

Minutes
August 5, 2022

The meeting of the Mandatory Continuing Legal Education Board was called to order by Board Chair Todd Alberstone at 10:00 AM on Friday, August 5, 2022. The meeting was held via videoconference. Board members in attendance were:

Todd Alberstone, Chair
Robert Malae, Vice-Chair (briefly absent from 10:28-10:36)
Asia Wright
Efrem Krisher
Ayanna Coleman
Merri Hartse

Liaisons and Staff in attendance:

Adelaine Shay	MCLE Manager/MCLE Board Staff Liaison
Ransom Smith	MCLE Analyst

Review of Minutes

The MCLE Board reviewed the minutes from the May 13, 2022 meeting. The Board unanimously approved all minutes without change.

Moving Forward with the Law Clerk Tutor Credit Suggested Amendment

A vote was taken on whether to move forward with the law clerk tutor credit suggested amendment and change proposed language to the amendment which would create a separate APR 11(e) approved activities subsection for the new credit, APR 11 (e)(10), and add the word “courses” to the new provision to make clear that tutoring through the APR 6 Law Clerk Program qualifies for law & legal procedure credit. The Board voted unanimously to move forward with the amendment and adopt the above proposed language changes. MCLE Board Chair Todd Alberstone and Board member Ayanna Coleman volunteered to draft the required GR 9 coversheet to submit to the Court.

Discussion: Revision of Language in APR 11(c)

The MCLE Board discussed the prospect of amending the language for the new equity, inclusion, and mitigation of both explicit and implicit bias requirement that appears in the section c “Education Requirements” of the rule. The revision would have replaced the conjunction “and” with “or” to signal that a member could satisfy the equity requirement by taking a course that covered equity, inclusion, or

the mitigation of explicit and implicit bias. After having discussed the merits and potential drawbacks of such a revision, the MCLE Board declined to make a motion on amending the language. The wording in APR 11(c)(1)(ii) therefore remains unchanged.

Discussion: Nomination of Vice Chair

The MCLE Board discussed potential nominees for the position of Vice Chair for the upcoming term. MCLE Board member, Efrem Krisher, expressed interest in being appointed as Vice Chair but needed to review his current time commitments before accepting the nomination. MCLE Board member, Ayanna Coleman, volunteered to assume the position of Vice Chair in the event that Efrem was unable to. The official nomination was tabled for the next October 7 meeting.

Discussion: Proposed 2022-2023 Board Meeting Schedule

The MCLE Board discussed generally the proposed 2022-2023 board meeting schedule. The Board decided by motion to approve the suggested schedule with one change to the April meeting. The Board decided to hold the April meeting on April 17, 2022. Five members voted in the affirmative. One member dissented from the proposed meeting date.

Discussion: MCLE Board Annual Meeting with the Court

The MCLE Board discussed its annual meeting with the Washington Supreme Court occurring on September 7 and the need to draft an annual report to provide to the Court.

MCLE Updates

The MCLE Staff Liaison discussed general updates with MCLE, including the provision of notice of upcoming MCLE deadlines for the current 2020-2022 reporting period, an update on the meeting of the WSBA Task Force Administering Xenial Involvement with Court Appointed Boards (TAXICAB), progress on the new MCLE online system and database, the departure of a MCLE analyst, and recruitment efforts for a new analyst to fill the vacancy.

MCLE Board Activity Review

The MCLE Board decided by motion on one activity accreditation request. No listing of these motions is included in order to protect member confidentiality.

MCLE Hardship Petitions

The MCLE Board decided by motion on 3 hardship petitions. No listing of these motions is included in order to protect member confidentiality.

Adjournment

There being no further business at hand, the meeting was adjourned at 12:40 PM. The next regularly scheduled MCLE Board meeting will be held at 10:00 AM on Friday, October 7, 2022.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Adelaine Shay".

Adelaine Shay
MCLE Board Staff Liaison



MANDATORY CONTINUING LEGAL EDUCATION (MCLE) BOARD OVERVIEW

WSBA, THE COURT & THE BOARD

WSBA makes decisions about administrative procedures; the MCLE Board guides the policies of the MCLE program under the supervision of the Court.

Supreme Court

The Supreme Court appoints the MCLE Board and maintains authority over interpretation and application of Admission and Practice Rule (APR) 11



MCLE Board

The MCLE Board deals primarily with current and longer-term MCLE policy issues.



Washington State Bar Association

The WSBA staffs the program, performing regulatory functions and providing administrative support to the MCLE Board.

BRIEF HISTORY OF MCLE

- The MCLE Board was formed in 1977, the year that the mandatory CLE rule was adopted in Washington.
- The Board consists of seven members, one of whom is a public member. Members are selected by a nomination team comprising the staff liaison, Board of Governors (BOG) liaison, and chair. The BOG nomination committee sends the nomination to the Supreme Court, along with any alternate nominations.
- The Board has some delegated independent adjudicative authority, for which it is solely answerable to the Supreme Court.

PHILOSOPHY OF THE MCLE BOARD

- The MCLE Board is committed to protecting the public by ensuring that members continue their legal education throughout the period of their active practice of law.
- The Board is also committed to creating conditions which promote the accessibility and affordability of continuing legal education courses.
- The Board treats members with respect and courtesy while enforcing the MCLE requirements.

MCLE BOARD SCHEDULE

- The MCLE Board typically meets five times a year (October, January, April, May and August).
- Board meetings are generally held on Fridays from 10am-3pm. Meetings are held virtually, with the option of in-person attendance at the Washington State Bar Association.

MCLE BOARD MEMBER EXPECTATIONS

- Familiarity with and understanding of Admission and Practice Rule (APR) 11.
- Attendance at most or all meetings (remote or in person).
- Advance review of meeting materials.
- Timely compliance with expense reimbursement policy. Submit expense reports within 60 days of incurring the expense.
- Willingness to audit courses and provide written feedback based on APR 11.
- The ability to disagree respectfully.
- A commitment to collaboration with other Board members and WSBA staff.

WSBA VALUES

WSBA VALUES (adopted January 28, 2016)

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information

MCLE Board has delegated approval of courses to the WSBA's MCLE staff.

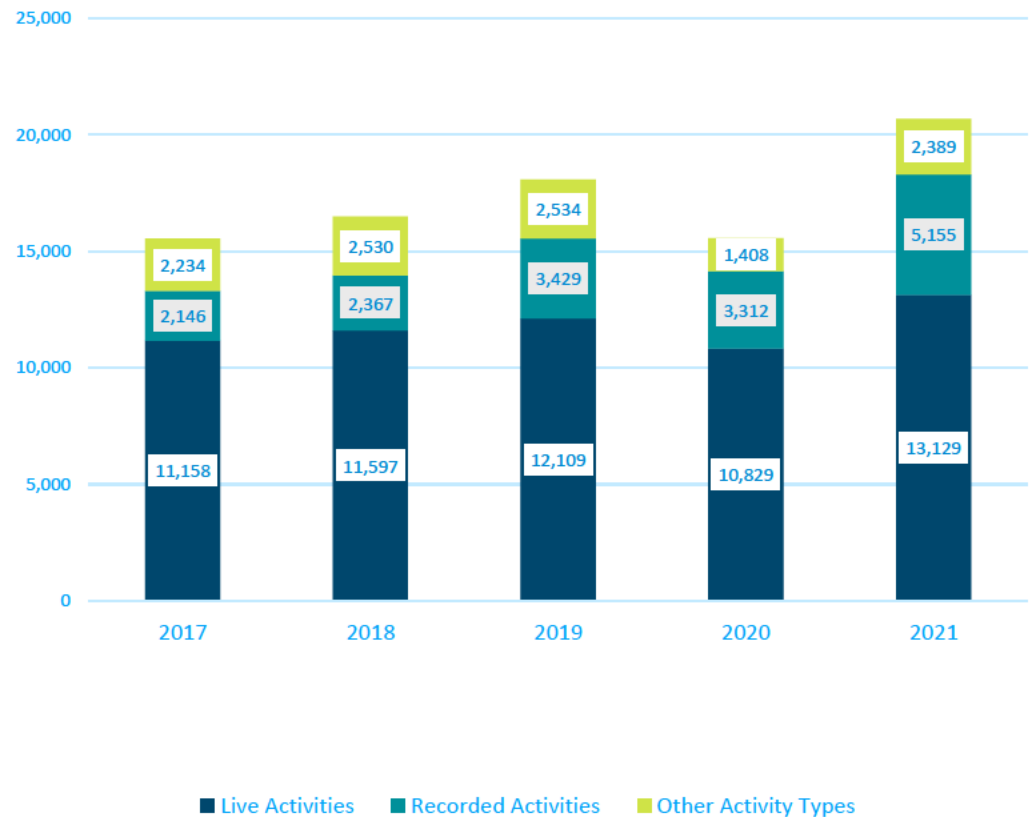
MCLE analysts regularly review CLE course submissions and accredit activities per standards outlined in APR 11.

Hundreds of CLE activity applications are received each month, and MCLE analysts review and approve thousands of activity applications each year.

In 2021, 35% (approximately 10,000) of approved activities were submitted by individual licensed legal professionals. The remaining 65% were submitted by a CLE Sponsor.

MCLE staff and licensed legal professionals may request MCLE Board review of an activity to determine the appropriate accreditation.

MCLE Approved Activity Applications



Certification

- In addition to CLE activity reviews, MCLE staff handle the certification review process. As MCLE reporting and certification are based on a three-year reporting period, MCLE analysts review and verify that the MCLE requirements are completed for one-third of active licensed legal professionals each year.
- MCLE Certification and Licensing typically opens for licensed legal professionals on or around November 1st.

MCLE Deadlines

- Earn credits by Dec. 31 of the third year of your reporting period.
- Certify credits by Feb. 1 of the year following your reporting period.

Late Fees

- A late fee will be assessed if you complete your credit requirements after Dec. 31, or if you certify after Feb. 1. The MCLE late fee starts at \$150 and increases in increments of \$300 for each consecutive late reporting period.

UNDUE HARDSHIP PETITIONS

- At each meeting, the MCLE Board reviews petitions that have been submitted on the basis of undue hardship.
- Per APR 11(i)(5): “a lawyer, LLLT, or LPO may file with the MCLE Board an undue hardship petition for an extension, waiver, and/or modification of the MCLE requirements.”
-
- All petitions are first reviewed by the MCLE staff liaison and approved, denied, or forwarded to the MCLE Board based on the Board-approved decision matrix, which defines applicable hardships.
- The MCLE Board also reviews appeals of denials and holds hearings at the request of licensed legal professionals who also have the option to appeal a denial by the MCLE Board to the Supreme Court.

ESSENTIAL PREPARATION FOR SERVICE

Read

- APR 11
- Board Roster
- 2022 Report to the Supreme Court
- Expense Policy
- Bar Records for Committees & Boards
- Open Meetings Info for Committees & Boards
- MCLE Late Fee Info Sheet
- WSBA Entity Chart
- Decision Matrix

Check out the MCLE website: www.wsba.org/mcle

DISCUSSION :
Goals for 2022- 2023

The MCLE Board will discuss, identify, and set goals for the 2022-2023 meeting term.

Previous MCLE Board Goals:

- Continue to work on the suggested amendment to provide MCLE credit for Law Clerk Tutors
- Explore an amendment to the Admission and Practice Rule (APR) 11 ethics requirement-in the topics of both mental health and technology
- Perform 2 audits per Board member with a focus on accredited sponsors and CLE courses covering topics of diversity, equity and inclusion.
- Continue to work to increase the diversity of the MCLE Board through recruitment.

DISCUSSION:

Structured Mentoring Program Application

Summary: An application has been submitted by Seattle Intellectual Property Inn of Court for the approval of its mentorship program as a structured mentoring program.

Background:

Pursuant to APR 11(e)(8), the Board has the authority to develop standards for and approve a structured mentoring program. At its August 15, 2015, meeting, the MCLE Board established the standards of approval for all mentoring programs seeking to become an APR 11(e)(8) structured mentoring program (see attachment titled “Standards for Approving Structured Mentoring Programs”).

The MCLE Board considers both these specific standards and the requirements of APR 11 when reviewing a structured mentoring application such as the one before it now. Since the structured mentoring program became effective in January of 2016, the MCLE Board has only approved one application seeking status as a structured mentoring program. This program is the Seattle Low Bono Incubator Mentoring Program, which was approved on January 8, 2016. In addition, the MCLE Board has approved a Mentoring Guide for Self-Directed Structured Mentoring. Licensed legal professionals wishing to develop their own self-directed structured mentoring program with a chosen mentor or mentee, must follow the guidelines in the [Self-Directed Structured Mentoring Program Guide](#) in order to obtain MCLE credit.

MCLE Board Structured Mentoring Program Eligibility Standards

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.

Mentee Eligibility. The mentee must be an active member of the WSBA. The mentor and mentee shall not be employed by the same employer.

MCLE Staff Findings Regarding the Application of Standards to the Proposed Mentoring Program

The following are the minimal structural standards for a program to be approved:

- 1. Attend an orientation meeting for which MCLE credit is not earned.**

The sponsor of this mentoring program (Seattle Intellectual Property Inn of Court) has affirmed that such an orientation exists.

- 2. Sign a mentoring agreement**

The sponsor confirmed in their application that a mentoring agreement is available and provided a copy of a sample mentoring agreement with its application materials.

- 3. Create a personalized mentoring plan that includes meetings on approved subjects under APR 11(f)**

The proposed program divides participating mentees into four groupings termed “pods” which are divided and organized according to their career path interests of non-traditional law student and young lawyer mentees. Each pod is guided by three to four mentors that have “significant experience within the field of

intellectual property law.” Per the established MCLE Board standards mentors would not be eligible for MCLE credit for the time spent mentoring law school students.

Over the course the program, four one-half hour pod meetings are held wherein all mentees assigned to a pod convene and discuss subjects pertinent to “professionalism and ethics,” “practice expectations,” “important skills relevant in the IP practice area,” “work-life balance” “practice development,” and related matters.

One-to-one mentoring is also offered to those participants that are interested. Those who elect to receive one-to-one mentoring complete a mentee registration form (included with the application) which requests them to describe their ideal mentor and communicate specific interests and objectives. While it does not appear that an individualized mentoring plan is developed for each mentor-mentee pairing, each pod is charged with developing a format and discussion agenda that is well suited to its specific interests and objectives. The sponsor has also indicated that it is willing to create a more structured individualized mentoring plan this year and moving forward if that is what is required. The one-to-one mentoring is intended to mirror pod mentoring by arranging for at least four meetings during the program that occur on a set schedule and not ad hoc.

4. Have face-to-face mentoring meetings related to approved course subjects under APR 11(f). Face-to-face meetings can be in person or via electronic means of communication

As mentioned above, the mentoring pods meet regularly four times over the course of the program. Those who elect to participate in the one-to-one mentoring are also instructed to meet at least four times. The last time this program took place, meetings between mentors and mentees, including pod meetings, were held via Zoom or phone conference. While there is no clear delineation of exact of program content, the program expects to cover generally “key concepts of professionalism and ethics,” “important skills in the pertinent practice area,” “practice expectations, and strategies for maintaining a work-life balance,” “economic considerations in the practice of law, including current models of generating work in legal practice,” and “strategies and pointers for improving potential career prospects.” All of these subject matters appear to fit comfortably within an approved course subjects under APR 11(f) as substantive law (which is only eligible for Other credit under APR 11(e)(8) mentoring), ethics, personal development & mental health, professional development or office management.

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.

The sponsor has confirmed that evaluation forms are provided to participants and consented to retaining those forms for two years and providing them to the MCLE Board upon request by signing the application form.

Discussion:

Given these standards of approval, should the MCLE Board approve the structured mentoring program application submitted by Seattle Intellectual Property Inn of Court now before it?

Attachments:

- Standards for Approving Structured Mentoring Programs
- Seattle Intellectual Property Inn of Court Structured Mentoring Program Application
- Seattle Intellectual Property Inn of Court-Mentorship Agreement
- Program Mentee Registration Form
- Email dated October 15, 2021 introducing the mentorship program

- Email dated October 21, 2021 soliciting mentors for the program and providing a brief overview of it
- Email dated December 3, 2021 assigning mentors to a specific pod and elaborating on the specific structure of the program

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:	
Seattle Intellectual Property American Inn of Court	
2. Program Name:	
SIPIC Mentorship Program	
3. Address:	
The Inn is a Chapter of the American Inns of Court, and does not have an address of its own (nor a telephone number). The American Inns of Court address is: 225 Reinekers Lane, Ste. 270, Alexandria, VA 22314.	
4. Telephone Number:	5. Email Address:
N/A	N/A, although KZeck@perkinscoie.com is my email address.
6. Type of organization (check one):	<input type="checkbox"/> Profit <input checked="" 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>	
___ Yes <input checked="" 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>	
___ Yes <input checked="" 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

Kevin A. Zeck, President-Elect, Seattle Intellectual Property Inn of Court
Name and Title of Applicant

5/15/2022
Date

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

For Internal Use Only

- Approved
- Denied Reason: _____

Date: _____ Reviewed by: _____ Signature: _____

**Seattle Intellectual Property Inn of Court
Mentorship Agreement**

I, _____, agree to participate as a Mentor in the Seattle Intellectual Property Inn of Court's Mentorship Program in accordance with the terms of this agreement. I understand the goals of mentoring include:

- 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 professional development, including insights into the practice of law;
- Encourage personal development, including the need for healthy work-life balance and awareness of mental health, addiction, and stress issues; and
- Support the community through public service.

I acknowledge and will abide by the following rules:

- Any communication between Mentor and the Mentee is not intended to be the rendering of legal or professional advice to the Mentee or his or her clients, and the Mentee will not rely upon such communications or cause any client to rely upon them.
- No confidential or attorney-client relationship is formed between Mentor and the Mentee as a result of participation in mentoring. Neither the Mentee nor Mentor will identify any client or reveal any client confidence to the other, nor will either seek professional or legal advice from the other about specific legal matters or clients. Instead all discussions about substantive legal matters between the Mentee and Mentor will be limited to hypothetical situations.
- Mentor is not assuming any liability or responsibility with respect to any legal matter of the Mentee's clients, nor will the Mentor render professional services to, or take any responsibility either directly or indirectly for any aspect of representation of the Mentee's clients.
- Mentor will not co-counsel any matter with the Mentee, nor will Mentor make referrals to or accept referrals from the Mentee during the term of their mentoring term.
- The Mentor and Mentee will not be employed by the same employer.

We hereby certify that we have read the above Mentoring Agreement and agree to its terms.

Mentor Signature: _____

Date: _____

From: [Zeck, Kevin A. \(SEA\)](#)
Cc: [Dario Machleidt](#); sutton.catherine@outlook.com; [Duncan Macfarlane](#); [Lori Tonnes-Priddy](#)
Subject: RE: Seattle IP Inn of Courts - Mentorship Program - Kick Off - Email to Associates and Student Members
Attachments: [image001.jpg](#)
[image002.png](#)
[Mentee Registration Form \(2021-2022\).pdf](#)

Dear Associates and Students (bcc'd):

Thank you to those who have applied for the mentorship program.

As a reminder, if you wish to participate, please fill out the attached form and return it to Dario Machleidt, Catherine Sutton (cc'd), and me by today, **Friday, October 15.**

Best,

Kevin A. Zeck | Perkins Coie LLP

☎: 206.359.3002

✉: KZeck@perkinscoie.com

From: Zeck, Kevin A. (SEA)

Sent: Tuesday, October 12, 2021 12:32 PM

Cc: Dario Machleidt <dmachleidt@kilpatricktownsend.com>; sutton.catherine@outlook.com;
Duncan Macfarlane <Duncan@Macfarlane-Law.com>; Lori Tonnes-Priddy <lorittones@gmail.com>

Subject: Seattle IP Inn of Courts - Mentorship Program - Kick Off - Email to Associates and Student Members

Dear Associates and Students (bcc'd):

If you are interested in participating in the Seattle IP Inn of Court's mentorship program, please fill out the attached form and return it to Dario Machleidt, Catherine Sutton (cc'd), and me by this **Friday, October 15.**

As was the case last year, the Mentorship Program will center around four one-hour "pod" meetings, where mentors and mentees assigned to a "pod" can have a roundtable discussion about issues pertinent to law students and young lawyers. **This year we will also offer opportunities for one-to-one mentoring.** Further details are below.

The Inn's Mentorship Program is an excellent opportunity to develop meaningful relationships with mentors and fellow mentees; to gain knowledge and experience about the practice of IP law in the Seattle area; and to gain an understanding and appreciation of the professionalism appurtenant to the practice of law.

This year's Mentorship Program has the same general goals as in past years, while being structured to make it more effective, less burdensome on mentors and mentees, and viable during COVID-19. As was the case last year, the program will center around group or pod mentoring sessions. We will also offer the opportunity to have one-to-one mentoring sessions for those who so desire.

For group or pod mentoring, we anticipate assigning mentee applicants to four pods. We will be determining the pods after reviewing mentee applications to understand the needs and background of mentees. We are hoping to have three or four mentors per pod.

At least until COVID-19 abates, meetings between mentors and mentees, including pod-meetings, will be held by Zoom or phone.

Overarching Goals of the Mentorship Program:

The program's stated, overarching goals are:

1. To assist mentees in developing an understanding of generally accepted professional values and standards of behavior and the importance of professionalism in the practice of law.

2. Build awareness of ethical obligations and of proper practices for avoiding mishandling of another's assets, conflicts of interest, neglect of matters and civil liability problems.
3. Improve professional skills necessary for the effective practice of law at a high level of competence.
4. Develop an appreciation of the importance of supporting and improving the justice system, improving access to justice and the importance of active involvement in the profession and the community.

Mentoring "Pods" Overview:

The "Mentoring Pods" are to provide an opportunity for more generalized discussions centered around the mentors' skillset and experiences and the mentees' interests. These groups will provide an opportunity for roundtable discussion of pertinent issues, which will hopefully lead to more fulsome discussion. We will create pods using the information in the attached form.

Topics for discussion at a pod-meeting might include:

- Key concepts of professionalism and ethics, and how they play out in practice;
- Important skills in the pertinent practice area;
- Practice expectations, and strategies for maintaining a work-life balance;
- Economic considerations in the practice of law, including current models of generating work in legal practice; and
- Strategies and pointers for improving potential career prospects, including courses to take in law school, extra-curricular activities, etc.

One-to-One Mentoring:

In the attached form, you can indicate if you would like to be paired with a mentor for one-to-one mentoring sessions. If you indicate you would like to be paired for one-to-one mentoring, the Inn will, using the information in the attached form, propose a mentor for you.

One-to-one mentoring can be a valuable experience, but must be driven by both mentor and mentee to be successful. As with pod-mentoring, the Inn suggests that there be at least four meetings in one-to-one mentoring, and the Inn suggests mentors and mentees set a schedule for those meetings when they first meet, so that their occurrence is not *ad hoc*.

Best,

Kevin A. Zeck | Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

☎: 206.359.3002

📠: 206.359.4002

✉: KZeck@perkinscoie.com



Please consider the environment before printing this email. Thank you.



From: [Zeck, Kevin A. \(SEA\)](#)
Cc: [Dario Machleidt](#); sutton.catherine@outlook.com
Subject: Seattle IP Inn of Court - Inn Year 2021-2022 - Mentorship Program - Volunteer to be a Mentor!
Date: Thursday, October 21, 2021 7:23:43 AM
Attachments: [image001.jpg](#)
[image004.png](#)

Dear Barristers and Masters (bcc'd):

Please consider volunteering to be a mentor in this year's Inn's Mentorship Program. As was the case last year, the Mentorship Program will center around four one-hour "pod" meetings, where mentors and mentees assigned to a "pod" can have a roundtable discussion about issues pertinent to law students and young lawyers. **But this year we will offer opportunities for one-on-one mentoring.** Further details are below.

If you are interested in participating as a mentor, please let Dario Machleidt, Catherine Sutton (cc'd), and me know by **Monday, October 25**. Please also indicate: (1) the pod or pods (listed below) to which you would like to be assigned; and (2) whether you would want to be a one-to-one mentor.

The Inn's Mentorship Program is an excellent opportunity to develop meaningful relationships with mentees and fellow mentors; to share your knowledge and experiences; and to serve as a source of encouragement and inspiration for law students and young attorneys. Indeed, many mentors say that the rewards they gain are as substantial as those for their mentees.

This year's Mentorship Program has the same general goals as in the past, while structured to make it more effective, less burdensome on mentors and mentees, and viable during the continued COVID-19 pandemic. As was the case last year, the program will center around group or pod mentoring sessions. We will also offer the opportunity to have one-on-one mentoring sessions for those who so desire.

For group or pod mentoring, we anticipate 14 mentee applicants this year, and assigning those applicants to four pods. The pods are set forth below, and they were determined by reviewing the mentee applications to understand the needs and background of the mentee applicants. We are hoping to have three or four mentors per pod.

At least until COVID-19's restrictions abate, meetings between mentors and mentees, including pod-meetings, will be held by Zoom or phone.

Overarching Goals of the Mentorship Program:

The program's stated, overarching goals are:

1. To assist mentees in developing an understanding of generally accepted professional values and standards of behavior and the importance of professionalism in the practice of law.
2. Build awareness of ethical obligations and of proper practices for avoiding mishandling of another's assets, conflicts of interest, neglect of matters and civil liability problems.
3. Improve professional skills necessary for the effective practice of law at a high level of competence.
4. Develop an appreciation of the importance of supporting and improving the justice system, improving access to justice and the importance of active involvement in the profession and the community.

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The "Mentoring Pods" are to provide an opportunity for more generalized discussions centered around the mentors' skillset and experiences and the mentees' interests. These

groups will provide an opportunity for roundtable discussion of pertinent issues, which will hopefully lead to more fulsome discussion.

Presently, we are dividing the Mentoring Pods as follows:

1. **Generalized Pan-IP Pod**

- This group will likely be composed of law student mentees, uncertain of their path forward, seeking a more elementary understanding of the IP career paths. In this Pod, mentors might offer advice regarding law school, job interview success, insights into the industry, skill-building, and professional development.

2. **Prior Professional Experiences or Non-traditional Path to an IP Career Pod – Non IP Litigation**

- This group will likely be composed of non-traditional law students (LLMs) or young lawyers with in-house counsel, governmental roles, USPTO, compliance, or other non-traditional interests. In this Pod, mentors might offer advice regarding building a practice or finding a path to becoming an IP counsel, without being hired directly out of law school by a firm, as well as skill-building and professional development.

3. **Prior Professional Experiences or Non-traditional Path to an IP Career Pod – IP Litigation**

- This group will likely be composed of non-traditional law students (LLMs) or young lawyers with an interest in building an IP litigation career. In this Pod, mentors might offer advice regarding building a practice or finding a path to becoming an IP litigator, without being hired directly out of law school by a firm, as well as skill-building and professional development.

4. **IP transactional Pod**

- This group will likely be composed of young lawyers whose primary interests are in prosecution and transactional work. In this Pod, mentors might offer advice regarding an understanding of the landscape to becoming a patent or trademark prosecution counsel or a licensing / transactional lawyer, as well as skill-building and professional development.

Topics for discussion at a pod-meeting might include:

- Key concepts of professionalism and ethics, and how they play out in practice;
- Important skills in the pertinent practice area;
- Practice expectations, and strategies for maintaining a work-life balance;
- Economic considerations in the practice of law, including current models of generating work in legal practice; and
- Strategies and pointers for improving potential career prospects, including courses to take in law school, extra-curricular activities, etc.

Thank you for your time,

Kevin A. Zeck | Perkins Coie LLP

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From: [Mark Walters](#)
To: [Zeck, Kevin A. \(SEA\)](#); "[bercier@amazon.com](#)"; "[brian.esler@millernash.com](#)"; "[Nicholas.Lenning@klgates.com](#)"; "[TMcAllister@kilpatricktownsend.com](#)"; [Dario Machleidt](#)
Cc: [Dario Machleidt](#); [Duncan Macfarlane](#); [Lori Tonnes-Priddy](#); [sutton.catherine@outlook.com](#)
Subject: RE: FOR MENTORS - Seattle IP Inn of Court - 2021-2022 Mentorship Program Update - Assignment to Pod 1
Date: Friday, December 3, 2021 11:09:02 AM
Attachments: [image001.jpg](#)
[image002.png](#)

Read. Looking forward to it! Mark.

From: Zeck, Kevin A. (Perkins Coie) <KZeck@perkinscoie.com>

Sent: Friday, December 03, 2021 10:53 AM

To: 'bercier@amazon.com' <bercier@amazon.com>; 'brian.esler@millernash.com' <brian.esler@millernash.com>; 'Nicholas.Lenning@klgates.com' <Nicholas.Lenning@klgates.com>; 'TMcAllister@kilpatricktownsend.com' <TMcAllister@kilpatricktownsend.com>; Mark Walters <walters@lowegrahamjones.com>; Dario Machleidt <dmachleidt@kilpatricktownsend.com>

Cc: Dario Machleidt <dmachleidt@kilpatricktownsend.com>; Duncan Macfarlane <Duncan@Macfarlane-Law.com>; Lori Tonnes-Priddy <loritones@gmail.com>; sutton.catherine@outlook.com

Subject: FOR MENTORS - Seattle IP Inn of Court - 2021-2022 Mentorship Program Update - Assignment to Pod 1

Dear Mentors (Caroline, Nicholas, Dario, Tyler, and Mark):

Can you please respond that you have received and read the following message regarding the mentorship program? We're hoping to launch pod meetings in the next few weeks.

Thank you very much for your participation in the Mentorship Program!

I write in advance of the first pod mentoring session. You have been assigned to Pod 1. The mentees in this pod generally have the following backgrounds, career goals, and objectives: they are law students who have a professed interest in IP law generally and a desire to gain an understanding of the dynamics of the legal practice of IP law. The mentees of your pod are: Julie Bowman, Erika Bykov, Katie Lee, and Suli Lee.

Attendance at pod meetings is an important component of the mentorship program. We are hopeful that at least three mentors will attend each of the suggested four one-half hour meetings. To the extent that you are unable to attend a particular pod meeting, please email your Pod's captain so that he or she can determine whether to reschedule the meeting or find an alternative mentor to attend. The captain of Pod 1 is: [Dario Machleidt](#).

As previously discussed, the goals of the Mentorship Program are as follows:

1. To assist mentees in developing an understanding of generally accepted professional values and standards of behavior and the importance of professionalism in the practice of law.
2. Build awareness of ethical obligations and of proper practices for avoiding mishandling of another's assets, conflicts of interest, neglect of matters and civil liability problems.
3. Improve professional skills necessary for the effective practice of law at a high level of competence.
4. Develop an appreciation of the importance of supporting and improving the justice system, improving access to justice and the importance of active involvement in the profession and the community.

Topics for discussion at mentoring pod sessions might include:

- Key concepts of professionalism and ethics, and how they play out in practice;
- Important skills in the pertinent practice area;
- Practice expectations, and strategies for maintaining a work-life balance;
- Economic considerations in the practice of law, including current models of generating work in legal practice; and
- Strategies and pointers for improving potential career prospects, including courses to take in law school, extra-curricular activities, etc.

As to scheduling of pod meetings, the Mentorship Committee is still working on a schedule and is hoping to have one that works for all members of the pod shortly.

While the mentoring program is centered around pod-mentoring, that should not stop the pod from engaging in one-on-one mentoring. For example, a mentoring pod-session might have a “plenary” session where items are discussed as a group for 30 minutes, and then the pod might break out into smaller groups if appropriate. We do not attempt to dictate the format of the pod meetings, and leave it to the mentors and mentees to determine what particular structure works best for the pod. Further, we have created one-to-one mentoring pairs for three of the four members of this pod, and will email those individuals shortly with the pairings.

Finally, although the pod will ultimately dictate the format of the group sessions, we suggest that the first pod-meeting consist of a forum discussion where you and the mentees make introductions, identify topics for discussion, and then tackle one or two topics in a roundtable format. A potential format for the first meeting is thus:

- Introductions (15 minutes)
- Identification of discussion points (15 minutes)
- Forum discussion (30 minutes)

Once again, the Inn, and more specifically the Executive Committee and Mentoring Committee, thanks you very much for your participation in this year’s Mentorship Program. Please let Dario Machleidt and myself know if you have any questions.

Best,

Kevin A. Zeck | Perkins Coie LLP

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Please consider the environment before printing this email. Thank you.



NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

DISCUSSION:

Draft of GR-9 Coversheet for the Law Clerk Program Tutor Credit Amendment

Discuss draft of the GR-9 Coversheet on the Law Clerk credit amendment which the Washington Supreme Court must receive by October 15 of this year.

Enclosed documents-

- **Draft of the GR-9 Coversheet for the Suggested Amendment**

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULE (APR) 11 Mandatory Continuing Legal Education

Submitted by the Mandatory Continuing Legal Education Board

A. Name of Proponent:

Mandatory Continuing Legal Education (MCLE) Board

Staff Liaison/Contact:

Adelaine Shay, MCLE Manager

Washington State Bar Association (WSBA)

1325 Fourth Avenue, Suite 600

Seattle, WA 98101-2539 (Phone: 206-727-8249)

AdelaineS@wsba.org

B. Spokesperson:

Todd Alberstone

Chair of MCLE Board

[Address 1]

[Address 2]

[City], WA [Zip Code] (Phone: xxx-xxx-xxxx)

C. Purpose:

The purpose of Mandatory Continuing Legal Education (MCLE) is “to enhance lawyers’, LLLTs’, and LPOs’ legal services to their clients and protect the public by assisting lawyers, LLLTs, and LPOs in maintaining and developing their competence . . .” (APR 11(a)). The MCLE Board suggests that APR 11 be amended to allow tutors in the APR 6 Law Clerk Program to claim MCLE credit for their personal supervision of APR 6 law clerks. The need for this amendment is evidenced by requests from tutors in the APR 6 Law Clerk Program to receive credit for the supervisory and teaching work they perform, and the current absence of a credit provision that permits them to do so. Currently,

teaching a law school course (when the instructor is not a fulltime professor) and presenting an approved continuing legal education course are eligible for MCLE credit under APR 11. We believe the analogous activity of tutoring law clerks pursuing legal education under APR 6 should have the same benefit. The MCLE Board believes the work performed by law clerk tutors should be recognized as valuable continuing legal education for themselves, as well as the education they provide to APR 6 law clerks. APR 11(e) should be amended to allow those engaged in this work to receive MCLE credit for their efforts.

Background

Pursuant to APR 11(d)(2)(i), “The MCLE Board shall review and suggest amendments or make regulations to APR 11 as necessary to fulfill the purpose of MCLE and for the timely and efficient administration of these rules and for clarification of education requirements, approved activities, and approved course subjects. Suggested amendments are subject to review by the Board of Governors and approval by the Supreme Court.”

Over the years, there have been several requests by tutors in the APR 6 Law Clerk Program to receive MCLE credit for giving their time as tutors to clerks enrolled in the Law Clerk Program. As part of the Law Clerk Program, tutors provide three hours of “personal supervision” (as defined in APR 6) each week to clerks, including substantive discussion of the law. In addition to this personal supervision, tutors are responsible for shaping educational content through their role in selecting texts and course materials for each prescribed course. Within each year of this four-year program, clerks are required to study six subjects and to pass monthly examinations. The exams are developed,

administered, and graded by the tutors.

Periodically, Law Clerk Program tutors have sought MCLE credit under both the “teaching” credit and “mentoring” credit provisions of APR 11. However, neither credit provision is designed to accommodate for law clerk tutoring and such requests have been denied. Tutors cannot claim teaching credit under APR 11(e)(6) as such credit is specifically limited to the teaching of law school courses. Likewise, requests for mentoring credit are not successful because both the mentee and mentor must be active members of the WSBA. See APR 11(e)(8) and Standards for Approving Structured Mentoring Programs (Attachment #4, page 1).

In response to requests and the need to address this issue, the MCLE Board formed a workgroup—including two members of the Law Clerk Board—to explore a potential amendment to APR 11. The workgroup drafted a report and recommendation for a preliminary suggested amendment to APR 11. The MCLE Board decided to move forward with exploring a suggested amendment to APR 11.

On February 4, 2022, the Law Clerk Board reviewed the report and recommendation at its regularly scheduled meeting. No edits or suggestions to the preliminary suggested amendment were made by the Law Clerk Board at that time.

On April 10, 2022, a public comment survey requesting feedback regarding the preliminary suggested amendment was posted on the WSBA website. The MCLE Board webpage also informed WSBA licensed legal professionals (and the general public) of the opportunity to make a public comment regarding the preliminary suggested amendment at the May 13, 2022 MCLE Board Meeting. On April 15, 2022, an email was sent to all active licensed legal professionals and those with judicial status soliciting

written feedback by way of the public comment survey. The online public comment survey closed on May 6, 2022. The MCLE Board received 183 survey responses. Out of those responses, respondents were largely in favor of the preliminary suggested amendment with 136 in favor and 35 not in favor. The remaining 12 respondents were partially in favor (See Attachment #3).

At its May 13, 2022, meeting, the MCLE Board reviewed and considered all feedback produced from the survey. At the same meeting, the MCLE Board opened the proposed amendment for additional public comment during the meeting; however, no licensed legal professional or interested member of the public appeared for such purpose. After having given due consideration to any public concerns identified in the survey, the MCLE Board voted unanimously to continue to move forward with the preliminary suggested amendment by sending it to the Board of Governors for review.

MCLE Board Chair Todd Alberstone and Vice-Chair Robert Malae presented the MCLE Board's preliminary suggested amendment to APR 11 at the WSBA Board of Governors meeting in July 2022. The Board of Governors voted unanimously to support the preliminary suggested amendment. Taking into consideration the feedback and support from the WSBA Board of Governors, the MCLE Board made revisions to the suggested amendment and decided at its August meeting to proceed. The revisions did not change the substance of the suggested amendment.

The attached suggested amendment as revised by the MCLE Board clarifies that law clerk tutors are eligible for the "law and legal" credit category, in addition to the "other" and "ethics" credit categories, by stating that clerks are participating in "courses" (see APR 11(c)(1)). Additionally, the revisions create a new subsection to APR 11(e) so that

law clerk tutoring will have its own approved activity category instead of having the credit consolidated with the law school teaching category. The revisions are intended to assist with implementing the suggested amendment without impacting the spirit of the preliminary suggested amendments presented at the July Board of Governors meeting.

The revised suggested amendment as attached was provided to the Board of Governors at its September 2022 meeting and no concerns were raised by the Board of Governors at that time. In addition, the Law Clerk Board voted to unanimously support the suggested amendment at its October 7, 2022 meeting.

Considerations in Support of the Suggested Amendment

The role of the MCLE Board is to suggest amendments to APR 11 that support the purpose of mandatory continuing legal education. The MCLE Board reviewed and discussed all feedback received about the preliminary suggested amendment. The MCLE Board presents the following as important factors in support of the amendment.

Value of the Law Clerk Program

The four-year Law Clerk Program stands as a viable alternative to traditional law school that provides education through a combination of work and study under the supervision of a lawyer or judge. The lawyer or judge must have at least ten years of experience to qualify as a tutor and be in good standing with the Washington State Bar Association. The Law Clerk Program increases opportunities of non-traditional law school students by offering an affordable alternative for those seeking to practice law in Washington state. Those who complete its education requirements qualify to apply for the Washington State bar exam. The Law Clerk Program provisions enable quality supervision, and the curriculum ensures a comprehensive legal education. Tutors provide

a valuable service as volunteer educators that increases access to legal education and the legal profession.

MCLE Credit for “Personal Supervision”

Tutors in the law clerk program spend an average of three hours per week—over the course of the four-year program—personally instructing and advising the law clerk. As the coursework for this program includes 6 courses every 12 months, as prescribed by APR 6 and the Law Clerk Program Regulations (Attachment #5), the supervision time is functionally equivalent to the “teaching” that would be done in fulfillment of APR 11(e)(6). Personal supervision is defined in APR 6(d)(2) which provides:

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.

As the personal supervision time includes exposition and discussion of the law, case recitation, and analysis of assignments as part of coursework, this time would be eligible for “teaching” credit per APR 11(e)(6) if it were a law school course. The Law Clerk Program curriculum includes “using an apprenticeship model that includes, theoretical, scholastic, and clinical components.” These components are designed to parallel the extensive and comprehensive nature of law school curriculum. The law clerk program’s curriculum includes topics such as civil procedure, contracts, property, and torts.¹

¹ The full curriculum can be found in Regulation 5 of the Law Clerk Program Regulations, Attachment #5 pages 9-11.

Additional Benefits of Offering MCLE Credit

In addition to recognizing the educational value of teaching the law clerk program curriculum, offering MCLE credit for supervision and instruction time may encourage lawyers to serve as tutors for the Law Clerk Program. Tutors must commit an extensive amount of time both to instruct and supervise the law clerk. The tutor is not only responsible for the personal supervision of the law clerk but also charged with the responsibilities of guiding the law clerk's study of all subjects, selecting all reading and instructional material to be used throughout the clerk's education, and assisting law clerks with the development of elective curriculum. This time is uncompensated volunteer time separate from the full-time job of the tutor. This status is analogous to that of a law school instructor claiming credit under APR 11(e)(6) who, according to the rule cannot be "a full-time law school professor." As the tutor's full-time job is not tutoring, the MCLE credit eligibility will be consistent with this law school teaching requirement.

Recognizing law clerk program tutoring for MCLE credit, deservingly rewards the incredible time commitment and dedication to advancing the profession through this program as a law school alternative. Such a measure will hopefully increase the appeal of serving as a law clerk program tutor and ultimately affirm the WSBA's commitment to increasing access to justice and access to the legal profession.

Suggested Effective Date

The MCLE Board recommends that this suggested amendment become effective in accordance with GR 9(i).

D. Hearing: Because of the outreach conducted and input previously received by the MCLE Board, a hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Attached are:

1. Suggested Amendments to APR 11 – Redline
2. Suggested Amendments to APR 11 - Clean
3. Public Comments on the Preliminary Suggested Amendment
4. Standards for Approving Structured Mentoring Programs for MCLE Credit
5. APR 6 and Law Clerk Program Regulations

DRAFT

DISCUSSION: “Equity...” Ethics Credit
--

Below is a sampling of activities MCLE staff have accredited as fulfilling the new “Equity...” ethics requirement. This sampling is being provided to the MCLE Board to ensure staff are accurately accrediting CLE courses that cover topics of equity, inclusion, and the mitigation of implicit and explicit bias.

Background

On September 1, 2022, the new ethics requirement under Admission and Practice Rule (APR) 11 (f)(2), requiring at least one credit in the topic of equity, inclusion, and the mitigation of both implicit and explicit bias, went into effect. Below is a representative sample of courses that have been approved for the new “equity...” credit under the new rule. While not all courses include explicit coverage each of three topics of equity, inclusion, and mitigation of explicit/implicit bias, they appeared to be consistent with the overall intent and spirit of the new requirement at the time of approval. As of September 30, 2022, sixty-eight (68) activities have been approved for “equity...” ethics credit.

Example CLE Courses (from approved activity applications)

1. Title: “Elimination of Bias in Special Education” (session of larger “California Special Education Law 2022 course)

Course description: This panel will evaluate biases that exist within special education and how attorneys can better recognize and mitigate the impacts of bias and discrimination against students with disabilities, students’ families, advocates, and even against students' own attorneys. Among the topics covered in this course are bias manifesting in special education programs for diverse students, influence of bias in special education on case strategy, the implications of being an attorney for a minority student, the impact of explicit and implicit bias that exist in special education on families, students, and advocates, tools for recognizing and working to eliminate a special education attorney’s own implicit bias and the biases of those who work closely with students and disabilities.

- This course largely concentrates on bias in the context of special education, however it also illustrates how an attorney representing interested stakeholders will confront such bias and what can be done to mitigate the impact it has on all those involved.

2. Title: “Bias in the Legal Profession”

Course description: This two-hour course will discuss the recognition of bias in the practice of the law and effective methods to eliminate such bias in the legal profession. Through interactive polling scenarios, participants will gain awareness of implicit bias in the practice of law, learn practical tips for interrupting bias in the legal profession, and methods for creating environments that lead to employee retention and ultimately effective client service.

- This course is heavily bias centric the equity and inclusion aspects of the rule are implied.

3. Title: “Inclusion is Good for Business” (session of larger NAFER 2022 Annual Conference).

Course description: After years of hearing about Diversity, Equity and Inclusion as a social movement, learn how it’s the key to competitive advantage and a strategic approach to business growth, greater collaboration, and increased retention. Now more than ever, organizations and trusted advisors are charged with helping clients navigate the uncertainty of economic turmoil, political tension, and heightened discussions of diversity, equity and inclusion. Within this complex environment, you are successful but for how long? Calls for greater diversity, equity and inclusion programs will only increase. Imagine what more you could do with a better understanding of how it

is possible to do both good and well at the same time-not just for a few but for everyone. Inclusion really is good for business. (This course also includes an overview of microaggressions and unconscious bias and “a case study of inclusion and allyship” to foster intentional progress).

- This session frames Diversity, Equity, and Inclusion programs as a business imperative but still includes some consideration of unconscious bias and inclusion.

4. Title: “Who We are Chronicle of Racism Discussion” (session of larger 2022 63rd Judicial Conference).

Course description: Jeffery Robinson’s documentary “Who We Are: A Chronicle of Racism in America” takes the audience through the United States’ history of anti-Black racism from 1619 to present, showing how the legacy of slavery and the myth of white supremacy impacts every aspect of our society.

From the historical connection of slave patrols to local police departments, through the massacres of communities of freed slaves, to showing that many practices of modern-day slavery continued long after the Civil War, Jeffery Robinson challenges us to think about where we started as a country, where we are now, and where we want to end up (this session is a post-film discussion between the director of the documentary and judicial officers).

- This session is based off a documentary that gives a broad historical retrospect of slavery and racism in the United States and is directed to a judicial audience addressing equity, inclusion, and mitigation of bias broadly.

5. Title: “Racism In Immigration Law” (session of larger activity 2022 Fall Virtual CLE: Immigration Defense Strategies).

Course description: is panel will situate the current immigration enforcement system in the long history of racial exclusion in the United States. The panel will provide an overview of the racist history of U.S. immigration law, describe some of the more pernicious and institutionalized racial barriers that exist in U.S. immigration laws, and identify how that racism manifests in removal proceedings and connects to the criminalization, policing, and deportation of immigrants today. (the materials for this session appear to be designed for providing strategies on challenging removal proceedings).

- This session is a historical overview of prejudicial laws and bias inherent with immigration law.

6. Title: “Ethics: Juvenile, Equity Social Justice, and Disproportionality in the Juvenile Justice System” (session of larger activity WAPA 2022 Juvenile Training Program).

Course description: No specific course description provided, but based on the available materials, this session focused on an overview of the purpose and function of the Partnership Council of Juvenile Justice Committee and suggested prosecutorial strategies to reduce racial disparities in the criminal justice system. The session also included links to resources on implicit bias association and history of racial injustice in the law.

- This session integrates mitigation of bias content largely through the inclusion of external resources.

7. Title: “Challenging Racial Bias and Disproportionality in Sentencing From the Death Penalty to Death in Prison”

Course description: Course centers a notable case *State v. Gregory*, 192 Wn.2d 1 (2018). In *State v. Gregory*, the trial team for the defendant commissioned a statistical study on race and the death penalty in Washington and argued the death penalty was unconstitutional because it was imposed

in an arbitrary and racially biased manner. In 2018, the Washington Supreme Court agreed and invalidated Washington's capital punishment scheme.

- This course covers racial disproportionality in death penalty and three strikes cases and equips attorneys with the case law and background information needed to challenge disparate impact criminal laws.

8. Title: "How Truly Diverse, Equitable, and Inclusive Panel Counsel Impacts Your Case" (session of larger activity Professional Liability Defense Federation 2022 Annual Meeting).

Course description: Diversity, Equity, and Inclusion are more than buzzwords. They are vital to the success of the justice system, the attorneys who represent clients, and the carriers who cover claims. This interactive session will discuss the importance and benefits of having a truly diverse panel counsel and trial team.

- This session illustrates the benefits of diverse panel counsel, the effect diverse counsel has on juror credibility, and how to use diverse counsel as a litigation asset.

9. Title: "Presentation Skills for Women Lawyers"

Course description: Course covers how to increase speaking energy while maintaining calm demeanor with opposing counsel or clients, the power of brevity when briefing clients and partners, and how women attorneys can overcome gender-biased interruptions.

- This session includes content on how to confront and mitigate gender bias in the profession.

Relevant Sections of APR 11:

APR 11 (c)(2): at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

APR 11(f)(2): *Ethics and professional responsibility*, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

Activity Review:**Sponsor Request for Accreditation – Activity ID # 1216728****Issue:**

Sponsor, American Bar Association, submitted Activity ID #1216728, requesting 1.00 credit of “Equity...” credit for a one-hour course entitled “34183-LUM: Institutionalizing Inclusion: Non-Traditional, Untapped Diverse Talent Pools to Broaden Lateral Lawyer Recruiting.” The principal focus of this course is on how law firms can diversify recruitment of lateral attorneys and identify gaps in diverse recruitment efforts. The course notably does not appear to address the topics of implicit or explicit bias. This raises the question of whether a course such as this can still meet the equity requirement even when only certain components of the requirement (here, inclusion) are present in the course content.

Background:

On September 7, 2022, the American Bar Association (ABA) submitted an accreditation application for “Institutionalizing Inclusion: Non-Traditional, UnTapped Diverse Talent Pools to Broaden Lateral Lawyer Recruiting,” requesting one credit of “Equity...” The ABA described the course as addressing a blind spot in DEI efforts when it comes to recruiting experienced lateral lawyers. Specifically, the course draws on the experience of four attorney speakers who all specialize in diversity recruitment efforts and talent development strategies with the objective of identifying often overlooked sources of lateral talent (“including military veterans and [those] reentering the legal workforce after a hiatus from their successful careers.”) and diversifying recruitment strategies to benefit from that talent. The program characterizes military veterans and women reentering the workforce as “underrepresented,” but there is no indication that the biases (implicit or explicit) which these groups face in the legal profession will be addressed. Overall, this course appears to be designed to advise on how to recruit, take advantage of, and foster the success of lateral attorneys from underrepresented populations in the profession.

Key Details:

- This is an hour-long prerecorded program produced by the ABA
- The primary intent of the course appears to be education on recruitment and development of lateral attorneys from underrepresented backgrounds
- The course is instructed by four attorneys all with expertise in diverse recruitment and talent development
- There is not much indication that the course takes an equity-specific or mitigation of implicit and explicit bias approach.

Potential Talking Points:

- Following the equity amendment to APR 11, does a course that is essentially focused on diversifying hiring practices but is not specifically attentive to equity or mitigation of bias concerns still meet the full requirements of the “Equity...” credit?

Relevant Sections of APR 11:

APR 11(c)(1)(ii): [A]t least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

APR 11(f)(2): Ethics and professional responsibility, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

Enclosed:

- Activity Application – TAMI
- Activity Program Brochure
- Activity Speaker Bios Document

Recorded Activity

[Activity Originator American Bar Association (913475

Recorded Activity Details

Activity ID

1216728

Status

Board Review

Agreement and Sponsor Duties Checked by Sponsor 

Title

34183-LUM: Institutionalizing Inclusion: Non-Traditional, UnTapped Div...

Sponsor

American Bar Association

Recording Start Date

09/14/22

Recording End Date

09/14/22

Recording Availability Date

09/14/22

Duration (Min.)

60

In House Event

No

Target Audience

Attorneys

Program Fee

Yes

Program Fee Min

\$ 0.00

Program Fee Max

\$ 20.00

Credits

Requested

Law & Legal	Ethics	Other	Total
0.00	1.00	0.00	1.00

Max Allowed

Law & Legal	Ethics	Other	Total
0.00	1.00	0.00	1.00

Equity... Credit

Enter the number of Ethics credits dedicated to the topic of "Equity..." in the "Requested Equity..." field below. "Equity..." credit is a subcategory of ethics and therefore cannot exceed the number of Ethics credits above. "Equity..." credit relates to the topic of equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law. For more information visit the "Equity..." credit page.

Requested Equity...	Approved Equity...
1.00	0.00

Agenda, Syllabus, Faculty Supporting Documents


34183 - LUM Institutionalizing In - Bios.docx



34183 - Program Brochure.docx



Have multiple documents? Hold down the CTRL key when selecting your files from the file dialog box.

 Attach Documents

Acquired From Other Provider

No

Comments & Communication

...reasons

To add a WSBA public comment, type here and then save the form ...

To add a WSBA private note, type here and then save the form ...

All Private (notes) Public Email

09/28/22 Ransom Smith (WSBA Private)

Bd. Review: Does this meet the Equity requirement given fairly limited scope?

09/21/22 Charlotte Myers-Stanhope (WSBA)

Approved for all credits requested.

[make private](#)

Title: Institutionalizing Inclusion: Non-Traditional, UnTapped Diverse Talent Pools to Broaden Lateral Lawyer Recruiting

Program Description: There is a lot of focus on DEI efforts that seek to broaden the talent pool when recruiting young lawyers, particularly first-year lawyers out of law school. But there is far less attention devoted to creating an inclusive approach to sourcing and diversifying the pool of talent when recruiting experienced lateral lawyers. In this episode of Institutionalizing Inclusion, we'll hear from experts who will highlight several highly qualified pools of experienced legal talent that many employers are overlooking, including military veterans and women (and men) who are reentering the legal workforce after a hiatus from their successful careers. Tune into this episode to learn about the gaps that may exist in your organization's lateral lawyer recruitment efforts, the terrific talent waiting to be discovered, and where to find them!

Learning Objectives: This program will provide attorneys with a better understanding of:

- Ways to broaden the pool of experienced, diverse attorneys when recruiting for lateral positions;
- New pools of experienced, legal talent that law firms and legal departments should consider for lateral hiring;
- The additional value that underrepresented attorneys, such as military vets and women reentering the workforce after a multi-year hiatus from law, can bring to the organization; and
- The attributes that are likely to make a lateral attorney succeed, beyond just their immediate prior role or employer.

Format: On Demand

Level: Intermediate

Duration: 60 minutes

Credit Type: Diversity; Elimination of Bias

Topic: Diversity; Elimination of Bias

Date of Program: September 13, 2022

Program Price: Unlimited access to all Luminate+ programming for \$12/month; free access available under financial hardship policy.

Website: luminateplus.com/series/Institutionalizing-Inclusion

Speakers:

- Caren Ulrich Stacy, Founder & CEO, Diversity Lab

- Siobhan Handley, Chief Talent Officer, Orrick
- Lindsey Boyle, Senior Program Manager, Diversity & Recruiting Programs - Legal, Amazon
- Michelle Jackson, Director, Pathway & Recruitment Innovations, Diversity Lab

CLE Statement:

This program is eligible for 1.0 CLE credit hours in 60-minute states, and 1.2 CLE credit hours in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules

Title: LUM: Institutionalizing Inclusion: Non-Traditional, UnTapped Diverse Talent Pools to Broaden Lateral Lawyer Recruiting

Format(s): LUM: Institutionalizing Inclusion: Non-Traditional, UnTapped Diverse Talent Pools to Broaden Lateral Lawyer Recruiting

Location: On-line

Date: 09/14/22

Boyle, Lindsey, Amazon, Seattle, WA

Lindsey Boyle joined Amazon in 2021 to help lead the diversity recruitment efforts of the legal team by partnering with legal affinity groups and internal diversity stakeholders, and organizing diversity-focused recruiting programs to ensure a diverse pipeline of underrepresented and non-traditional talent across legal roles. Prior to joining Amazon, Lindsey worked for Diversity Lab where she created and administered diversity pipeline programs for underrepresented law students, served as team captain for several Diversity in Law Hackathon events, and managed candidate and employer relationships for the OnRamp Fellowship, a one-year re-entry program for attorneys who have taken a career hiatus and are returning to work at large law firms and corporate legal departments. Prior to her work at Amazon and Diversity Lab, Lindsey spent several years in legal recruitment at Goodwin Procter in Boston, and also practiced in the field of labor law for the Commonwealth of Massachusetts. She received her J.D. from Suffolk University Law School in Boston and B.A in Political Science at Hobart & William Smith Colleges in Geneva, NY.

Handley, Siobhan, Orrick, New York, NY

Siobhan Handley is Orrick's Chief Talent Officer. She is responsible for developing and executing talent and human resource strategies to advance the firm's strategy and serve its clients. In collaboration with the firm's leadership team, she focuses on designing and implementing programs to recruit, inspire and advance the best legal and staff talent. Siobhan previously served as Orrick's Managing Director for Resources. In that role, she spearheaded the development of the firm's innovative talent model—the first of its kind in a major law firm—which replaces the traditional associate lockstep advancement system with merit-based advancement. As chair of the firm's Talent Committee, she oversees Orrick's lawyer training and performance feedback program – which is one of the most rigorous in the market. She also has led the creation of a range of new lawyer and professional staff roles. Siobhan brings to this role extensive experience on the front line of client service, having been a partner in the firm's product liability litigation and mass tort defense group. For more than a decade, she was a member of the Orrick team that acted as National Counsel to Union Carbide Corporation in connection with asbestos-related personal injury lawsuits and served as lead trial counsel in cases across the country. Siobhan was one of the key trial counsel in the highly-publicized landmark trial in Texas State Court, Brazoria County, where Kelly-Moore Paint Company sued Union Carbide for \$1.4 billion in compensatory damages and \$4.2 billion in punitive damages that resulted in a complete defense verdict. In addition, she served as trial counsel for significant product liability cases for other clients including Wyeth and Flexible Products.

Jackson, Michelle, Diversity Lab, Baton Rouge, LA

Michelle brings over 25 years of experience in the legal profession to her role as Pipeline & Innovation Manager, having spent time as a practicing attorney and as a law school administrator. Before joining Diversity Lab, Michelle was the Director of Alumni Advising at Northwestern Pritzker School of Law in Chicago, Illinois. In this innovative role as a member of the Career Strategy Center team, Michelle provided career counseling to alumni and students at all stages of their careers through the design and

execution of lifelong career-related programs and services. Michelle previously served as the Director of Diversity Education & Outreach at Northwestern Law. Before joining Northwestern, she spent nine years as the Director of Career Services and a member of the Chancellor's executive staff at the HBCU law school Southern University Law Center in Baton Rouge, Louisiana. Michelle is very active in industry organizations, having served two terms on the board of directors of the National Association for Law Placement (NALP), most recently as the Vice President of Member Services and Education (2018-2020). She is also a member of the Professional Development Consortium (PDC) and Corporate Counsel Women of Color. Prior to her career in higher education, Michelle practiced law at the boutique real estate tax firm of Worsak & Vihon LLP, the Cook County Assessor's Office, and the Chicago office Katten Muchin Rosenman LLP. She received her B.A., with distinction, from the University of Illinois at Chicago and her J.D. from the University of Chicago Law School.

Ulrich Stacy, Caren, Diversity Lab, San Francisco, CA

Caren Ulrich Stacy is a talent and behavioral science expert with more than 20 years of experience as the head of recruitment, development, and diversity for several of the world's top law firms, including Arnold & Porter, Cooley, and Weil Gotshal. After co-founding Lawyer Metrics, a start-up company acquired by the Access Group that pioneered a "Moneyball" data-driven approach to lawyer recruitment and development, Caren created Diversity Lab to focus exclusively on closing the gender gap and increasing diversity and inclusion in the legal field. The Lab is an incubator for new and creative ideas that boost diversity and inclusion in law through the use of data, science, technology, and design-thinking. Her work has been featured in Fast Company, The New York Times, Harvard Business Review, Bloomberg BusinessWeek, The National Law Journal, The American Lawyer, and on Fox News. Honors & Industry Leadership As a noted talent management and diversity expert, Caren was awarded the National Association of Legal Professionals (NALP) Mark of Distinction in 2009, the InnovAction Award by the College of Law Practice Management in 2014, and the Ms. JD "Strength in Numbers" Award in 2015. In addition, Caren was elected in 2010 as a Fellow of the College of Law Practice Management – an honor awarded to fewer than 200 individuals in the country – and appointed to the Colorado Supreme Court Chief Justice's Commission on Improving the Legal Profession in 2013. In 2016, she was honored with Legal Momentum's Women of Achievement Award and also selected from more than 500 entrepreneurs as one of the inaugural 10 Tory Burch Foundation Fellows. Caren currently serves on the Legal Advisory Committee for the Silicon Valley Urban Debate League and as a Board Member for the US National Committee for UN Women. Her past leadership roles include serving as a Judicial Performance Commissioner (evaluating judges in the 20th District in Colorado), an adjunct professor for the University of Denver Sturm College of Law, and as a board member for DirectWomen. Over the past two decades, she has contributed to over 250 presentations and publications on talent management and authored several highly regarded books, including *Loyalty by Design: A Practical Guide for Developing an Effective Attorney Integration Program*.

DISCUSSION:
Possibility of Credit Limitations on Writing Activities

At its August 5, 2022 meeting, the MCLE Board expressed interest in exploring the possibility of imposing restrictions on the amount of credit that a licensed legal professional can earn for having contributed to a published work designed for licensed legal professional education.

Background:

Currently, APR 11(e)(5) does not impose a credit limitation on the activity of writing for the purpose of licensed legal professional education. However, a restriction on the credit type eligible for writing credit exists currently, as one cannot earn law and legal procedure credit for a written work. Licensed legal professionals are required to earn 15 credits of Law and Legal procedure, which effectively limits the amount of credit that can be earned in “other” and “ethics” to fulfill MCLE requirements.

In 2013, the WSBA formed an MCLE Task Force, a joint effort between the WSBA Board of Governors and MCLE Board, which was charged with suggesting broad amendments to APR 11. The task force explored many different topics including the possibility of credit caps. The suggested amendments proposed by the Task Force were sensitive to both the public protection function of the rule and “the widely varied needs of Washington lawyers and their clients in the 21st century.” Taking these interests into account, the Task Force recommended a “diversity in the approved course subjects,” as well as “[a] simplified structure without credit caps.” and emphasized that a reasonable degree of trust should be placed in “each lawyer to decide what [they] most need to remain competent and fit to practice law.” The Task Force reasoned that establishing minimum credit requirements in law and the legal procedure and ethics categories would be conducive to maintaining essential competence while the remaining credits should allow licensed legal professionals the opportunity to engage with course content or activities that they identify as relative to their career or situation as “learning something relevant to one’s situation is one of the key factors for successful learning.” Guided by these principles, the Task Force advocated for simplifying the requirements for earning credits on approved activities. To this end, one of its primary recommendations was to not impose credit caps.

Discussion and Potential Talking Points:

- Given the above historical background:
 - Is the MCLE Board comfortable with the current version of APR 11? Or should the MCLE Board form a subcommittee to further explore the possibility of establishing credit limitations on writing activities?

Relevant Sections of the Rule:

APR 11 (c) Education Requirements:

(1) *Minimum Requirement.* Each lawyer must complete 45 credits and each LLLT and LPO must complete 30 credits of approved continuing legal education by December 31 of the last year of the reporting period with the following requirements:

(i) at least 15 credits must be from attending approved courses in the subject of law and legal procedure, as defined in subsection (f)(1); and

(ii) at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

APR 11(e)(5):

Writing for the purpose of lawyer, LLLT, or LPO education, when the writing has been published by a recognized publisher of legal works as a book, law review, or scholarly journal article of at least 10 pages, will earn one credit for every 60 minutes devoted to legal research and writing.

Attachments:

- MCLE Task Force Report

REPORT AND RECOMMENDATIONS OF THE MCLE TASK FORCE

Background

The current MCLE rules and regulations have been amended several times over the years resulting in a long, complicated set of rules and regulations. In 2013, the MCLE Board, after receiving significant input from various sources and stakeholders, submitted a new set of suggested amendments to the Court. The suggested amendments in 2013 proposed new subject areas, credit caps on certain subjects and activities, and recommended requirements to be met to earn credits in some of the approved subjects and activities. The Court recognized the frequent amendments and difficulty in understanding the rules by all stakeholders and, therefore, tabled consideration of the suggested amendments and stated that they would wait for the Task Force's comprehensive review of the MCLE rules.

The Process

The MCLE Task Force was charged with suggesting amendments to the MCLE rules in light of the changes in the areas of education and training, the rapidly changing legal services marketplace, and the widely varied needs of Washington lawyers and their clients in the 21st century. In order to accomplish their charge, the task force of about 20 members of the Bar Association met once a month for the last nine months. In between meetings, task force members studied MCLE related articles, information relating to best learning practices and reviewed evolving drafts of proposed APR 11 revisions. During the course of its work, the task force also heard from several different stakeholders and experts in related fields:

- Paula Littlewood, WSBA Executive Director, who discussed the future of the legal profession and the changes taking place in the 21st century.
- Mark Johnson, malpractice lawyer with Johnson Flora PLLC and past president of the BOG, who discussed malpractice claims and the fact that somewhat less than half of the claims result from substantive law knowledge errors and a significant number of claims result from administrative errors and client relations issues;
- Doug Ende, Chief Disciplinary Counsel, who discussed the underlying reasons for grievances and pointed out that violations of the RPC generally do not arise from a lack of understanding the RPCs. Rather, the data suggests that courses on improving the lawyer-client relationship would likely decrease the number of grievances;

- Peg Giffels, WSBA Education Programs Manager, who discussed key factors for learning, primarily that the subject matter be relevant and include practical application as opposed to a pure lecture format;
- Michal Badger, WSBA LAP Manager, who discussed the important correlation between a lawyer's mental and emotional health and a lawyer's career satisfaction;
- Mary Wells, WSBA LOMAP Advisor, who discussed the importance of technology related skills, employee relations skills, and practice management skills; and
- Supreme Court Justices Charles Johnson and Sheryl Gordon McCloud, who provided some insight into the matters important to the Court such as making sure the rules are relevant to the lawyers of today's world and meet the original purpose of MCLE—keeping lawyers competent to practice law.

Finally, the task force sought and considered comments and feedback from the WSBA membership and CLE providers.

Key Premises

Easy to Understand and Administer

The task force recommends a complete rewrite of APR 11. The rules recommended by the task force are clear, concise and easy to understand. The comprehensive review of all of the current rules and regulations led the task force to conclude that the substance and purpose of MCLE, now and going forward, is better served by these new rules. The task force believes that these new rules will greatly increase the lawyer's understanding of how to earn MCLE credit, assist efficient administration of the MCLE program, and provide each lawyer expanded opportunities to grow in the profession.

Expanding and Diverse Bar

One of the fundamental premises on which the task force bases its recommendations is that Washington lawyers are not only engaged in the traditional lawyer-client representation, but that there is an increasing amount of lawyers in Washington whose career options or employment are in a myriad of different legal and nonlegal professions. In addition, the Bar is rapidly expanding with a large number of newer lawyers entering the profession while older lawyers are starting to retire. These newer lawyers are more diverse and more technologically savvy than previous generations of lawyers.

The task force's proposed new rules recognize, in its requirements, that a lawyer who is not practicing law in the traditional sense is still licensed to practice while an active member of the Bar. The task force's recommendations, therefore, attempt to strike a balance between the needs of protecting the public and the needs of all lawyers who may or may not be practicing law but could do so at any moment in any given situation.

Prevention

Task force members understand that prevention of problems through education can have a positive impact on the practice of law. Several speakers and related materials addressed

the importance of creating and maintaining good lawyer-client relationships and office practices. The task force recognizes the importance of work-life balance and the fact that a happy, healthy lawyer makes a competent lawyer. Allowing lawyers to use MCLE to address lawyer-client, stress management, or office management issues will more likely increase overall client satisfaction and assist in preventing the types of issues that lead to lawyer discipline cases and malpractice claims.

Self Regulation

The task force also recognizes the fact that the profession is self-regulating. The task force has a great deal of trust and respect for the membership and strongly believes that lawyers, in terms of both a profession and as individuals, are perfectly capable, and should be able, to choose the education that best suits their needs for their particular situation. Learning something relevant to one's situation is one of the key factors for successful learning. The recommendations are designed to address the needs of all lawyers by trusting each lawyer to decide what he or she most needs to remain competent and fit to practice law.

The Future

Finally, the task force recognizes that these recommendations are cutting edge and forward thinking. Yes, they are ahead of other states' MCLE rules. But then so were the current rules when they were adopted. There is significant literature (including a recent ABA Committee analysis) to the effect that MCLE as currently structured is not effective in protecting the public or making better lawyers. The task force intentionally drafted rules for the future. It will be 2016 at the earliest before the new rules take effect. The task force is of the opinion that it is important to look ahead and plan for the changes in the legal landscape. These rules do that by foreseeing the needs of the whole membership, not just litigators or general practitioners, but all lawyers. By taking action now to address the educational and training needs of the membership as we see it, the lawyers of Washington will be better equipped to maintain their competence and professionalism which in turn serves to better protect the public in the long run.

Recommendations

Purpose (Proposed APR 11(a))

Based on those key premises, the task force recommends expanding and clearly defining the purpose of MCLE to include competence, character, and fitness. Those are the three fundamental requirements for admission to the practice of law that, therefore, should be maintained by any lawyer wishing to continue in the practice of law. The purpose also clearly states that public protection is an important purpose for MCLE.

Education Requirements (Proposed APR 11(c))

The task force recommends that lawyers be required to complete a minimum of 15 credits in "law and legal procedure" courses and a minimum of six "ethics and professional responsibility" credits. After having met these minimum requirements, lawyers may choose to earn the remaining 24 credits in any of the approved subject areas or approved activities that qualify for MCLE credit. This is a simplified structure without credit caps

and numerous conditions for other approved activities and subject areas as found in the current rules.

“Law and Legal Procedure” Subject Area (Proposed APR 11(c)(1)(i) and (f)(1))

The "law and legal procedure" subject area continues the recognition of the importance of keeping current on the law. The task force recommends that a minimum of 15 credits be earned from “law and legal procedure” courses. This subject area represents the traditional, substantive, black letter law courses, including updates and developments in all areas of law and legal procedure. Any course related to substantive “law” or “legal procedure” falls into this subject area. This subject area was created to enable the new simplified structure to work properly. More importantly, requiring courses in this subject area eliminates the possibility, as it exists now, that any one lawyer could obtain all their credits through other approved activities without attending or completing a single traditional CLE course.

Approved Course Subjects (Proposed APR 11(f))

The task force recommends more diversity in the approved course subjects. As discussed above, after a lawyer meets the minimum 15 “law and legal procedure” course credits and the six “ethics” credits, the remaining credits may be earned in a number of other approved subject areas. All of the proposed course subjects relate directly to the practice of law and the legal profession. In fact, most of them are already approved for CLE credit under the existing rules or were included in the 2013 suggested amendments. These subject areas incorporate the needs of all lawyers as identified by the expert reports to the task force.

This structure allows lawyers who are engaged in the practice of law to choose to continue to supplement their knowledge of the law by attending additional “law” courses. On the other hand, lawyers may choose courses or activities that enhance their knowledge and skills relevant to their situation or the legal profession while at the same time maintaining minimum competence to practice law.

No “Live” Credit Requirement

The task force recommends the elimination of the “live” credit requirement. Currently, the rules require lawyers to earn at least half of their credits by attending courses that occur in real time—this includes live webcasts.

There are several factors that convinced the task force to eliminate the “live” credit requirement. Members often express concern about the cost of CLE courses—and not only the course tuition or registration fees. For many members, the cost of attending CLE courses in person includes travel expenses and time away from the home and office. A majority of newer lawyers, post-recession, may not be able to quickly find employment. In addition, those new lawyers finding employment typically start out in small law firms (two-to-ten lawyer size firms) rather than joining large law firms as has been the case historically. These lawyers do not have the same resources and ability to take time away from the office as lawyers in larger law firms. In addition, the Bar

Association now has over 30,000 active lawyers living and working around the world so access and expense is a real issue.

Among other factors are the rapid advances in technology that now bring pedagogically sophisticated CLE courses into lawyers' offices and homes, and, the reality that most live seminars are simply lectures with a brief question and answer period at the end. Research shows that these lecture programs are a less effective learning method compared to actual "doing" (trial advocacy programs, handling a pro bono case, for example). There are very few courses that provide significant time for participation or application of the new knowledge or skills. Given this reality, the task force sees little benefit in travelling to or viewing a live lecture when the same experience can be replicated at your home or office at a time that is convenient for you.

The task force understands that in a proper learning environment the best learning can happen when people are able to participate and interact with the educators and other attendees. Likewise, the task force understands the need for some lawyers to use CLE courses and seminars as a way to network and connect with other lawyers in their areas of practice. These are all good reasons for sponsors to continue to offer these live courses.

The task force is of the opinion that those lawyers who need or want a "live" or participatory experience will continue to seek out such courses. It may even turn out that CLE providers will improve their "live" offerings to capture lawyers who are looking for courses that are more than a lecture. However, "live" should not be a requirement especially when such a requirement does not necessarily provide a better learning experience and can also be a barrier for those with limited means or limited geographic opportunities to attend "live" courses.

Approved Activities (Proposed APR 11(e))

The task force recommends simplifying requirements for earning credits for approved activities. The primary recommendations for approved activities involve removing credit caps and most of the requirements to be able to earn credits for the activities. This, again, simplifies and works with the new recommended structure for earning credits after the minimum requirements are met. One significant change is the recommendation that CLE speakers or presenters earn a maximum of five credits of preparation time *per hour* of presentation time. This is a change from the current ten credits *per course*.

The task force also recommends adding mentoring for MCLE credit. This is the most significant recommendation in this section. The task force believes mentoring is important for the profession and that both the mentor and mentee should earn MCLE credit in this experiential learning environment. The task force recommends that credit be awarded for structured mentoring programs that are approved by the MCLE Board. The MCLE Board would be tasked with establishing standards for approving mentoring programs.

Sponsor Deadline for Application for Approval of Courses (Proposed APR 11(g))

Finally, the task force recommends requiring all sponsors to apply for credit at least 15 days prior to the date of the course. This is likely the most significant recommendation affecting sponsors of CLE courses. Currently, only private law firms, corporate legal departments and government sponsors need to apply in advance of the first presentation of the course. The purpose is to encourage sponsors to apply for credit in advance so that lawyers know in advance what course are available and how much MCLE credit they are going to earn from attending a course. Sponsors who fail to meet the deadline may still submit an application for approval subject to a late fee.

Conclusion

In conclusion, the recommendations of the task force for updating APR 11 are much broader, deeper, and clearer than previous amendments. The recommendations arise out of the context of today's 21st century Washington state lawyer who is now practicing in a global economy with rapidly changing technologies which are in turn radically changing the practice of law. The recommendations also address specific current and future needs of WSBA members wanting healthier practices and recognition that the practice of law – and use of a lawyer's skills – is much wider than in the past. In addition, the recommendations are based on solid pedagogical grounding – that mandatory legal education is only effective if it addresses a lawyer's true needs and is relevant to the lawyer. The public is also best protected and served when members take courses that address true need.

The lawyers on the MCLE Task Force were specially chosen to represent a broad cross-section of the WSBA membership. As such, over the past nine months there were many opposing views on specific issues. The task force members held true to the overarching purpose of MCLE and – with each issue – were able to find the balance point that all could agree on. The task force's recommendations are the result of this collaborative, deliberative and reflective process.

DISCUSSION: MCLE Updates

The MCLE Staff Liaison will provide general updates to the MCLE Board

Discussion Topics:

- **MCLE Certification**

MCLE certification is schedule to open for the 2020-2022 reporting period on or around November 1st. WSBA has decided to go paperless this licensing season. Licensed legal professionals will be required to submit both their MCLE and Licensing requirements online (with the exception of MCLE certification for LLLTs as they are not able to access their MCLE records online).

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

MCLE Board chair Todd Alberstone will give an update on the meeting of the WSBA Task Force Administering Xenial Involvement with Court Appointed Boards (TAXICAB).

- **MCLE Online System**

MCLE staff continues to work with the WSBA IT department to create and implement a new MCLE online system and database. The intent of the updated system is to improve the user experience for all users, allow all licensed legal professionals online access to their MCLE records, and to track the new MCLE ethics requirement.

- **MCLE Staff Updates**

MCLE has welcomed two new MCLE Analysts, Susanna Šegulja and Ingo Mann Mendes, to fill the open positions.

- **Budget**

The MCLE Board Staff Liaison will provide a brief overview of the MCLE Budget Summary.

Attachments:

- MCLE Budget Summary

<p>DISCUSSION SUMMARY:</p> <p>Vice-Chair Selection</p>
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ISSUE: On August 5, 2022, the MCLE Board nominated MCLE Board member Efrem Krisher for the role of Vice-Chair for the 2022-2023 term. Efrem has since accepted the nomination, and the MCLE Board must now vote on the nomination to confirm Efrem as the Vice-Chair for the 2022-2023 term.

BACKGROUND:

At the MCLE Board’s July 15, 2005 meeting the MCLE Board created a new position of “Vice-Chair”.

- **Vice-Chair Position** – The Board member to fill the “Vice-Chair” position will be selected by the MCLE Board members each year. During the term of the Vice-Chair, the Board member filling this position will train in the duties of the Board Chair, become familiar with the history of the Board, and step in as acting Chair during meetings when the Chair cannot be present for some or all of the Board meeting. The Vice-Chair may also be called on to represent the MCLE Board at a Board of Governors meeting, Court hearing, or other official function if the Chair is unable to attend. The intent of the Vice-Chair position is to be a likely successor to the current Chair, as a potential candidate to recommend to the Washington Supreme Court for the next term. Ultimately, the Supreme Court appoints the MCLE Board Chair, taking into account the recommendation of the MCLE Board nomination team and the Board of Governors.
- **Purpose** – The Board created the Vice-Chair position to give more continuity to the functioning of the Board. Because the Board has evolved into much more of a policy-making Board than previously, it is more critical now that a potential candidate for next term’s Chair position have a good working knowledge of the history of the issues that have come before the Board. In addition, it is also critical that the candidate be fully cognizant of all the connections with outside groups that need to be made in order for effective policies to be developed and promulgated. These connections are also vital for developing high quality rules, regulations, and policies that best serve the members, sponsors, administrators, and citizens of the State of Washington.