

MEETING AGENDA

October 8, 2021
10:00 A.M.

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

10:00 – Review of Minutes

10:05 – MCLE Board Orientation and Welcome

10:30 – Goals for 2021-2022 FY

10:45 – MCLE Updates

CLOSED SESSION – 11:00am-12:00pm

11:00 – Activity Review

11:45 - Petitions, Appeals and Staff Liaison Decisions

End of Meeting

Minutes
August 6, 2021

The meeting of the Mandatory Continuing Legal Education Board was called to order by Board Chair Ayanna Colman at 10:02 AM on Friday, August 6, 2021. The meeting was held via videoconference. Board members in attendance were:

Ayanna Colman, Chair
Todd Alberstone, Vice-Chair
Asia Wright
Chris Bueter (left at 11:52 AM)
Melissa Skelton (joined at 10:30 AM)
Merri Hartse
Robert Malae
Sunitha Anjilvel (BOG Liaison)

Liaisons and Staff in attendance:

Adelaine Shay	MCLE Manager/MCLE Board Staff Liaison
Michael Tonkin	MCLE Analyst

Review of Minutes for May 21, 2021

The MCLE Board reviewed the minutes from the May 21, 2021 meeting. The Board approved without change.

2021-2022 MCLE Board Meeting Schedule

The Board reviewed and approved the 2021-2022 meeting schedule.

MCLE Vice-Chair Nomination

The MCLE Board nominated Robert Malae as the Vice-Chair for the 2021-2022 meeting year. Robert Malae accepted the nomination, and was approved as MCLE Board Vice-Chair.

Course Audits

MCLE Board member Asia Wright presented an audit report of the *2021 IPOwners Virtual Spring Summit*, sponsored by the Intellectual Property Owners Association.

MCLE Updates

MCLE Staff Liaison discussed general updates with WSBA MCLE, including the MCLE Board's suggested amendment to APR 11, MCLE Board recruitment, the annual meeting with the Washington Supreme Court, MCLE staffing, and a new MCLE online system.

Discussion: Administering the New Ethics Requirement

The MCLE Board adopted a policy to aid in the administration of the new ethics requirement. The policy states that the MCLE Board will track the new "equity credit"—as outlined in APR 11(c)(1)(ii) and APR 11(f)(2)—starting with the 2023-2025 MCLE reporting period, and that licensed legal professionals in the 2023-2025 and subsequent MCLE reporting periods will be required to report and certify fulfillment of the equity credit requirement.

Discussion: Credit Carryover

The MCLE Board adopted a policy to clarify the credit carryover procedure in light of the new ethics requirement. The policy states that "equity credit" earned in excess of the reporting period requirement may be carried over as ethics credit in accordance with APR 11(c)(7), but a new equity credit must be earned in each reporting period.

Issue Summary: Decision Matrix and COVID-19

The MCLE Board discussed the petition decision matrix and the potential of creating a new decision matrix—or matrices—in light of COVID-19. The Board decided to remove the request to bring all petitions related to COVID-19 directly to the Board, and to instead allow the MCLE staff liaison to review such petitions if they fall under the current decision matrix. The MCLE Board decided not to edit the decision matrix at this time.

MCLE Board Activity Reviews

The MCLE Board decided by motion on two member accreditation requests. 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 12:42 PM. The next regularly scheduled MCLE Board meeting will be held at 10:00 AM on Friday, October 8, 2021.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Adam King".

Adelaine Shay
MCLE Board Staff Liaison



MANDATORY CONTINUING LEGAL EDUCATION (MCLE) BOARD ORIENTATION

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 nominated by the Board of Governors and appointed by the Supreme Court.
- The Board has some delegated independent adjudicative authority, for which it is solely answerable to the Supreme Court.

2020-2021 MCLE BOARD ACCOMPLISHMENTS

- On October 15, 2020, the MCLE Board submitted its suggested amendment of the APR 11 ethics requirement to the Washington Supreme Court. On July 1, 2021, the Court entered order 25700-A-1349 approving the amendment. The amendment to APR 11 requires, per each three-year MCLE reporting period, that each licensed legal professional complete at least one ethics credit in the topic of equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.
- The Board audited five CLE courses from accredited sponsors.
- The Board adopted two policies with the intent to provide guidance on the implementation and administration of the new ethics requirement.
- MCLE Board member Robert Malae joined the “WSBA Task Force Administering Xenial Involvement with Court Appointed Board” (TAXICAB). The task force seeks to facilitate communication and cooperation between the Court, Court-appointed boards, and the WSBA.
- The MCLE Board created a Law Clerk workgroup to explore amending APR 11(e)(6) to allow Law Clerk tutors to obtain MCLE credit for teaching. Board members Ayanna Colman and Chris Bueter serve on this workgroup.
- The Board continued to work to increase the diversity of the MCLE Board through recruitment efforts.

MCLE BOARD GOALS

2020-2021 Board Goals

- In 2020 the MCLE Board set a goal that each member will audit two or more accredited sponsor courses each year.
- Continue to work on the preliminary suggested amendment to the APR 11 ethics requirement
- The Board will continue to work to increase the diversity of the MCLE Board.

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

ESSENTIAL PREPARATION FOR SERVICE

Read

- APR 11
- Board Roster
- 2021 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

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

<p style="text-align: center;">DISCUSSION : Goals for FY 2022</p>

The MCLE Board will discuss, identify, and review goals for the 2021-2022 meeting term.

Past MCLE Board Goals:

- Continuing to work on the suggested amendment to the APR 11 ethics requirement.
- The MCLE Board set a goal of 2 audits per Board member per year, focusing on accredited sponsors.
- Continuing to work to increase the diversity of the MCLE Board through recruitment.

Enclosed Documents:

- **Accredited Sponsor Audits since 2016**

DISCUSSION: MCLE Updates

The MCLE Staff Liaison will discuss general updates with MCLE, including policy updates, MCLE Certification, TAXICAB, the Law Clerk Workgroup, MCLE staffing, and the WSBA's new in-person volunteer protocols.

Discussion Topics:

- **Policy Updates**

The MCLE Board notified the Washington Supreme Court and the WSBA Board of Governors of two policies adopted at its August 6, 2021 meeting, both intended to provide guidance in administering the newly adopted amendment to APR 11. The policies will become effective on October 12, 2021, unless the Court objects.

- **TAXICAB**

MCLE Board member Robert Malae will give an update on the WSBA Task Force Administering Xenial Involvement with Court Appointed Boards (TAXICAB). The task force is seeking input from Court appoint boards about which WSBA Bylaws and policies should apply to the boards.

- **Law Clerk Workgroup**

The MCLE Board's Law Clerk workgroup had its first meeting on August 12, 2021. MCLE Board members Ayanna Colman and Chris Bueter are members of this workgroup. The workgroup discussed a potential amendment to APR 11(e)(6) that would allow Law Clerk tutors to claim teaching hours for MCLE credit. The workgroup decided to move forward with a suggested amendment to APR 11(e)(6), and tasked MCLE staff with starting a first draft of the report and recommendation for the workgroup to edit and review.

- **Early Certification**

Certification is open for Lawyers, LLLTs, and LPOs in the 2018-2021 and the 2019-2021 MCLE reporting periods. Certification opened on July 1, 2021. As of September 28, 2021, 2,662 licensed legal professionals are MCLE compliant. 18,765 members are still due to submit their MCLE certification.

- **MCLE Staffing**

A new full-time MCLE analyst started on August 23, 2021. On October 1, 2021, three temporary MCLE analysts will join the MCLE team to assist with double certification.

- **MCLE Budget**

MCLE Staff Liaison will give an overview of the MCLE budget.

- **In-Person Meeting Requirements**

On August 21, 2021 the WSBA Board of Governors approved a policy which requires all volunteers to either be fully vaccinated, or qualify for an exemption to be eligible to volunteer in-person or on-site. Proof of vaccination—or a request for an exemption—must be submitted in advance of any in-person meeting request, and all volunteers must contact their staff liaison prior to in-person attendance. Additionally, masks are required in all in-office spaces.

Given these evolving safety protocols, if any members of the MCLE Board plan to attend the January 7, 2022 meeting in-person, please let us know by October 15, 2021. If no MCLE Board member wishes to attend this meeting in-person, we will plan for a fully virtual meeting.

More information can be found here: <https://www.wsba.org/connect-serve/covid-19-vaccination-information-for-volunteers>

Attachments:

- **BOG Vaccination Policy Approval Notice**