Stakeholder Feedback

Received as of 7/29/2020

*This feedback was based on an initial draft of the suggested amendment. Edits to the suggested amendment were made in response to the below feedback.*

Disclaimer: The comments have not been edited in any way, including content, typographical errors, etc., and because the comments were submitted for consideration at a public meeting, we have included the commenters’ names and but not their email addresses.

Comment #1: Alan Tindell (Member of Character and Fitness Board)

I would object to requiring an legal education credit that is specifically focused on any particular topic within the overarching topic of "ethics".

Comment #2: Laura Spradley (Member of Board of Bar Examiners)

I heartily endorse the proposed amendment, provided that the required ethics credit is offered as a free CLE, which you propose.

Comment #3: Nicholas Larson (Member of Public Service Committee)

Thank you for the email. We will review this at our next committee meeting and get back to you.

Comment #4: Nestor Gorfinkel (Member of Limited Practice Board)

Can you kindly explain what would the curriculum entail for “equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, including client advising”? Could the one credit be best served by a general topic called “Professionalism in the Industry” which would entail the pursuit and practice of the highest ideals and tenets of the profession, which is more than compliance with the minimal standards of professional conduct, but include a commitment to civility and respect to all persons. Thank you for the opportunity to provide input.

Comment #5: Jonathan Ko (Member of WAWDA)

Thank you for your email. Our board looked over the amendment and we are in support of it. There was not much comment – some of the Board were in support of the changes last year. We appreciate that you reached out to us.
Hope you're doing well and staying healthy.

Comment #6: Joshua Treybig (Member of QLaw)

My only thought would be perhaps a brief mention that given the current unrest and conversation about racism in the country calls us to focus on the equity and inclusion requirement, of the three originally proposed, as the most important for our profession to address. QLaw would certainly be in support of this amendment. It is a very small ask given the importance many corporations and local governments have placed on similar efforts toward addressing race equity. Please let me know anything else you need from me.

Take care!

Comment #7: Omar Nur (Member of MELAW)

Thank you for reaching out about this amendment to the MCLE requirements. Although I have not circled back with the rest of the board (yet), in the past we have supported this amendment and we continue to do so. Would you like an actual statement from melaw or is our endorsement of the changes enough?

UPDATED COMMENT:

To follow up on my last communication, we circulated the proposed amendments to the rest of our board for comment and feedback. We received resounding support of the proposed changes, but no additional feedback on how else to improve or change the rules. Please let us know how we can further participate in the future and make sure our support of this amendment is shared with the WSBA BOG.

Thank you.

Comment #8: Dalynne Singleton (Member of Disciplinary Board)

I have reviewed what you have presented and have just one change or suggested revision I would deem necessary.

- Reference to “client advising” is unclear to me and I am not sure of the significance of this wording. I would consider an alternate term or a definition of what this is referring to in the changes.
- Client advising may mean something to me and another to other legal professional. We are “counselors” by profession. We give legal advice to clients. This seemed to be an addition or after thought.
- Are we trying to promote better inter-cultural communication? Say that.
Comment #9: Doug Walsh (Member of Practice of Law Board)

Thank you for your response. POLB hopes to meet before 7/15 and provide timely feedback.

Comment #10: Gregory Morrison (Member of 2014 MCLE Task Force)

I think the proposed amendment is necessary, appropriate, well composed and, therefore, should be adopted.

Comment #11: Beth Bersson (Sponsor Representative for Lawline)

I hope all is well!

I wanted to submit my feedback on the proposed rule change, which will add an equity, inclusion, and mitigation of bias requirement. We at Lawline think it is a wonderful idea for Washington to start requiring this specialty credit!

Many CLE states are moving towards requiring attorneys to complete courses on this important topic. Just this July, Vermont became the eighth state to implement a Diversity & Inclusion CLE requirement. By requiring attorneys to study this area on a continuous basis, Washington will ensure that attorneys are turning their attention to, and finding ways to combat, some pervasive problems within the legal industry and beyond.

Lawline already offers many courses in this area for other states. If it is helpful, I would be happy to provide you or anyone at the WA MCLE Board with access to some sample courses. Some comments we have received from our current Diversity & Inclusion and Elimination of Bias courses:

- “Amazing. We ended up with my family gathered around my iPad, listening and pausing to discuss points she made. Excellent. A fabulous presentation on a complex topic.”
- “I really enjoyed this program. It was eye opening to some of my own biases.”
- “Good discussion with honest admission that we all have biases to overcome and that the process is ongoing at all times.”
- “Very well done. Raised important and interesting dynamics of all our biases and how to deal with them.”

This is a critically important topic area for everyone to be focusing on, but it’s particularly important for attorneys. We believe that adding this to the CLE requirements will help drive change within the legal industry and elevate the profession as a whole.

Thank you in advance, and I look forward to seeing this change roll out in the future!
Comment #12: Emily Sheldrick (Member of Client Protection Board)

I am very much in support of the suggested amendment to APR 11. I would be in favor of the Client Protection Board issuing a joint statement supporting the proposed amendment.

Comment #13: Gloria Ochoa-Bruck (Member of Client Protection Board)

I second Emily and would also be in favor of the Client Protection Board issuing a joint statement supporting the proposed amendment.

Comment #14: Amber Haslett-Kern (Washington Association of Prosecuting Attorneys)

Please accept my apology for the tardiness of this response. I hope our Association’s feedback can still be considered.

As a Sponsor, we host several programs annually.

- We train in upwards of 1200 attorneys/members per year.
- These attorneys/members are in various departments within their respective offices.

With each of our programs

- We offer at least 15 CLE’s, with a minimum of 2 Ethics credits, and
- Our Ethics topics address prosecutor specific issues and generally include content in equity, inclusion and antibias
- In addition, our non-Ethics topics regularly incorporate these issues

If the Board’s Rules Subcommittee voted the proposed amendment

- It would require our Association to
  - Implement the additional Ethics topic at every program,
  - In order for our members to stay in compliance with the requirement
  - Eliminate our ability to address other Ethical needs and requirements

- We are also required by the State to conduct training, however,
  - We have limited training funds,
    - Which will be cut drastically with our current pandemic
We are a non-profit organization

Having these proposed amendments for the required Ethics credits would be a financial burden to our Association.

- We acknowledge the value and timing of these topics. We would like to suggest that these proposed amendments only be considered as “permitted accreditable topics.”

Comment #15: Nancy Chupp/Nick Larson (Pro Bono and Public Service Committee)

To the Members of the MCLE Board:

The WSBA Pro Bono and Public Service Committee would like to express its strong support of the MCLE Board’s suggestion of amending APR 11 to require each licensed legal professional to complete at least one (1) ethics credit in the topic of equity, inclusion and the mitigation of bias per three-year MCLE reporting period.

The Pro Bono and Public Service Committee recognizes that inequality and inequity remain steadfastly embedded in the foundations of the American legal system, resulting in longstanding and continuing systematic denials of justice to large portions of our community. This committee recognizes further that remedying such injustice will not simply occur as a result of mere good intentions or a continuation of the status quo, but will require proactive engagement and effort by the very legal professionals who are the front-line practitioners and gatekeepers of justice in our state. The Pro Bono and Public Service Committee believes that mandatory education about equity, inclusion, and bias for every Washington legal professional is a critical component of this effort.

Moreover, given the magnitude and gravity of the challenges we are faced with, the Pro Bono and Public Service Committee puts forth that the MCLE Board’s proposal of 1 DEI credit per reporting period (a scant 20 minutes per year!) is insufficient. Rather, our committee suggests that the MCLE Board and the Board of Governors move for an even greater mandate of DEI training (e.g., 1 hour per year) for all Washington legal professionals, thereby demonstrating a meaningful institutional commitment to this important objective.

Comment #16: Vanessa Martinez (Latino/Latina Bar Association)

Good afternoon,

LBAW supports the suggested amendment. Equity, inclusion, and the elimination of biases in the law and practice of law are very important to our board and membership.

Thank you.
Comment #17: Shanthi Raghu (Staff Liaison for WSBA CLE)

Dear MCLE Board,

As an accredited CLE sponsor, WSBA CLE thanks you for reaching out for feedback on the preliminary suggested amendment to APR 11. WSBA CLE is in support of the overall preliminary suggested amendment, is committed to equity and inclusion in the legal profession and the practice of law, and currently develops and delivers content that falls within this subcategory.

As outlined, the WSBA Board of Governors committed WSBA to developing and delivering three free (live and later available on demand) CLE credits in three credit categories (equity, inclusion, and mitigation of both implicit and explicit bias; mental health and addiction; and the use of technology as it pertains to professional responsibility including how to maintain security); one of the CLE credits to be offered annually falls under the preliminary suggested amendment to APR 11.

WSBA CLE respectfully requests that additional guidance is posted for sponsors to help determine what content would qualify under this new credit category. Additionally, WSBA CLE suggests that there is no expectation (or recommendation) that sponsors are to amend existing accredited activities in light of this proposed amendment.

Finally, a suggested edit to the preliminary suggested amendment is also offered for the Board’s consideration:

“with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and/or the practice of law, including client advising.

Thank you again for the opportunity to respond to the preliminary suggested amendment to APR 11.