Supreme Court**

The MCLE Board last met with the Washington Supreme Court on July 9, 2020. In order to schedule the Board's 2021 meeting with the Court, the Board may wish to consider potential dates.

- **WSBA Task Force Administering Xenial Involvement with Court Appointed Boards**

MCLE Board member Robert Malae will give an update on the first meeting of the WSBA task force created to work with the Washington Supreme Court to coordinate efforts to administer Court Boards and facilitate cooperation and the sharing of information between the Court and the WSBA on issues related to substantive, fiscal and administrative concerns.

- **CLE Regulators Conference**

MCLE Staff Liaison will give an overview various MCLE updates from the CLEReg Virtual 2021 Midyear Conference, held on 3/29/2021-3/30/2021.

- **MCLE Staffing**



MCLE Staff Liaison is requesting approval for a new full-time MCLE analyst, due to increased workload, the regulatory duty to ensure the timely and accurate review and management of the MCLE requirements for all license types, and the ability of the MCLE Budget to support additional FTE staff. This request is being considered as part of the Fiscal Year 2021 budget reforecast. If approved, it is expected that the new MCLE analyst will start in the summer of 2021.

- **Accredited Sponsor Update – Cognistar**

As of 3/19/2021, Cognistar is no longer an accredited sponsor, due to non-payment of the sponsor renewal fee. This organization has been removed from the accredited sponsor master list, and their status updated in the MCLE online system to 'general sponsor'.

**Enclosed Documents:**

- **Task Force Administering Xenial Involvement with Court Appointed Boards (TAXI) Charter**
- **TAXI Memo**

# Charter

WSBA  
Board of Governors

*Approved by the WSBA Board of Governors April 17, 2020  
Revised by the WSBA Board of Governors November 13, 2020*

## **Purpose**

TASK FORCE TEAM TO BEGIN COLLABORATIVE DISCUSSION WITH COURT REGARDING DELEGATED ADMINISTRATED ENTITIES ON ISSUES BOTH SUBSTANTIVE, FISCAL, AND ADMINISTRATIVE DUE TO THE CONTINUAL CONFLICTS RESULTING

## **Overall Role and Responsibility**

The Washington State Bar Association (WSBA) Board of Governors recognizes the need for a task force to be able to work with the Washington Supreme Court to coordinate efforts to administer Court Boards and facilitate cooperation and the sharing of information between the Court and the WSBA on issues related to substantive, fiscal and administrative concerns.

The Task Force Team Administering Xenial Involvement with Court Appointed Boards will be comprised of the President, President-Elect, Immediate Past President and four sitting Governors from the WSBA; one representative of each of the Court Appointed Boards identified below in paragraph 1; and one WSBA staff liaison to advise and counsel the Task Force.

The Task Force responsibilities will include:

1. Assessing the WSBA's collaborative role in administering Court appointed Boards, to include current and future boards appointed or established by the Court. Currently, these Boards include the Access to Justice Board, Disciplinary Board, Limited License Legal Technician Board, Limited Practice Board, Mandatory Continuing Legal Education Board and the Practice of Law Board (Court Appointed Boards).
2. Working with the Court and the Court Appointed Boards to ensure that WSBA's administration of current Court Appointed Boards is consistent with the Court's intent and to share information that will enable the Court Appointed Boards to better serve their missions. This includes providing information regarding the fiscal impact of the Court Appointed Board and substantive measures that could be taken to improve and better facilitate the Boards.
3. Conveying to the court substantive information about the Boards and member concerns.

## **Action Taken by the Task Force**

Action of the Task Force shall be made by majority/consensus decision of the Task Force.

# WASHINGTON STATE BAR ASSOCIATION

Office of the Executive Director  
Terra Nevitt, Executive Director

**TO:** Task Force Team Administering Xenial Involvement with Court Appointed Boards  
**FROM:** Terra Nevitt, WSBA Executive Director  
**DATE:** February 26, 2021  
**RE:** **WSBA's Administration of Supreme Court Entities Background and Authority**

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Through Washington State [General Rule 12.3](#), the Supreme Court delegates to WSBA “the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rule and orders that authorize and regulate them, paying expenses reasonable and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.”

The WSBA currently administers 6 such entities, described below. Over the years, challenges have arisen in terms of the application of GR 12.2 and other WSBA policies, budget and staff allocations, the ability to hire and direct staff, the scope and meaning of “administration”, conflicting policy objectives, and decision making authority. One highly publicized example of some of these challenges was documented by the [ABA Journal](#) in 2015.

The **Access to Justice Board** was established by court order April 13, 1994, and was most recently [reauthorized on March 4, 2016](#). That order charges WSBA with the Board’s administration, including funding and staffing. It provides the Board of Governors with the responsibility of nominating members of the ATJ Board, which are appointed by the Supreme Court. The Order provides that the ATJ Board shall designate its chair and authorizes the ATJ Board to adopt its own operational rules pursuant to the enumerated powers and duties. The order requires the ATJ Board to file an annual report to the Supreme Court and the Board of Governors.

The **Disciplinary Board** first appears in the court rules in 1968 when the board is created and direct responsibility for disciplinary adjudication is transferred away from the Board of Governors. Currently, it is governed by rule 2.3 of the Rules for [Enforcement of Lawyer Conduct \(ELC\)](#), which outlines the Board’s composition, qualifications and some operations. Members are appointed by the Court “upon the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel.” The Court also designates the Chair and Vice Chair, upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel. Other ELC indicate the functions of the Board. [ELC 2.2\(a\)\(1\)](#) directs the Board of Governors, through the Executive Director, to provide “administrative and managerial support” to the Disciplinary Board to perform its functions as specified by the rules. ELC 2.2(b) prohibits the Board of Governors and the Executive Director from reviewing Disciplinary Board decisions or recommendations in specific cases (among other limitations).

The **Limited License Legal Technician Board** was established through the adoption of rule 28 of the [Admission and Practice Rules \(APR\)](#) by court order on June 15, 2012. A second order was issued by the Court on July 11, 2012 ordering that the WSBA administer the operations of the LLLT Board, including providing “staff necessary to implement and support the operation of the APR 28 and the Limited License Legal Technician Board.” APR 28

provides that members of the LLLT Board are appointed by the Supreme Court. It charges the LLLT Board with recommending new practice areas for LLLTs, working with the Bar and other entities on LLLT examinations, approving education and experience requirements, establishing committees, establishing educational criteria, and “such other activities and functions as are expressly provided for in [the] rule.” APR 28 also charges the LLLT Board with proposing additional rules, regulations and amendments to the rule to the Court. WSBA is charged with providing “reasonably necessary administrative support for the LLLT Board.”

The **Limited Practice Board** was established by [APR 12](#). The rule outlines the duties and powers of the Limited Practice Board, including creating and grading Limited Practice Officer (LPO) examinations, approving forms for use by LPOs, as well as the board’s involvement in the investigation, hearing, and appeal procedures for handling grievances against LPOs. Members are appointed by the Supreme Court, as is the Board’s Chairperson. APR 12 provides that “The administrative support to the LP Board shall be provided by the Bar.”

The **Mandatory Continuing Legal Education Board** was established by [APR 11](#). Its members and chair are appointed by the Supreme Court. Among other things, APR 11 tasks the MCLE Board with reviewing and suggesting amendments to APR 11, adopting policies, approving MCLE activities, reviewing determinations or decisions made by WSBA regarding approval of activities, determining MCLE fees to defray the reasonably necessary costs of administering the MCLE rules, and waiving or modifying members’ compliance requirements. The MCLE Board also conducts hearings on member hardship petitions. The rule also provides that WSBA “shall provide administrative support to the MCLE Board.” Suggested amendments to APR 11 as well as policies to provide guidance in its administration are subject to review by the Board of Governors and approval by the Supreme Court.

The **Practice of Law Board** was established by the Washington Supreme Court with the adoption of General Rule 25, effective September 1, 2002. Under the current version of the [rule](#), the Supreme Court appoints its members “after considering nominations from the Practice of Law Board and the Board of Governors.” The rule outlines the responsibilities of the Board, which include recommending to the Court “new avenues for persons not currently authorized to practice law to provide legal and law-related services that might otherwise constitute the practice of law as defined in GR 24.” Such recommendations must be forwarded to the Board of Governors for consideration and comment at least 90 days before transmission to the Court. The rule also charges WSBA with funding, administering and staffing the Practice of Law Board consistent with GR 12.

**DISCUSSION :**  
**MCLE Credit for Law Clerk Tutors**

**Background Information:**

The Law Clerk Program is Washington's affordable alternative to law school education authorized under Washington Supreme Court Admission and Practice Rule (APR) 6. It is a program designed to provide educational and practical experience through a combination of work and study with tutor (an experienced lawyer or judge). This program is supervised by the Law Clerk Board and is a four-year alternative to law school, and can be extended to a maximum of six years.

Over the years, there have been several requests by Law Clerk tutors to receive MCLE credit for giving their time as tutors. Tutors provide 3 hours of personal supervision each week, including discussion of the law. It's a 4-year program and each year, law clerks are required to study 6 subjects and pass monthly examinations. The exams are developed, administered and graded by the tutors. Requests have considered both 'teaching' credit and 'mentoring' credit. Currently, under APR 11, teaching credit is limited to law school courses, and therefore currently not applicable to the Law Clerk Program. Requests for mentoring credit have also been denied, as the Program is not approved as a "structured mentoring program". At an MCLE Board Meeting last year, a Law Clerk tutor's request for mentoring credit was denied. At that time, the MCLE Board indicated that they would entertain a proposal from the Law Clerk Board to explore providing MCLE credit. \*

The Law Clerk Board will be discussing MCLE credit for tutors at their next regularly scheduled meeting on May 7, 2021. It is possible that the Law Clerk Board will consider submitting an application as a structured mentoring program or suggest an amendment to APR 11. The goal of sharing this information with the MCLE Board at this time is to encourage collaboration between the MCLE and Law Clerk Boards.

**Two potential avenues to accrediting the work done by Law Clerk Tutors:**

1: Teaching Credit: Tutors are not eligible for teaching credit per APR 11(e)(6): "*Teaching law school courses, when the instructor is not a full-time law school professor*". A rule change to APR 11 (e)(6) would be required for Law Clerk tutors to receive MCLE credit for hours spent teaching.

2: Mentoring Credit: Under the current rule, there is potential for Law Clerk tutors to receive credit for the instruction they provide through an MCLE Board-approved "structured mentoring program". A structured mentoring program is defined under APR 11(e)(8). Currently, the Law Clerk Program is not an approved structured mentoring program.

In order to become an approved program, the Law Clerk Program must submit an application for the MCLE Board for review and must meet the qualifications set by the MCLE Board. Only two organizations have submitted structured mentoring program applications to the MCLE Board: the Seattle University Low Bono Incubator program and the Mentoring Guide for Self-Directed Structured Mentoring. The MCLE Board adopted standards for approving structured mentoring programs effective January 1, 2016; however, the current standards impose several restrictions that would prevent a Law Clerk tutor (mentor) from receiving credit.

**Structured Mentoring Program Standards Include:**

(See the enclosed *Standards for Approving Structured Mentoring Programs* document for the full list of program standards.)

- The mentor must be an active member of the WSBA in good standing and have been admitted to the practice of law in Washington for at least five years. The mentor and mentee shall not be employed by the same employer.

\*in order to protect member confidentiality, there is no listing of this request denial.

- The mentee must be an active member of the WSBA. The mentor and mentee shall not be employed by the same employer.
- Application for Approval of Structured Mentoring Program. Organizations shall submit an application, program materials and sample forms to the MCLE Board to be considered for approval.

The Structured Mentoring Program Standards state that in order to become an approved structured mentoring program and receive MCLE credit for mentoring, both the mentor and mentee must be an active member of the WSBA. Participants of the Law Clerk program are not active members of the WSBA. Additionally, the standards state that the mentor and mentee shall not be employed by the same employer. The majority of Law Clerk tutors employ their clerks.

Furthermore, APR 11(e)(8) states credit may be awarded for mentoring “provided the mentoring is free to the mentee...” Participants of the Law Clerk program must pay a \$2,000 annual fee to remain in the program – this is an administrative fee paid to the WSBA, not the mentor; however, does APR 11 (e)(8) allow for Law Clerk tutors to receive mentoring credit?

**Potential Talking Points:**

- Should the MCLE Board work with the Law Clerk Board to explore the potential for accrediting the volunteer work done by Law Clerk tutors?
- Should the MCLE Board provide any feedback, suggestions, or concerns for the Law Clerk Board’s consideration at its May 7 meeting?
- Currently, only Ethics and “Other” credit are available for mentoring activities. Should Law and Legal Procedure credit be considered for Law Clerk tutors?
- Does APR 11(e)(8) which states mentoring credit may be available “...provided the mentoring is free to the mentee...” prohibit Law Clerk tutors from receiving MCLE credit for mentoring under the current rule?

**Supplemental Information:**

APR 11(e)(6): *“Teaching law school courses, when the instructor is not a full-time law school professor”*

APR 11(e)(8): *“Participating in a structured mentoring program approved by the MCLE Board, provided the mentoring is free to the mentee and the mentor is an active member of the Bar in good standing and has been admitted to the practice of law in Washington for at least five years. The MCLE Board shall develop standards for approving mentoring programs”*

APR 6(a): *“The Law Clerk Program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, experiential, and clinical components. Successful completion of the Law Clerk Program provides a way to meet the education requirement to apply for the lawyer bar examination; it is not a special admission or limited license to practice law.”*

**Enclosed Documents:**

- **APR 6 – Rules and Regulations (See Regulations 4 and 5)**
- **Current Standards for Approving Structured Mentoring Programs**
- **Application for Approval of Structured Mentoring Program**

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RULES AND REGULATIONS  
GOVERNING THE  
WASHINGTON STATE  
LAW CLERK PROGRAM

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*Effective Date: September 1, 2017*



WSBA

WASHINGTON STATE BAR ASSOCIATION

APR 6 Amended effective September 1, 1984; March 6, 1992; September 1, 1994; June 2, 1998; April 1, 2003;

January 13, 2009; January 1, 2014; September 1, 2017

Regulations approved by the Board of Governors September 26, 2013, effective January 1, 2014; amended effective May 19, 2017





## ADMISSION AND PRACTICE RULES (APR)

### RULE 6. LAW CLERK PROGRAM

Adopted by the Washington State Supreme Court July 10, 2013 and effective January 1, 2014

- (a) **Purpose.** The Law Clerk Program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, experiential, and clinical components. Successful completion of the Law Clerk Program provides a way to meet the education requirement to apply for the lawyer bar examination; it is not a special admission or limited license to practice law.
- (b) **Application.** Every applicant for enrollment in the law clerk program shall:
- (1) Be of good moral character and fitness, as defined in APR 20;
  - (2) Present satisfactory proof of having been granted a bachelor's degree by a college or university with approved accreditation; if the degree was earned in a non-US jurisdiction, the applicant shall provide supporting documentation as to its equivalency;
  - (3) Be engaged in regular, full-time employment in Washington State for an average of 32 hours per week with the primary tutor or primary tutor's employer in a (i) law office, (ii) legal department or (iii) a court of general, limited, or appellate jurisdiction in Washington State. The employment must include tasks and duties which contribute to the practical aspects of engaging in the practice of law;
  - (4) Submit in such form and manner as prescribed by the Bar (i) an application for enrollment in the program, (ii) the tutor's application, and, (iii) the application fee;
  - (5) Appear for an interview, provide any additional information or proof, and cooperate in any investigation, as may be deemed relevant by the Bar; and
  - (6) If applicable, present a petition for Advanced Standing based on law school courses completed or courses completed in this program during a previous enrollment. The Bar may grant Advanced Standing to an applicant approved for enrollment for courses deemed recently and successfully passed and equivalent to courses in the program.
  - (7) Where the Bar is satisfied that a primary tutor has arranged a relationship with the applicant's full-time employer consistent with the purposes of the Program, the requirement that the primary tutor, or primary tutor's employer, be the law clerk's employer may be waived.
- (c) **Tutors.** To be eligible to act as a tutor in the law clerk program, a lawyer or judge shall:
- (1) Act as a tutor for only one law clerk at a time;
  - (2) Be an active member in good standing of the Bar, or be a judicial member who is currently elected or appointed to an elected position, who has not received a disciplinary sanction in the last 5 years, provided that if there is discipline pending or a disciplinary sanction has been imposed upon the member more than 5 years preceding the law clerk's application for enrollment, the Bar shall have the discretion to accept or reject the member as tutor;
  - (3) Have active legal experience in the practice of law as defined by APR 1 or have held the required judicial position for at least 10 of the last 12 years immediately preceding the filing of the law clerk's application for enrollment. The 10 years of practice must include at least 2 years in Washington State and may be a combination of active practice and judicial experience but may not include periods of suspension for any reason;
  - (4) Certify to the applicant's employment as required above and to the tutor's eligibility, and to agree to instruct and examine the applicant as prescribed under this rule; and
  - (5) Act as a tutor only upon the approval of the Bar which may be withheld or withdrawn for any reason.
- (d) **Enrollment.** When an application for enrollment has been approved by the Bar, an enrolled law clerk shall:
- (1) Pay an annual fee as set by the Board of Governors.
  - (2) Meet the minimum monthly requirements of an average of 32 hours per week of employment with the tutor which may include in-office study time and must include an average of 3 hours per week for the tutor's personal supervision of the law clerk. "Personal supervision" is defined as

time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments.

- (3) Complete the prescribed course of study which shall be the equivalent of four years of study. Each year of study shall consist of 6 courses completed in 12 months. Months of leave, failed courses, and months in which the enrollee does not meet the minimum number of hours of work and study may not be counted toward the completion of a course and may extend the length of a year of study. Advanced Standing granted may reduce the months of program study. The course of study must be completed within 6 years from the initial date of enrollment.
  - (4) Abide by APR 6 and the Law Clerk Program Regulations approved by the Board of Governors which provide the course of study, program requirements and other guidelines to successfully complete the program.
- (e) **Course of Study.** The subjects to be studied, the sequence in which they are to be studied, and any other requirement to successfully complete the program shall be prescribed in the Law Clerk Program Regulations. Progress toward completion of the program shall be evaluated by submission of examinations, certificates, reports and evaluations as follows:
- (1) **Examinations.** At the end of each month, the law clerk shall complete a written examination prepared, administered, and graded by the tutor. The examination shall be answered without research, assistance, or reference to source materials during the examination. The examination shall be graded pass/fail.
  - (2) **Certificates.** The tutor shall submit the examination, including the grade given for the examination and comments to the law clerk, and a monthly certificate, stating the law clerk's hours engaged in employment, study and the tutor's personal supervision within 10 business days following the month of study. If an examination is not given, the monthly certificate shall be submitted stating the reason.
  - (3) **Book Reports.** The law clerk shall submit three book reports for the Jurisprudence course requirement corresponding to each year of study.
  - (4) **Evaluations.** Annually, or at other intervals deemed necessary, the law clerk shall participate with the tutor in an evaluation of the law clerk's progress.
- (f) **Completion of the program.** A law clerk shall be deemed to have successfully completed the program when:
- (1) All required courses have been completed and passed as certified each month by the tutor, and all book reports have been submitted,
  - (2) The tutor has certified that the law clerk, in the tutor's opinion, is qualified to take the lawyer bar examination and is competent to practice law; and
  - (3) The Bar has certified that all program requirements are completed.
- (g) **Termination.** The Bar may direct a law clerk to change tutors if approval of a tutor is withdrawn. The Bar may terminate a law clerk's enrollment in the program for:
- (1) Failure to complete the prescribed course of study within 6 years from the date of enrollment;
  - (2) Failure of the tutor to submit the monthly examinations and certificates at the end of each month in which they are due;
  - (3) Failure to comply with any of the requirements of the law clerk program; and
  - (4) Any other grounds deemed pertinent.
- (h) **Effective Date.** Revision of this rule shall not apply retroactively. A law clerk may complete the program under the version of the rule in effect at the start of enrollment.
- (i) **Disclosure of Records.** Unless expressly authorized by the Supreme Court, the program applicant, or by a current or former law clerk, application forms and related records, documents, and proceedings shall not be disclosed, except as necessary to conduct an investigation and hearing pursuant to rule 7.

[Amended effective September 1, 1984; March 6, 1992; September 1, 1994; June 2, 1998; April 1, 2003; January 13, 2009; January 1, 2014; September 1, 2017.]

**APR 6 LAW CLERK BOARD REGULATIONS**  
**Adopted by the WSBA Board of Governors September 26, 2013**  
**and effective January 1, 2014; amended effective May 19, 2017**

**Regulation 1.**  
**GENERAL**

**1-1 Authority**

- A. The law clerk program established in APR 6 and implemented in these regulations is conducted by the Bar Association at the direction of the Supreme Court. It is administered by the Law Clerk Board under the direction of the Board of Governors.
- B. The good moral character and fitness of an applicant is determined by the Character and Fitness Board pursuant to Admission and Practice Rules 7 and 20 through 24.4(a).
- C. To facilitate prompt administration of APR 6 and these regulations, designated staff of the Washington State Bar Association may act on behalf of the Law Clerk Board under APR 6 and these regulations.
- D. The Law Clerk Board, with the approval of the Board of Governors, may amend these regulations as necessary. Revisions of these regulations shall not apply retroactively to an enrolled law clerk. These changes shall apply to applications, petitions and requests made after the effective date of the revisions.

**1-2 Purpose and Expectations.**

- A. The law clerk program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, scholastic and clinical components. Successful completion of the law clerk program qualifies a person to apply for the Washington State bar exam. Participation in the law clerk program is not a special admission or limited license to practice law.
- B. The program relies on the good faith and integrity of the participants. The Board cannot administer and supervise the clerkship on a daily basis. The Board assumes the tutor and the law clerk will adhere to the letter and spirit of the program.
- C. The law clerk program is an alternative legal education. The program issues a certificate of completion; it is not approved by the American Bar Association and it does not confer a Juris Doctor degree or other degree.
- D. The Board will not assist an applicant for the law clerk program to find employment or to evaluate in advance the qualifications of a potential tutor.

**1-3 Definitions.** For the purpose of these regulations, the following terms are defined:

- A. "Approved accreditation" means accredited by an accrediting agency recognized by the US Department of Education.
- B. "Assistant Tutor" means a qualifying lawyer or judge who has been approved to teach specific courses.
- C. "Bar Association" means the Washington State Bar Association.
- D. "Board of Governors" means the Board of Governors of the Washington State Bar Association.
- E. "Board" means the Law Clerk Board.
- F. "Board Liaison" means an individual member of the Law Clerk Board in his or her role as liaison between the law clerk and the Board.
- G. "Employment waiver" means a relationship in which the primary tutor is not the law clerk's direct employer but has received Board approval of an alternative relationship under APR 6(b)(7).
- H. "Law clerk" means a person whose application for enrollment in the law clerk program has been accepted by the Board. It refers to applicants to the program in that applicants must have employment as a law clerk, legal assistant, or equivalent to qualify for enrollment. Law clerks are not authorized or licensed to engage in the practice of law by virtue of APR 6.
- I. "Program" means the law clerk program established by APR 6 and implemented in these regulations.
- J. "Regular, full-time employment" means that the law clerk is hired by the tutor or the tutor's employer in a (i) law office, (ii) legal department, or (iii) a court of general, limited, or appellate jurisdiction located in Washington State, for an average of 32 hours per week for at least 48 weeks each calendar year.
- K. "Tutor" means a qualifying lawyer or judge who has agreed to teach the law clerk and be responsible for all aspects of compliance with the program.

**Regulation 2.**

**LAW CLERK BOARD**

**2-1 Responsibilities.** The Board will make decisions regarding:

- A. Approval or rejection of an application for enrollment in the program.
- B. Approval or rejection of a lawyer or a judge to act as a tutor.
- C. A petition for advanced standing.
- D. A direction to the law clerk to change tutors.
- E. A recommendation to the Board of Governors for the termination of a law clerk's enrollment in the program.
- F. A petition for readmission.
- G. Changes in course contents, course descriptions, or program completion requirements.
- H. Applicability of the effect of prior decisions regarding other law clerks and tutors.
- I. Recommendations to the Board of Governors regarding amendments to these regulations.
- J. Any other matter related to the program or referred to the Board by the Board of Governors.

## **2-2 Board Liaisons.**

- A. A law clerk will be assigned to a Board member who shall act as a liaison between the law clerk and the Board.
- B. A Board liaison will make decisions regarding:
  - (1) Recommendations to the Board regarding the acceptance or rejection of an applicant.
  - (2) An annual evaluation of the law clerk's second and third years.
  - (3) Recommendations regarding any other matter related to the program or referred to the Board.

## **2-3 Staff Administration.**

- A. The Board may delegate duties to staff to facilitate prompt administration of the program.
- B. The duties may regularly include but are not limited to:
  - (1) Review of applications to the program, recommendation regarding their qualifications for the program, and assignment of a Board Liaison;
  - (2) Approval of assistant tutors to teach specific courses;
  - (3) Approval of leaves of absence of less than 12 months;
  - (4) Approval of petitions by law clerks to take courses or electives out of order;
  - (5) Approval of the 4<sup>th</sup> year courses; and
  - (6) Notices of involuntary withdrawal.

**2-4 Filing, general.** All applications, petitions or requests shall be in writing and shall be directed to the Board at the Bar Association office.

## **2-5 Review Procedure.**

- A. **Review of Right.** An applicant, law clerk or tutor, has a right to have the Board of Governors review the following decisions of the Board:
  - (1) Rejection of an application for enrollment in the program;
  - (2) Termination of a law clerk's enrollment in the program; or
  - (3) Requiring a law clerk to change tutors.
- B. **Discretionary.** An applicant, law clerk or tutor may ask the Board of Governors to review any decision made by the Board.
- C. **Filing.** A petition requesting either review of right or discretionary review shall be:
  - (1) in writing,
  - (2) directed to the Board of Governors;
  - (3) filed at the Bar Association office; and
  - (4) filed within 30 days of the date the law clerk or applicant received notice of the decision.

## **Regulation 3.**

### **APPLICATION PROCEDURE**

**3-1 Applicants.** Every applicant for enrollment in the program shall:

- A. Be engaged in regular, full-time employment as defined in Regulation 1-3 unless requesting an employment waiver as defined in Reg. 1-3.
  - (1) Under no circumstances may the tutor assess a fee or require any other form of compensation in return for instructing or employing the law clerk. The law clerk shall receive monetary compensation in compliance with federal and state law governing employment. The Board may require proof of employment as deemed necessary.
  - (2) Approval of any relationship requiring an employment waiver is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the alternative relationship, show how the purpose of the program will be maintained, and describe how client confidentiality and conflicts of interest will be resolved.
- B. Submit the following with the application fee by the deadlines established by the Board:
  - (1) A completed program application and all required supplemental information;
  - (2) Official transcripts from all undergraduate and graduate institutions attended, which show the grades received, the date a bachelor's degree was awarded by a school with approved accreditation, and the subject in which it was granted;
  - (3) Two letters attesting to the applicant's good moral character and appraising the applicant's ability to

undertake and successfully complete the program;  
and

- (4) The tutor's application establishing the applicant's and the tutor's eligibility and certifying to compliance with APR 6 and these regulations.

C. Appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board, the Character & Fitness Board, or the Board of Governors.

**3-2Advanced Standing.** A petition to request consideration for advanced standing for law school courses completed or previous enrollment in the law clerk program must be submitted with an application for enrollment.

A. Petition for Advanced Standing. All law clerks must pass the prescribed courses established in these regulations. No courses may be waived. Applicants seeking advanced standing must establish, to the satisfaction of the Board, that the courses for which they seek credit are equivalent to specified prescribed courses in these regulations. The petition shall include:

- (1) A list of courses in the law clerk program for which advanced standing is sought. No advanced standing may be sought for Basic Legal Skills;
- (2) A list of the law school courses and course descriptions from the law school course catalogue with an explanation of how each course is equivalent to the law clerk program courses;
- (3) Official transcripts for the law school courses. Courses in which the applicant earned a grade less than a B- or 2.7 and/or completed more than five years prior to the Law Clerk Program application date will not be considered. For applicants admitted to the practice of law in a foreign jurisdiction, grades older than five years may be considered in combination with proof of current good standing and active practice of law for three out of the last five years; and
- (4) Any additional information the applicant believes will be helpful or which the Board has requested.

B. Determination. In granting advanced standing, the Board will specify:

- (1) Any prescribed courses or portions thereof that the law clerk applicant has been deemed to have completed;
- (2) Any prescribed courses or portions thereof that the law clerk applicant will be required to pass; and
- (3) Any law school courses that the law clerk applicant will be allowed to use to satisfy the fourth-year curriculum.

**3-3Additional and Remedial Courses.** In its discretion, the Board may also require the law clerk applicant to take and pass certain subjects which appear necessary to prepare the applicant to practice law in this state, regardless of whether or not those courses are prescribed courses or approved elective courses. The Board may require the law clerk applicant to take remedial or other legal or nonlegal instruction.

**3-4Notification.** The Board will notify an applicant of acceptance or rejection of the application for enrollment. If accepted, the notification will specify the month the law clerk is authorized to begin the program. All programs shall begin the first day of the month specified in the notice. If rejected, the notification will provide the basis for the rejection.

**3-5Acknowledgement of Enrollment.** Before beginning the program the law clerk must acknowledge enrollment, pay the annual fee, and agree to inform the Bar Association in writing of any incident that occurs while the law clerk is enrolled that might call the law clerk's moral character or fitness into question.

#### **Regulation 4.**

#### **TUTORS**

#### **4-1Tutor's Responsibilities.**

- A. The tutor is responsible for supervising and guiding the law clerk's education, and for setting an example of the highest ethical and professional conduct. The tutor has an obligation not only to instruct the law clerk, but to ensure only fully competent law clerks are deemed to be qualified to sit for the bar examination.
- B. In addition to any other requirements, a potential tutor shall appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board.
- C. The tutor is required to continue to meet the qualifications for a tutor established in APR 6 and remain in good standing throughout the period of the clerkship.
- D. In addition to the "personal supervision" required by APR 6, defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments, the tutor's responsibilities include:
  - (1) Guiding and assisting the law clerk's study of each subject, using the course descriptions as a basic outline of course content and emphasizing pertinent state law;

- (2) Choosing textbooks, casebooks, and other written, legal materials, selected from those in use at any of the law schools in the state, to guide the law clerk through the subject matter of each course;
- (3) Assisting the law clerk in planning the sequence and timing of each prescribed course and of the fourth-year curriculum;
- (4) Evaluating the law clerk's progress;
- (5) Developing, administering, and grading the monthly examinations;
- (6) Submitting the graded monthly examination with written comments and the required certificate to the Board within 10 working days of the end of the month in which it was administered;
- (7) Assigning the law clerk tasks and duties which are intended to contribute to the law clerk's understanding of the practical aspects of engaging in the practice of law; and
- (8) Providing the law clerk with an adequate work station and with reasonable access to an adequate law library.

**4-2 Assistant Tutors.** When an assistant tutor is proposed to teach a course instead of the primary tutor, the Board may approve the application(s) of one or more assistant tutors for up to 6 months of each year of study. The assistant tutor may teach only the course(s) for which he/she was approved by the Board. Informal assistance to a lesser degree, by other lawyers, judges or staff is generally acceptable without specific approval.

A. **Qualification.** The assistant tutor shall meet all the qualifications and continuing qualifications established for the tutor in APR 6 and these regulations, except the assistant tutor shall have been actively and continuously engaged in the practice of law or have held the required judicial position for at least five years immediately preceding the commencement of the assistant tutorship.

B. **Scope of Delegation.**

- (1) The assistant tutor may undertake the following duties for the course(s) for which he/she is approved:
  - i. Choosing textbooks, casebooks, and resource materials for the course.
  - ii. Guiding and assisting the law clerk's study of the subject, using the course description as a basic outline of course content and emphasizing pertinent state law.
  - iii. Developing, administering, and grading the monthly examination.
- (2) The primary tutor shall:
  - i. In consultation with the assistant tutor, determine if the law clerk passed or failed the course;

- ii. Remain ultimately responsible for the conduct of the clerkship;
- iii. Complete all monthly and other certificates; and
- iv. Appear with the law clerk at all oral evaluations with the Board, although the assistant tutor may also be in attendance where appropriate.

**Regulation 5.**

**COURSE OF STUDY**

**5-1 Structure.**

- A. The program is designed to be a four year course of study in combination with employment. Each year consists of 12 months during which the law clerk is required to study 6 subjects, pass 12 exams and submit 3 book reports.
- B. The program is structured so the law clerk studies only one subject at a time and passes it before beginning the next subject. All courses in a given year must be completed before the law clerk may study courses in a subsequent year. A law clerk may not take more course work in any calendar year than is prescribed by these regulations without prior Board approval. The length of time to be devoted to each subject is prescribed by regulation.
- C. A law clerk may take leave or vacation in increments of one month upon written notice to the Board. A law clerk may take leave of longer than one month only upon advance written request and approval by the Board. Exceptions for emergency medical situations may be considered. A law clerk may not request leave of more than 12 consecutive months.

**5-2 Subjects.**

- A. **Jurisprudence Reading.** Every law clerk is required to take the Jurisprudence course, which is a four year reading program, intended to familiarize the law clerk with legal history, philosophy, theory and biography.
- B. **First Year.** To complete the first year of the program, the law clerk shall pass the following prescribed courses. The course entitled "Basic Legal Skills" shall be studied and passed first. Thereafter, the courses may be studied in any order.

<b>Course</b>	<b>Months</b>
Basic Legal Skills	2
Civil Procedure	2
Torts	2
Contracts	2
Agency & Partnership	2
Property	2

C. Second Year. To complete the second year of the program, the law clerk shall pass the following prescribed courses, in any order:

<b>Course</b>	<b>Months</b>
Community Property	1
Criminal Law	2
Constitutional Law I	2
Corporations	2
Evidence	2
Uniform Commercial Code	3
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D. Third Year. To complete the third year of the program, the law clerk shall pass the following prescribed courses, in any order:

<b>Course</b>	<b>Months</b>
Constitutional Law II	2
Professional Responsibility	1
Domestic Relations	2
Wills, Estates, Trusts, Probate	3
Conflict of Laws	2
Criminal Procedure	2
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E. Fourth Year. The fourth year of the program is devoted to elective subjects. The law clerk, in consultation with the tutor, shall develop a fourth year curriculum of six electives. The law clerk shall then make a written petition to the Board, at least six months prior to the commencement of the fourth year, for approval of the proposed fourth year course of study.

- (1) Under no circumstances will approval or recognition be given to courses directed to fulfillment of a continuing legal or other professional education requirement, or intended to provide a preparation for a bar examination, or taught through correspondence or any equivalent.
- (2) Recommended Electives. The following electives are recommended because they will broaden the law clerk's legal background, perspective, and skills. A law clerk may petition the Board for approval of alternative areas of study by including a detailed course description for each proposed course.

<b>Course</b>	<b>Months</b>
Administrative Law	2
Personal Federal Income Tax	2
Land Use	2

Labor Law	2
Remedies	2
Antitrust	2
Creditor-Debtor Relations	2
Securities Regulation	2
Legal Accounting	2
International Law	2
Insurance	2
Consumer Protection	2
Environmental Law	2
Real Property Security	2
American Indian Law	2
Trial Practicum	2
Elder and Disability Law	2

**5-3 Monthly Examinations.** The tutor is responsible for the content and administration of all monthly examinations.

- A. Content. Although no specific substantive content is prescribed by the Board, it is anticipated such an examination will test the law clerk's comprehension of the current subject matter, and the law clerk's understanding of the ethical, professional and practical aspects of practicing law.
- B. Course Descriptions. The course descriptions in Regulation 7 state the minimum level of knowledge the Board expects a law clerk to obtain in each subject, and provide guidance to the tutor in formulating monthly examinations.
- C. Timing. The tutor shall administer an examination covering that month's subjects to the law clerk on or before the last business day of each month.
- D. Grading. All courses in the program are to be graded as pass/fail only. "Pass" means that the law clerk has exhibited reasonable comprehension of the theory and practice of any given subject to the satisfaction of the tutor and the Board. If a law clerk earns a "Fail" grade he or she shall continue to study the subject for an additional month.
- E. Certificates. The tutor shall submit the exam, including the grade given for the examination and written comments to the law clerk, and a monthly certificate, stating the law clerk's hours engaged in employment, study and the tutor's personal supervision, within 10 business days following the month of study.
  - (1) If an exam is not given, the monthly certificate shall be submitted stating the reason.
  - (2) The date of receipt will be recorded. A pattern of late certificates may be cause for remedial action or termination from the program.

**5-4 Board Evaluations.** Annually, or at such other intervals as may be established by the Board, the Board shall conduct an evaluation at which the law clerk and the tutor shall be personally present. The Board may at any other time, in its discretion, conduct an evaluation at which the law clerk and the tutor shall be personally present if required to do so.

A. The Board will not normally test the law clerk's substantive knowledge, but may do so to evaluate whether or not the law clerk is progressing satisfactorily in the program.

B. Materials. In making its evaluation, the Board may consider:

- (1) The substantive contents of all monthly examinations;
- (2) The tutor's monthly certificates and timeliness of receipt;
- (3) Any written course work; and
- (4) Any other written or oral materials deemed to be pertinent by the Board.

C. Decision. At the conclusion of the evaluation, the Board may:

- (1) Determine the law clerk has successfully mastered the preceding year's course work and is eligible and authorized to begin the next year of the program;
- (2) Determine the law clerk has satisfactorily completed the program and is qualified to sit for the bar examination, subject to any other requirements for sitting for the bar examination as set forth in the Admission and Practice Rules;
- (3) Advise the tutor regarding the quality, timeliness, or appropriateness of coursework, exams, and certificates;
- (4) Direct the law clerk to repeat designated prescribed or elective courses, devote more time to each course, take remedial legal or nonlegal instruction, appear before the Board at more frequent intervals for an examination which may be written or oral;
- (5) Require the law clerk to change tutors;
- (6) Advise the law clerk that the law clerk's enrollment in the program is terminated.

D. At the conclusion of any evaluation, the Board will provide a brief written summary of its decision to the law clerk and to the tutor.

#### **Regulation 6.**

### **WITHDRAWAL AND TERMINATION OF ENROLLMENT**

#### **6-1 Withdrawal by Law Clerk.**

A. Voluntary. A law clerk who wishes to withdraw from the program shall notify the Board in writing, filed as required by Regulation 2-4.

B. Involuntary. A law clerk will be deemed to have withdrawn from the program if:

- (1) The law clerk is absent from the program for more than one month in any calendar year without the Board's prior approval of a petition for a leave of absence. Failure to submit exams and tutor's certificates shall be interpreted as absence from the program;
- (2) The law clerk takes a leave of absence from the program for more than 12 consecutive months; or
- (3) The annual fee is not paid by the established deadline.

#### **6-2 Withdrawal by Tutor.**

A. Voluntary. A tutor who wishes to withdraw from that position shall notify the Board and the law clerk in writing, filed as required by Regulation 2-4.

B. Involuntary. If a disciplinary sanction is imposed upon a tutor, the tutor will be deemed to have withdrawn from that position. The Board may determine that the imposition of a sanction does not necessitate automatic withdrawal.

C. The Board may direct a law clerk to change tutors if approval of a tutor is withdrawn.

**6-3 Termination of Enrollment by the Board.** The Board may terminate a law clerk's participation in the program for:

- A. Failure to complete the prescribed course of study within 6 years from the date of enrollment;
- B. The law clerk's failure to comply with the requirements of the program or a decision or order of the Board; or
- C. A determination by the Character and Fitness Board that the applicant does not meet the character or fitness requirement for enrollment in the program.

#### **Regulation 7.**

### **COURSE DESCRIPTIONS**

**7-1 Jurisprudence Reading.** A four-year course of reading consisting of three (3) books each year, to be selected from a list approved by the Board. The Board has discretion to select and require specific books which must be read to meet this requirement.

A. Upon completion of each book, the law clerk shall prepare and submit to the Board a short book report. Reports shall be submitted every 4 months.

B. A year's coursework shall not be deemed completed unless the book reports are submitted. A law clerk may not begin the next year's course



work until the current year's book reports are completed and submitted to the Board.

### **7-2 First Year Clerkship.**

- A. Basic Legal Skills. Introduction to basic legal reference materials (including judicial, legislative and administrative primary and secondary sources) and their use; techniques of legal reasoning, analysis and synthesis; legal writing styles. Familiarization with the structure of the federal and state court systems; the concept of case law in a common law jurisdiction; fundamental principles of stare decisis and precedent; the legislative process; principles of statutory construction and interpretation. Law Clerk should be assigned projects of increasing difficulty such as: case abstracts; analysis of a trial record to identify issues; short quizzes to demonstrate ability to locate primary and secondary sources; office memoranda or a trial oriented memorandum of authorities to demonstrate ability to find the law applicable to a factual situation and to differentiate unfavorable authority; an appellate level brief.
- B. Civil Procedure. Fundamentals of pleading and procedure in civil litigation, as structured by the Federal Rules of Civil Procedure and the Washington Superior Court Civil Rules. Study shall include: jurisdiction over the person and subject matter; venue; time limits; commencement of actions; pleadings; parties; impleader; interpleader; motions; class actions and intervention; res judicata and collateral estoppel; discovery and other pretrial devices; joinder; summary judgment; judgments; post-trial motions. Law Clerk should be required to draft summons; pleadings; motions; findings of fact and conclusions of law; judgment; interrogatories; requests for admission.
- C. Contracts. Study of legal principles related to the formation, operation and termination of the legal relation called contract. General topics include: offer and acceptance; consideration; issues of interpretation; conditions; performance; breach; damages or other remedies; discharge; the parol-evidence rule; the statute of frauds; illegality; assignments; beneficiaries.
- D. Property. Study of the ownership, use, and transfer of real property in both historical and modern times. Topics include: estates and interests in land; concurrent ownership; easements; equitable servitudes; conveyances; real estate contracts; nuisance; adverse possession; land use controls; landlord-tenant; the recording system; title insurance.

- E. Torts. Study of the historical development, principles, concepts and purposes of the law relating to redress of private injuries. Topics include: conversion; trespass; nuisance; intentional tort; negligence; strict liability; products liability; concepts of duty, causation, and damage; limitations on liability such as proximate cause, contributory negligence, assumption of the risk, immunity; comparative negligence.
- F. Agency and Partnership. Legal principles of agency law including definition of the agency relationship, authority and power of agents, notice and knowledge, rights and duties between participants in the relationship, termination of agency relationship, master-servant relationship. Partnership law using the Revised Uniform Partnership Act as a model code. Topics include: formation, partners' rights and duties between themselves, powers, unauthorized acts, notice and knowledge, incoming partner liability, indemnification, contribution, partner's two-fold ownership interest, co-ownership interests and liabilities, creditor's claims and remedies, dissolution events, winding up, distribution of asset rules. Study of the Uniform Limited Partnership Act and joint venture law.

### **7-3 Second Year Clerkship.**

- A. Community Property. Relationship necessary for creation of community property, classification of property as community or separate, management and control of community assets, rights of creditors, disposition of community property upon dissolution of the community, problems of conflict of laws encountered in transactions with common-law jurisdictions.
- B. Criminal Law. Study of substantive criminal law including concepts such as elements of criminal responsibility; principles of justification and excuse; parties; attempts, conspiracy; specific crimes; statutory interpretation; some introduction to sentencing philosophies and to juvenile offender law.
- C. Constitutional Law I. Course covers basic constitutional document, excluding the Bill of Rights. Topics include: taxing clause, commerce clause, contract clause, war power and treaty power. Allocation and distribution of power within the federal system, and between federal and state systems, including economic regulatory power and police power; limitations on powers of state and national governments; constitutional role of the courts.
- D. Corporations. Business corporations for profit using the Model Business Corporations Act and state law provisions. Topics include: promotion,

formation and organization; theories of corporations; corporate purposes and powers; disregard of corporateness; common law and statutory duties and liabilities of shareholders, directors, and officers; allocation of control, profit and risk; rights of shareholders; derivative suits and class action suits by shareholders; mergers and consolidations, sale of assets, and other fundamental changes in corporate structure; corporate dissolution; SEC proxy rules and Rule 10(b)(5).

- E. Evidence. Rules of proof applicable to judicial trials. Topics include: admission and exclusion of evidence, relevancy, hearsay rule and its exceptions, authentication of writings, the best evidence rule, examination and competency of witnesses, privileges, opinion and expert testimony, demonstrative evidence, presumptions, burden of proof, judicial notice.
- F. Uniform Commercial Code. Course covers Articles I, II, III, IV, VI, VII, and X of the Uniform Commercial Code. Course first examines problems in the sale of goods as governed by Article II (with a brief survey of its antecedents) including: warranty, risk of loss, acceptance and rejection, tender of delivery, revocation, remedies for breach of contract. Some discussion of other laws relating to warranties, Article VI on Bulk Sales, and Article VII on documents of title and bills of lading. Course next examines commercial paper, bank deposits and collections under UCC Articles III and IV, including: formation and use of negotiable instruments with an emphasis on checks, rights and liability of parties to negotiable instruments, defenses to liability, study of bank collection process and bank's relationship with its customers. Course finally examines secured transactions under UCC Article IX, including: types of security interests, perfection of such interests, priority of claims, rights to proceeds of collateral, multi-state transactions, rights of parties after debtor's default.

#### **7-4 Third Year Clerkship.**

- A. Constitutional Law II. Course examines the Bill of Rights. Topics include: free speech, prior restraint, obscenity, libel, fair trial and free press, loyalty oaths, compulsory disclosure laws, sedition and national security, picketing, symbolic conduct, protest, subversive advocacy; due process; equal protection development and analysis; fundamental rights and entitlements; religious clause; jury trial right in civil actions; constitutional protection and interpretation under state as contrasted to federal constitutional documents.

- B. Professional Responsibility. Study of legal ethics and a lawyer's roles in society, including lawyer-client relations, lawyer-public relations, and a lawyer's responsibility to the courts and the profession. Topics also include: organization of an integrated bar, Supreme Court's supervisory powers, professional service corporations, pre-paid legal services arrangements, malpractice, the Admission to Practice Rules, the Rules for the Enforcement of Lawyer Conduct, the Rules of Professional Conduct and the ABA Model Rules of Professional Conduct.
- C. Domestic Relations. Study of the substantive and procedural law affecting the formation, disintegration and dissolution of family relations, including those of husband and wife, parent and child, and non-marital. Topics include: jurisdiction, procedure, costs, maintenance, child support, property division, custody, modification and enforcement of orders, some discussion of conflict of laws, taxation, URESA and UPA.
- D. Wills, Estates, Trusts, Probate. Study of the voluntary transmission of assets in contemplation of and at death. Topics include: disposition by will, creation of and disposition by a trust, effectiveness of the disposition in the creation of present and future interests in property, intestate succession, construction problems, powers of appointment, restrictions on perpetuities and accumulations, alternative methods of wealth transmission, some introduction to the basic tax framework important in formulating plans of disposition, and fiduciary administration and management of decedent's estates and trusts.
- E. Conflict of Laws. Study of that part of the law that determines by which state's law a legal problem will be solved. Topics include: choice-of-law problems in torts, contracts, property, domestic relations, administration of estates, and business associations.
- F. Criminal Procedure. Constitutional doctrines governing criminal procedure. Topics include: Fourth, Fifth, Sixth and Eighth Amendments, pertinent due process provisions of Fourteenth Amendment; search and seizure, confessions, identification procedures, right to counsel, arrest, jury trial, double jeopardy, and pertinent provisions of the state constitution. The Superior Court Criminal Rules are examined as they relate to the procedural aspects of raising the constitutional issues.

#### **7-5 Fourth Year Clerkship; Electives.**

- A. Administrative Law. Study of the administrative process and its role in the legal system. Subjects include: powers and procedures of administrative

- agencies, relationship of administrative agencies to executive, judicial and legislative departments of government.
- B. Personal Federal Income Tax. Examination of federal income tax law as it applies to individuals, but not in their role as partners, shareholders, or beneficiaries of trusts or estates. Topics include: concepts of income, gross income, net income, when income should be taxed, to whom it should be taxed and its character as unearned, earned or capital gain income. Deductions are also examined in detail.
- C. Land Use. Study of legal principles and constitutional limitations affecting systems for public regulation of the use of private land. Topics include: planning, zoning, variances, special use permits, subdivision controls, environmental legislation, nuisance, eminent domain, powers of public agencies, “taking” without just compensation, due process, administrative procedures and judicial review, exclusionary zoning and growth control.
- D. Labor Law. Study of the organizational rights of employees and unions and the governance of the use of economic force by employers and unions. Other topics include the duty to bargain collectively, the manner in which collective bargaining is conducted, subjects to which it extends, administration and enforcement of collective bargaining agreements, and relations between a union and its members.
- E. Remedies. Historical development and use of judicial remedies that provide relief for past or potential injuries to interests in real or personal property. Topics include: history of equity, power of equity courts, restitution, specific performance, injunctions, equitable defenses, compensatory and punitive damages, unjust enrichment, constructive trusts, equitable liens, tracing and subrogation.
- F. Antitrust. An examination of the antitrust laws including the Sherman Act, Clayton Act, Robinson-Patman Act, Federal Trade Commission Act; and topics such as monopolies, restraint of trade, mergers, price fixing, boycotts, market allocation, tying arrangements, exclusive dealing and state antitrust law.
- G. Creditor-Debtor Relations. Rights and remedies of creditors and debtors under the Federal Bankruptcy Code, particularly in straight bankruptcy cases and under state laws relating to judgments, judgment liens, executions, attachments, garnishments, fraudulent conveyances, compositions, assignments for the benefit of creditors, and debtor’s exemptions.
- H. Securities Regulation. Study of legal control over the issuance and distribution of corporate securities. Topics include: registration and distribution of securities under the Federal Securities Act of 1933, including the definition of a security; basic structure, applicability, and prohibitions of the Act; underwriting; preparation, processing and use of registration statement and prospectuses; exemptions from registration under the Act, including Regulation A, private offerings, and business reorganizations and recapitalizations; secondary distributions; brokers transactions; and civil liability for violation of the Act. Registration, distribution and regulation of securities under state “blue sky” laws, including the State of Washington Securities Act. Regulation of franchise arrangements under the Federal Securities Act of 1933 and the State of Washington Franchise Investment Protection Act. Regulation of national securities exchanges and broker-dealers; registration and listing of securities on national securities exchanges; periodic reporting and public disclosure of information requirements for companies whose securities are traded on national securities exchanges; and civil liability for violation of the Act. Regulation of mutual funds and other types of investment companies under the Federal Investment Company Act of 1940.
- I. Legal Accounting. Bookkeeping, use of journals and ledgers, analysis of financial statements, professional responsibility of a lawyer to a corporate client and relationship to accountants involved in a client’s financial affairs. Course also addresses lawyer’s accounting and recordkeeping obligations to his or her client under the Rules of Professional Conduct or its successor.
- J. International Law. Legal process by which interests are adjusted and authoritative decisions made on the international level. Topics include: nature and source of international law, law of treaties, jurisdiction, some discussion of international legal organizations, state responsibility and international claims for wrongs to citizens abroad, and application of international law in United States courts.
- K. Insurance. Legal principles governing formal mechanisms for the distribution of risk of loss. Emphasis is on property, casualty, life insurance. Topics include: marketing of insurance, indemnity principle, insurable interest, amount of recovery and subrogation, persons and interests protected, brokers, and identification of risks transferred by insurance.

- L. Consumer Protection. Selected laws for protection of consumers, including federal, state and local laws that prohibit deceptive advertising, mandate disclosure of information, regulate credit practices, license occupations, establish quality standards for products and services, and condemn “unfair” practices. Emphasis on the theoretical justifications for governmental intervention in the marketplace. Attention to problems of consumer justice administration, including informal dispute resolution procedures and representation of consumer interests in administrative and legislative proceedings.
- M. Environmental Law. Survey of citizen, legislative, administrative and judicial action in response to the reality and the threat of man-induced alteration to the natural environment; focuses on National Environmental Policy Act, federal air and water pollution control legislation, state air and water pollution control statutes and shoreline management.
- N. Real Property Security. Methods by which an obligation may be secured by real property of the obligor or of a third person. Covers the common-law principles and statutes that regulate the creation, operation, and extinguishment of the legal relations known as the real property mortgage and deed of trust, considered in the context of financing the purchase or development of land. Some attention must be given to principles governing operation of the lending industry.
- O. American Indian Law. Tribal/state/federal judicial and legislative jurisdiction in Indian country. Criminal and civil jurisdiction. Indian religious freedom. Indian water rights. Special hunting and fishing rights. History of federal laws and policies towards Indians. Current federal law and policy. Judicial trends in Indian cases. The federal trust responsibility toward Indian tribes; tribal powers of self government. Tribal courts. Federal supremacy (preemption) over state law in Indian country.
- P. Trial Practicum. Advanced course in preparing for trial. Resources should include sample cases and text books as well as evidence and civil rules. The clerk will write a fully researched brief, motions in limine, prepare ER 904; prepare objections to opposition motions in limine and ER 904; argue pretrial motions; research and perform voir dire; prepare and give an opening statement; prepare and give a direct exam with introduction of multiple exhibits; prepare and give a cross exam with introduction of exhibits; draft and argue jury instructions; prepare and give a closing statement.

Then to be assigned an actual case in litigation and add to the above, a mock trial which includes: prepared statement of the “story” of the case; illustrate how each witness fits into the story and what evidence is to be used with each witness; develop direct examination of one witness, cross examination of one witness and at least one exhibit for each witness; prepare and give an opening; conduct voir dire of volunteers; examine a witness; handle objections; and argue sample motions in limine. The clerk is expected to attend court proceedings regularly, and participate to the extent permitted by APR 9, if licensed.

- Q. Elder and Disability Law. An examination and study of the complex legal needs of people who are elderly and people who have a disability. This course examines major issues and substantive laws affecting people who are elderly or who have a disability including income protection, asset preservation and protection, options for financing long-term care and healthcare, planning for incapacity and the use of traditional and nontraditional estate and life care planning devices such as wills, trusts, special needs trusts, powers of attorney, guardianships, adult protection actions and other devices but in the context of the needs of people who are elderly or who have a disability. This course will also address the special ethical challenges and concerns of lawyers who are practicing elder and disability law.

## STANDARDS FOR APPROVING STRUCTURED MENTORING PROGRAMS FOR MCLE CREDIT

The MCLE Board will approve structured mentoring programs for MCLE credit that meet the requirements of APR 11 and the following requirements and standards:

1. **Purpose.** Structured mentoring programs are intended to:
  - a. Foster professionalism, civility and collegiality in the legal community;
  - b. Bridge the gap for new and transitioning attorneys;
  - c. Promote inclusion and eliminate bias with respect to the practice of law;
  - d. Encourage professional development, including insights into the practice of law;
  - e. Encourage personal development, including the need for healthy work-life balance and awareness of mental health, addiction, and stress issues; and/or
  - f. Support the community through public service.
  
2. **Structured Mentoring Program Standards.** The minimum structural standards for a program to be approved include facilitating and requiring the mentor and mentee to:
  - a. Attend an orientation meeting for which MCLE credit is not earned;
  - b. Sign a mentoring agreement;
  - c. Create a personalized mentoring plan that includes meetings on approved subjects under APR 11(f);
  - d. Have face-to-face mentoring meetings related to the approved course subjects under APR 11(f). Face-to-face meetings can be in person or via electronic means of communication; and
  - e. Provide an evaluation of the mentoring experience to the organization. The forms or the information from the forms must be retained for two years and provided to the MCLE Board upon request.
  
3. **Goals of Approved Structured Mentoring Programs.** Approved Structured Mentoring Programs should:
  - a. Strive to appropriately match qualifying mentors with qualifying mentees;
  - b. Assist mentors and mentees in creating a mentoring plan that will best serve them in achieving their goals; and
  - c. Provide support as needed to help mentors and mentees fulfill their responsibilities.
  
4. **Application for Approval of Structured Mentoring Program.** Organizations shall submit an application, program materials and sample forms to the MCLE Board to be considered for approval.

5. **Self-Directed Structured Mentoring Programs.** Mentors and mentees wishing to develop their own mentoring relationship and attain MCLE credit for mentoring may do so through the Self-Directed Structured Mentoring Program Guide available at <https://www.wsba.org/for-legal-professionals/mcle/mcle-credit-for-mentorship>.
6. **Mentor Eligibility.** The mentor must be an active member of the WSBA in good standing and have been admitted to the practice of law in Washington for at least five years. The mentor and mentee shall not be employed by the same employer.
7. **Mentee Eligibility.** The mentee must be an active member of the WSBA. The mentor and mentee shall not be employed by the same employer.
8. **MCLE Credit for Participation.** Mentors and mentees may earn one MCLE credit per each 60 minutes during which they held mentoring meetings and covered topics or issues related to the approved course subjects under APR 11(f). Law and Legal Procedure credits may not be earned through mentoring. There are no limits on the number of MCLE ethics and “other” credits attorneys may earn and attorneys may participate as often as they wish. The mentor may not receive payment for the mentoring time.

**APPLICATION FOR APPROVAL OF STRUCTURED MENTORING PROGRAM**

1. Organization Name:		
2. Program Name:		
3. Address:		
4. Telephone Number:	5. Email Address:	
6. Type of organization (check one):	<input type="checkbox"/> Profit <input type="checkbox"/> Nonprofit <input type="checkbox"/> Government <input type="checkbox"/> Other (Please describe) <input type="checkbox"/> Minority/Specialty Bar <input type="checkbox"/> Local Bar	
7. Is this in-house or on-the-job mentoring? <i>Note: In-house and on-the-job mentoring programs are not eligible for MCLE credit.</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Does the program charge the mentee a fee for mentoring other than an administrative fee that is in an amount designed solely to defray administrative costs? <i>Note: The mentee is not permitted to pay the mentor for mentoring.</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No

**The Structured Mentoring Program is intended to achieve the following:** (Check all that apply)

- Foster professionalism, civility and collegiality in the legal community;
- Bridge the gap for new and transitioning attorneys;
- Promote inclusion and eliminate bias with respect to the practice of law;
- Encourage personal development, including the need for healthy work-life balance and awareness of mental health, addictions, and stress issues;
- Encourage professional development, including insights into the practice of law;
- Support the community through public service; and/or
- Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Structured Mentoring Programs Minimum Requirements.** Approved Mentoring Programs must require mentors and mentees to:

- (1) Attend an orientation meeting for which MCLE credit is not earned;
- (2) Sign a mentoring agreement;

- (3) Create a personalized mentoring plan that includes meetings on approved course subjects under APR 11(f);
- (4) Have face-to-face mentoring meetings related to the approved course subjects under APR 11 (f). Face-to-face meetings can be in person or via electronic means of communication; and
- (5) Provide an evaluation of the mentoring experience to the organization. The forms or the information from the forms must be retained for two years and provided to the MCLE Board upon request.

**Goals of Approved Structured Mentoring Programs.** Approved Structured Mentoring Programs should:

- (1) Strive to appropriately match qualifying mentors with qualifying mentees;
- (2) Assist mentors and mentees in creating a mentoring plan that will best serve them in achieving their goals; and
- (3) Provide support as needed to help mentors and mentees fulfill their responsibilities.

**I certify that the structured mentoring program meets the requirements of APR 11 and the MCLE Board’s Standards for Approving Structured Mentoring Programs for MCLE Credit. Our organization will notify the MCLE Board if there are any changes to the structured mentoring program or if the program is terminated.**

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name and Title of Applicant

\_\_\_\_\_  
Date

**Please attach program materials and sample forms to be considered for approval.**

\_\_\_\_\_  
*For Internal Use Only*

- Approved
- Denied Reason: \_\_\_\_\_

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Signature: \_\_\_\_\_