



# The State Bar *of California*

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**DATE:** August 28, 2020

**TO:** Members, Council on Access and Fairness (COAF)

**FROM:** Judge Esther Kim and Connie Broussard, Members, MCLE Working Group  
Erica Carroll, Senior Program Analyst, Office of Access & Inclusion

**SUBJECT:** Outcome of Public Comment on Proposed MCLE Elimination of Bias Rules  
Changes and Upcoming Board of Trustees Agenda Item

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## EXECUTIVE SUMMARY

In March 2020, on behalf of COAF, State Bar staff presented proposed changes to the Minimum Continuing Legal Education (MCLE) Elimination of Bias (EOB) rules to the Board of Trustees (Board). Staff requested a 45-day public comment period regarding the proposal, which the Board approved.

In drafting the proposed rules changes, COAF took into consideration the dual mandates of the State Bar's Strategic Plan and a new statute, Business and Professions Code section 6070.5. The statute makes implicit bias MCLE required for attorneys, and adds training/experience requirements and specific course components for MCLE providers who offer implicit bias courses. The proposed rules changes would adopt the requirements of the new statute, and increase the number of MCLE hours dedicated to EOB from one to two, with at least one of the two hours devoted to implicit bias course work, consistent with the Strategic Plan.

The public comment period closed on June 30, 2020. COAF's MCLE working group reviewed the comments and recommends moving forward with the proposal as circulated, without amendment. The working group further recommends that COAF recommend adoption of the proposal to the Board. However, if AB 3364 is passed during this legislative session, the recommendation is for COAF to approve an alternative recommendation directing staff to request that the Board approve the proposed changes with an amendment to the effective date for licensees.

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## **BACKGROUND**

### **THE STATE BAR'S STRATEGIC PLAN AND BUSINESS AND PROFESSIONS CODE SECTION 6070.5**

In January 2019, the Board of Trustees updated the State Bar's 2017-2022 Strategic Plan to adopt nine objectives related to diversity and inclusion. This included Goal 4, objective (m), which focuses on modifying the current Elimination of Bias (EOB) MCLE curriculum and increasing the number of hours.

Concurrently, the California State Legislature advanced AB 242, a bill that required the State Bar to enact rules incorporating the topic of implicit bias and bias-reducing strategies into its MCLE curriculum for all licensees. Adding section 6070.5 to the Business and Professions Code, AB 242 was enacted into law.

This new statute also calls for the State Bar to require MCLE providers who offer implicit bias courses to meet minimum recruitment, training, and content requirements. Beginning no later than January 1, 2022, providers offering courses on implicit bias will have to meet the requirements of the statute.

As the statute is currently worded, licensees will have to meet the additional implicit bias MCLE requirement in the compliance period ending January 31, 2024.<sup>1</sup> However, as mentioned previously to both COAF and the Board, AB 242 intended for the provisions in Business and Professions Code section 6070.5 to apply to licensees beginning with those reporting for the compliance period ending January 31, 2023. Changes were pursued, and AB 3364 is now pending in the California legislature; if passed, it would conform the wording of the statute with its intent (i.e. licensees would comply beginning with the group reporting for the period ending on January 31, 2023, rather than 2024).

### **COAF'S RECOMMENDATIONS TO THE BOARD OF TRUSTEES**

At its meetings on December 6, 2019 and February 14, 2020, COAF recommended making the necessary rules changes to conform to the new Business and Professions Code section, and to increase the EOB MCLE required hours from one to two. It further recommended that the State Bar, with the assistance of COAF, develop one hour of free e-learning content for attorneys on the topic of implicit bias, and that the training be reviewed and updated every three years.

The Board agreed to circulate the proposed MCLE rules for both attorneys and providers for a 45-day comment period in mid-March. Due to the impact of COVID-19 immediately thereafter, at least one organization asked for an extension to the comment period. The end of the comment period was extended by almost two months, from May 1 to June 30.

Over 30 comments were received and reviewed by staff and COAF's MCLE working group. Staff and the working group recommend moving forward with the proposal as circulated, without

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<sup>1</sup> MCLE compliance periods for licensees run from February 1 through January 31 of the following year.

amendment, and recommend that the Board adopt the proposed rules. Staff and the working group further recommend that COAF consider future amendments to the MCLE EOB rules, as requested by several commenters. However, as none of the suggested changes would directly conflict with the rules changes that were already circulated, the current proposal can move forward while COAF explores the possibility of further revisions.

## **DISCUSSION**

### **COMMENTS IN FAVOR OF THE PROPOSED MCLE RULES CHANGES**

After the comment period closed on June 30, staff analyzed the responses and shared them with the MCLE working group. All comments received were in relation to the proposed changes for attorneys, rather than providers. Approximately 60 percent of the comments were in favor of the proposed changes for attorneys. (See Attachment A.)

Four statewide organizations commented in favor of the proposal: California Commission on Access to Justice, California Lawyers Association, California Minority Counsel Program, and Legal Aid Association of California. This reflects a broad coalition of support for the proposed changes. These organizations spoke to the importance of enhanced EOB training to increase awareness of all types of bias, open more dialogue on the topic, and improving experiences in the workplace and in the legal system in general. Their letters underscored the fact that the proposed changes are part of the larger goal of achieving and maintaining a truly diverse and inclusive legal profession.

Other individual comments in favor of the proposed changes asked COAF and the State Bar to consider additional requirements, such as an anti-racism curriculum that takes into account the effects of structural racism and actionable steps to eradicate it. While the new Business and Professions Code statute requires implicit bias courses to include content related to various types of bias (implicit, explicit, systemic), there is not currently a separate anti-racism course requirement or pending proposal.

Some comments also called for: (1) a greater increase to the EOB hours requirement, stating that two hours is still insufficient time to make significant progress when it comes to exploring the topic of bias, (2) requiring EOB credit hours to be completed in a participatory setting (versus self-study), and (3) renaming the requirement to explicitly acknowledge structural racism and implicit bias, in comparison to the more general "Recognition and Elimination of Bias" title.

### **COMMENTS OPPOSED TO THE PROPOSED MCLE RULES CHANGES**

All comments opposed to the proposed rules changes were from individuals. The comments that opposed the proposed changes centered on two themes: (1) disagreement with devoting more MCLE time to a specific subject, and (2) skepticism about the efficacy of implicit bias training. Those who disagreed with adding more time to the EOB requirement either felt that MCLE was not effective in general (regardless of topic); it would be better to have more time to

devote to education in their own practice areas; or, in one or two cases, appeared to misunderstand the intent of the change and thought it aimed to increase overall MCLE hours.<sup>2</sup>

Other responses indicated that the commenter did not believe implicit bias exists or felt there was insufficient basis to maintain that training in this topic will be beneficial. For example, three commenters stated that there is not enough scientific support to prioritize this topic. A similar number reported that their prior experiences with other MCLE EOB courses were not useful.

Some of these assertions are clearly inaccurate—there is a substantial body of research that demonstrates the existence and effects of implicit bias—while others touch on considerations that are targeted by the proposed changes. The fact that there has been variability in the perceived quality and effectiveness of prior MCLE EOB courses will hopefully be addressed through the strengthened training and experience requirements for instructors and the guidance from the legislature and the State Bar regarding course content and objectives.

Moreover, given that the EOB requirement is currently only one hour, it is not surprising that in some instances participants have felt that they were not getting enough benefit from the curriculum or were ill-equipped to continue the work outside of the MCLE course. Increasing the hours requirement will allow for more in-depth exploration of the various topics that fall under the umbrella of EOB and will signal that this subject demands more serious engagement across the profession.

## **RECOMMENDATION**

Staff and the MCLE working group recommend that COAF submit the proposed MCLE EOB rules changes to the Board as circulated, without amendment, and recommend adoption of the proposal, effective November 1, 2020. Staff and the MCLE working group further recommend that COAF approve an alternative recommendation—in the event AB 3364 is passed during this legislative session—directing staff to request that the Board adopt the proposed changes to the rules, incorporating an amendment applying the new requirements to licensees starting with the compliance period ending January 31, 2023.

The current proposal is consistent with the changes required by the new Business and Professions Code statute and expands the curriculum (in terms of both content and time) as envisioned by the State Bar’s Strategic Plan. Further, a majority of the public comments were in favor of the proposed changes, including comments from major attorney membership organizations.

COAF can explore the possibility of adding an anti-racism requirement, increasing the number of EOB hours further, renaming the EOB requirement and/or requiring that these credits be completed in a participatory setting; none of those changes requested through public comments would conflict with the present proposal. Accordingly, there is no need to delay making the currently proposed changes.

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<sup>2</sup> The proposed change takes one hour from general MCLE credit and devotes it to implicit bias coursework; it does not increase the overall amount of continuing education hours, which remains at 25 hours over three years.

## **ATTACHMENTS LIST**

- A.** Public Comment Responses and Letters
- B.** Proposed MCLE Rules Changes
- C.** State Bar Strategic Plan, Goal 4, Objective (m)
- D.** Text of Business and Profession Code section 6070.5

C	D	E	F	G	H	I	J
Professional Affiliation	Commenting on behalf of an organization	Name	City	State	From the choices below, we ask that you indicate your position on the proposed rule. (This is a required field.)	ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	ATTACHMENTS You may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.
						<p>I write in support of the proposal to increase the Recognition and Elimination of Bias in the Legal Profession and Society MCLE requirement to two hours with one hour dedicated to implicit bias. I support the implicit bias requirement being a participatory credit, which would serve to promote learning and engagement on these important issues.</p> <p>Additionally, I urge the Council to consider adopting an anti-racism MCLE requirement focused on educating lawyers on systemic racism and how to take proactive steps to eliminate racism. Such a requirement is needed because addressing implicit bias is not a comprehensive approach to addressing the historical and ongoing inequalities in the law. Implicit bias is a by-product of systemic racism. Addressing implicit bias alone does not adequately address its root cause. Historically, systemic racism was intentionally designed to advantage White Americans and to disadvantage Black Americans, which promoted the notion of white supremacy. The belief structures that made racism palatable still exist in the form of intentional racism as well as implicit bias. Thus, in order to truly understand implicit bias, we must understand systemic racism.</p> <p>Further, an anti-racism requirement could educate attorneys specifically on how the legal system has historically played a prominent role in promoting, enabling, and perpetuating systemic racism. And it could examine the inequities in the legal system that exist today, and most importantly, how we, as lawyers can use the law to work towards eliminating racism.</p>	
No	No	Tami Kameta Sims	Los Angeles	California	AGREE with the proposed Rule	<p>Dear Board of Trustees,</p> <p>I am in favor of this amendment and hope it will lead to even more support for diversifying the Bar. As a leader of a diversity organization and a racial minority I am keenly aware of the persistence of disempowerment of diverse lawyers and how consistently they are betrayed of their right to pursue satisfying careers on a level playing field with other attorneys.</p> <p>Implicit bias training is to me a small step toward addressing lack of diversity in the profession but it opens a door for education and dialogue which may encourage attorneys to support the systemic changes that are needed.</p> <p>I would go further to wish that the State Bar explicitly address biases and barriers impeding the progress and creating negative experiences for attorneys of color as a distinct group. Now this an appropriate time in our history for such initiatives and an appropriate use of the State Bar's powers and influence.</p> <p>Best regards,</p> <p>Robert White Executive Director California Minority Counsel Program</p>	
California Minority Counsel Program	Yes	Robert Gregory White	Oakland	California	AGREE with the proposed Rule	<p>It is imperative that members of the California bar, as lawyers and leaders with particular education and skills to help enact real change to combat centuries of racism that is endemic in our laws and society (via advocacy, legislation, legal services, etc.) to first educate ourselves and face the issues in our own industry, workplace and behavior.</p>	
Touss Festivals	No	Audrey Faber	universal city	California	AGREE with the proposed Rule	<p>I write in support of the comments submitted by Esther Ro and Leana Tang who support the proposed rule, while also proposing that the hour should (1) be done in a participatory setting and (2) should include not just implicit bias, but an anti-racism MCLE requirement focused on dismantling white supremacy and structural racism. I also agree with their proposal to change the name of the requirement to "Recognizing and Eliminating Structural Racism and Implicit Bias in the Legal Profession and Society." This name highlights the work that needs to be done individually and collectively on racial justice issues in a way that the currently proposed name does not. We all need to honestly reflect on the role of the legal system in upholding white supremacy and structural racism and the proposed rule with these changes would be a positive step in that direction.</p>	
	No	Leigha Weinberg	San Francisco	California	AGREE with the proposed Rule	<p>At the onset, consider the fact that pursuant to AB 242, requires an entry level clerk working in a courthouse to take more implicit bias training than a managing law partner in a firm employing 1000 attorneys in California- 2 hours every two year vs. the managing partner's two hours every three years.</p> <p>Admittedly, two hours are more than one, but not necessarily better. Implicit bias is too serious a matter to be treated as just another statutory obligation. Indeed, anybody who has taught implicit bias knows that two hours are not enough to truly cover the subject and to provide for examples of implicit bias against the various groups in California- African Americans, Hispanics, Asians, LGBTQ, including plus females in each group.</p> <p>To seriously approach this issue, what statute requires the State Bar to just meet a statutory requirements. Why not demonstrate its seriousness by establishing a six hour course that requires three hours of training, including taking the implicit bias test (<a href="https://www.projectimplicit.net">https://www.projectimplicit.net</a>)</p> <p>I have been studying and writing about racism, prejudice and our country's paltry response to problems related thereto than I care to chronicle.</p> <p>Why not be bold and show some leadership. Two hours are being imposed. I know of no statutory requirement that limits the State Bar to two hours for attorneys, some who have real power to effect change unlike an entry-level clerk in a courthouse shuffling cases from one courtroom to another.</p> <p>Lenton Atkins MCLE Provider #18810</p>	
ANNIVERSARIATION	Yes	Jenlon Atkins	Signal	California	AGREE ONLY if Modified		
		Karun Thara	Los Angeles	California	AGREE with the proposed Rule	<p>I wholeheartedly agree with the proposed Rule. Implicit bias negatively impacts minorities, but its effects can be mitigated if people are aware of what it is and how they can modify their thinking and behavior.</p>	
California Court of Appeal	No	SANDEE BARAK	Los Angeles	California	AGREE with the proposed Rule	<p>I strongly endorse the proposed rule to enhance the implicit bias requirements. In addition, at a time when white supremacy and systemic and structural racism continues to pervade every aspect of society, precipitating a global Black Lives Matter movement and, hopefully, a tectonic shift in our collective consciousness, we as attorneys, have a unique role to play in identifying and working to eliminate the structural bias that pervades our profession and our society.</p> <p>I propose we enhance the implicit bias requirement further to identify and address structural racism and white supremacy. Implicit bias goes to the subconscious, but it does not go to the core of systemic white privilege in which implicit bias is rooted. It is time to address these issues head on. If not us (lawyers), then who? If not now, when? It's long past due.</p>	
1992	No	Vi Hua	SAN FRANCISCO	California	AGREE with the proposed Rule	<p>I am in full support of these long overdue proposed changes. Please consider the comment submitted by Esther Ro and Leana Tang as a well articulated reflection of my views.</p>	
California Lawyers Association	Yes	Jennifer Navarro	Elk Grove	California	AGREE with the proposed Rule	<p>Elimination of bias is a worthy goal. Everyone deserves to be valued as an individual with unique experiences, not viewed primarily as a generic member of a stereotyped class.</p> <p>My understanding of the science behind implicit bias suggests that it is not well-supported, in that it is difficult to measure consistent "implicit bias" in the same person at different times and that it is not well correlated with actual acts of discrimination. As such, I regard it as something that, although perhaps a fruitful area for further research, is not really worth teaching to attorneys in MCLEs.</p>	<a href="https://t1c2.foormite.com/dctw/files/119-86-17744279_R00bcuos-CLA_comments_elimination_of_bias_MCLE_rules.pdf">https://t1c2.foormite.com/dctw/files/119-86-17744279_R00bcuos-CLA_comments_elimination_of_bias_MCLE_rules.pdf</a>
	No	Eric Zylstra	Napa	Illinois	DISAGREE with the proposed Rule	<p>I think that the State Bar should focus any training mandated by the new law on related issues such as cultural competency or on areas better supported by empirical evidence.</p>	
	No	Esther Ro and Leana Tang	Los Angeles	California	AGREE with the proposed Rule		<a href="https://t1c2.foormite.com/dctw/files/119-86-17744279_R00bcuos-CLA_comments_elimination_of_bias_public_comment_Ro_and_Tang.pdf">https://t1c2.foormite.com/dctw/files/119-86-17744279_R00bcuos-CLA_comments_elimination_of_bias_public_comment_Ro_and_Tang.pdf</a>
	No	Jeffrey Corcoran	Hemet	California	DISAGREE with the proposed Rule	<p>Impact of bias is not necessary as it is well known the impact bias has simply by paying any attention to news reports. In addition, much efforts against bias are in name only and instead promoting preferential treatment or ignoring of facts grouping everything under the umbrella of bias when there is actually no bias involved. Instead, the rules should be revised to focus on actual bias, being a discriminatory inclination for or against classifications of individuals, rather than the current all encompassing class which includes more individual preference without discriminatory effect.</p> <p>Your bias proposal needs to start in the grading of the exam. It now fair that the essay graders have full access to their applications, schooling, Multiple Choices answers. They should be confidential so the graders don't bring their own subjective bias to the essay answers. The test is expensive as is study prep class, as well as law school. The graders should not be able to know what anyone looks like or any demographic pre-knowledge. Bias is setting up for failure and this system needs to be reviewed.</p>	
	No	Christine Tuma	danville	California	AGREE with the proposed Rule		
	No	Mina Sirkin	woodland hills	California	DISAGREE with the proposed Rule	<p>This is already adequately provided for in the Code and does not need an increase to the MCLE credit earnings.</p>	
						<p>My name is Kelly Ransinghe and am a child welfare and government attorney in Imperial County, California. I also am an attorney with mental illness and a member of the National Alliance on Mental Illness (NAMI).</p> <p>The proposed rules are substantively excellent and I support their adoption, however the language unintentionally prohibits implicit bias training based on "mental health" or "mental illness" which is a very important dimension of discrimination and prejudice. I would recommend that the adopted language include physical AND mental disability by modifying the language to include</p> <p>"recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color, race, religion, ancestry, national origin, physical (MENTAL HEALTH, OR PSYCHIATRIC), disability, age, or sexual orientation."</p> <p>This would allow people to receive credit for the recognition and elimination of bias toward people (such as myself and many other attorneys) who are affected by mental illness. Without this small change, a person who received a training in a course such as "prejudice toward attorneys with mental illness" would not be able to receive bias credit.</p> <p>Sincerely,</p> <p>Kelly Ransinghe</p>	
Attorney	No	Kelly Ransinghe	San Diego	California	AGREE with the proposed Rule		
Attorney	Yes	Matthew Mouchetti	Los Angeles	California	DISAGREE with the proposed Rule	<p>While the elimination of bias is a good goal, CLE is an ineffective means to the end. Continuing education should be targeted at us attorneys have the latest in learning to serve clients.</p>	
	No	Vicky Rubin-Hawton	Lake Forest	California	AGREE with the proposed Rule		

C	D	E	F	G	I	J	K
19	Toyon Research Corporation	No	Kenan Ezal	Santa Barbara	California	DISAGREE with the proposed Rule	As an attorney and scientist working for a Government contractor, we have to already satisfy several hours of anti-bias and anti-discriminatory training each year that does not apply towards Cal Bar MCLE credits. Increasing the number of hours for bias training takes away from other topics that are needed for competency. There is no peer reviewed evidence that implicit bias even exists. At best, it is an unvalidated hypothesis by social science proponents who have consistently been refuted in academia.
20	No		Brian Del Bono	Cornwall	California	DISAGREE with the proposed Rule	As a person who has experienced gender bias over a long legal career, I find the course offerings in this area to be trite, contrived, and generally useless. Therefore I am opposed to doubling the requirement. If the intention is to move to covering implicit biases, why not change the one hour requirement to a requirement to take a course specifically addressing implicit bias?
21	No		Anonymous		California	DISAGREE with the proposed Rule	I prefer to take MCLE courses in my own practice areas and object to the constant additional requirements encroaching on those choices.
22	Attorney	No	Gabriella	Los Angeles	California	AGREE with the proposed Rule	There is really no "elimination" of bias. However, "illumination" of bias would be more realistic. Sadly, there are many attorneys that are affected by bias in the profession. These voices need to be heard, in addition to formal content on bias.
23	The Legal Aid Association of California	Yes	Zach Newman	Oakland	California	AGREE with the proposed Rule	<a href="https://t222.iformsite.com/3bctw/fhsa/J-179-86-17472030-7?Wah45D_LAAC_EOB_MCLE_Support_Letter_4202020.pdf">https://t222.iformsite.com/3bctw/fhsa/J-179-86-17472030-7?Wah45D_LAAC_EOB_MCLE_Support_Letter_4202020.pdf</a>
24	California Commission on Access to Justice	Yes	Anonymous	Sacramento	California	DISAGREE with the proposed Rule	
25	California Commission on Access to Justice	Yes	Jasmine Kaddoura	Oakland	California	AGREE with the proposed Rule	<a href="https://t222.iformsite.com/3bctw/fhsa/J-179-86-17414645_v08x0Pva_Letter_Supporting_Elimination_of_Bias_MCLE_Changes_1.pdf">https://t222.iformsite.com/3bctw/fhsa/J-179-86-17414645_v08x0Pva_Letter_Supporting_Elimination_of_Bias_MCLE_Changes_1.pdf</a>
26	No		Anonymous	Irvine	California	DISAGREE with the proposed Rule	There is no justification for this proposed increase, other than perhaps the CLE for profit providers stand to gain financially from this. CLE should be abolished in favor of a modest pro-bono requirement.
27	No		Mike Young	Redlands	California	DISAGREE with the proposed Rule	
28	No		Jean French	San Diego	California	AGREE with the proposed Rule	I support the proposed rule change. Implicit bias is still alive and well in the legal industry, and education is key to positive change. I reported my MCLE this year and I had over ten Elimination of Bias credits due to the breadth of opportunities available. This suggests to me that adding an additional credit is reasonable and should be fairly easy for our members to achieve. Thank you for moving the Bar forward.
29	No		Joshua Schoonover	Carlsbad	California	DISAGREE with the proposed Rule	I am an attorney licensed in CA. I don't mind the extra hour of CLE, but I question the return on investment. I have attended an elimination of bias CLE hour in the past and feel like it was less than useful. We all have and can't control implicit bias. We are already aware of it, but it is involuntary. Adding another hour will not make us more aware, and there is no evidence that another hour will have a meaningful impact on the matter. On the other hand, this is an hour that can be devoted to family, clients, or volunteering and making meaningful impact(s) in other areas of the lawyer's day to day life. I am already pressed for time with family. I'd rather spend the hour with my wife and kids. For this reason, namely the ROI and opportunity costs, I don't think the bar should add another hour for elimination of bias as proposed. I tend to think these things work themselves out, for example, a firm operating with bias will lose good attorneys and clients, and will not thrive in this modern era.
30	No		Beth W Mora	San Ramon	California	AGREE with the proposed Rule	In every industry and profession, including ours, market forces are more efficient than governance at curbing bias. I agree with the proposed changes though I would like the requirement to be additional hours, this is a dramatic improvement. Thank you.  Beth Mora Mora's Employment Law
31	No	No	Anonymous	Los Angeles	California	DISAGREE with the proposed Rule	I am respectfully submitting my opposition to the proposed rule change.  Multiple critics have arisen in recent years to the implicit bias trainings and the science that purportedly supports bias training in general. Multiple corporations have embraced mentalities that "words are violence" and that everyone, no matter how well intentioned, is secretly biased.  My concerns are 1) it should not be the California Bar's job to ensure that everyone's deep, dark, personal thoughts are reprogrammed, 2) the science behind bias training is admittedly superficial and born of "feelings" and "impressions" than actual proof, 3) the bias trainings are no more than window dressing to satisfy the demands of social engineers and does not further society in any meaningful way.  I would prefer to spend my time on trainings that are more beneficial to my clients and my practice in the long run. I have no interest in spending a second on a social science that has been refuted and shown to be nothing more than a problem in search of a solution.  If the California Bar actually desired to help the general legal profession and society as a whole, it could be promoting volunteer opportunities, more outreach to the public in need of justice, and lobbying for attorneys to be incentivized to help the less fortunate (e.g. through tax credits, partial refunds of dues).  The proposed change does nothing but waste an hour of an attorney's life and benefits no one but the social engineer who cobbled together the presentation.  I'm an attorney to note my support for the proposal and comments submitted by Esther Ro (SBN 252203) and Leana Tang (SBN 304448) in support of the proposal by the State Bar's Council on Access and Fairness to increase the Recognition and Elimination of Bias in the Legal Profession and Society MCLE requirement to two hours with one hour dedicated to recognizing implicit biases and bias reducing strategies. Additionally, I agree with Ms. Ro and Ms. Tang that the Council should consider requiring the dedicated implicit bias hour be completed in a participatory setting and more directly confront historic trends in disparate treatment and systemic problems related to them.
32			Jahay Galban	Encore	California	AGREE	

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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April 1, 2020

Board of Trustees  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

Re: **Support for Requiring More and Better MCLE Training on Elimination of Bias**

Dear State Bar Trustees:

As you know, the California Commission on Access to Justice has worked for 23 years to advance access to justice for Californians using broad-based strategies informed by diverse stakeholders. The Access Commission is proud of its long and close relationship with the State Bar of California and the many enhancements in access to justice that the two organizations have made together.

The Access Commission strongly feels that State Bar of California has ample reason to increase the minimum continuing legal education time dedicated to the elimination of bias on the part of lawyers and to require that some of the time be spent on recognizing and reducing instances of implicit bias. The bar has already taken a bold step towards elimination of bias in the legal profession through adoption of the new Rules of Professional Conduct. As the gatekeepers of the licensing of lawyers in California, increasing the awareness of bias in the profession strengthens the recruitment and retention of diverse lawyers thus allowing the bar to better reflect the public it serves.

Further, a lawyer's conduct toward clients and prospective clients reflecting implicit or other bias is not only harmful to the attorney-client relationship, but destructive to the entire legal system. Clearly, focused and thoughtful bias training will raise awareness of the issue and reduce or eliminate altogether incidences of implicit bias. Eliminating such remediable bias will enhance justice for clients at the same time as it adds to the diversity of the legal profession and improves conduct and character of lawyers.

The Access Commission supports these proposed changes to MCLE requirements.

Sincerely,

Judge Mark A. Juhas  
Chair

The logo for the California Lawyers Association, featuring the text "CALIFORNIA LAWYERS ASSOCIATION" in a bold, sans-serif font, enclosed within a thin, dark brown rectangular border.

CALIFORNIA  
LAWYERS  
ASSOCIATION

June 26, 2020

Board of Trustees  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Re: Proposed Changes to Elimination of Bias MCLE Rules

Dear Trustees:

I am writing on behalf of the California Lawyers Association (CLA). CLA supports the proposed changes to the MCLE rules, increasing the elimination of bias requirement from one hour to a minimum of two hours, establishing a sub-topic that formally incorporates implicit bias into the MCLE curriculum, and requiring at least one hour of implicit bias coursework as part of the two hours dedicated to elimination of bias. These are important changes, consistent with CLA's mission of promoting excellence, diversity and inclusion in the legal profession and fairness in the administration of justice and the rule of law.

Implicit bias refers to *unconscious* preferences or associations about a social group based on stereotypes or attitudes relating to that social group, and operate *outside* of conscious human awareness. As the Legislature's findings contained in AB 242 note in part: "[L]awyers harbor the same kinds of implicit biases as others."

The issues of implicit bias, education, and training were emphasized by Chief Justice Tani Cantil-Sakauye in her State of the Judiciary address in 2016: "Certainly, implicit bias is a factor in the national discussion about race and justice. Scientists tell us that unconscious stereotypes affect beliefs, attitudes, and actions and that implicit bias has been found in children as young as 6 years of age. But the good news is that these attitudes are malleable and changeable, and that's where implicit bias education and training comes in." Implicit bias has been part of the national discussion about justice for many years, with recent events bringing the issue to the forefront and highlighting its significance.

Incorporating implicit bias into the MCLE curriculum will assist in ameliorating the impact of implicit bias in the legal profession. CLA endorses in particular the proposed *addition*

of one hour of implicit bias to the existing elimination of bias requirement, instead of subsuming implicit bias within the existing one hour requirement.

We appreciate your consideration of our comments.

Sincerely,



Ona Alston Dosunmu  
C.E.O. & Executive Director  
California Lawyers Association

*“The Unified Voice of Legal Services” !*



April 20, 2020

Board of Trustees  
State Bar of California  
180 Howard St.  
San Francisco, CA 94105

**Re: Changes in Elimination of Bias (EOB) Requirement in Minimum Continuing Legal Education (MCLE) Rules—SUPPORT**

To the Board of Trustees,

I am writing on behalf of the Legal Aid Association of California (LAAC) to express our **support** for the proposed changes in Elimination of Bias (EOB) requirement in the Minimum Continuing Legal Education (MCLE) rules. These changes, especially increasing the total number of EOB MCLE hours, demonstrate the State Bar’s ongoing commitment to reducing bias in the legal profession.

LAAC is a statewide membership association of over 100 public interest law nonprofits that provide free civil legal services to low-income people and communities throughout California. LAAC member organizations provide legal assistance on a broad array of substantive issues, ranging from general poverty law to civil rights to immigration, and also serve a wide range of low-income and vulnerable populations. LAAC serves as California’s unified voice for legal services and is a zealous advocate advancing the needs of the clients of legal services on a statewide level regarding funding and access to justice.

The Council on Access and Fairness (COAF) proposes increasing from one to two the required minimum Elimination of Bias hours, establishing a sub-topic that formally incorporates implicit bias into the MCLE curriculum, and establishing the provider requirements as mandated by statute. **LAAC and the legal aid community support these changes.** As an MCLE provider, LAAC applauds the efforts of COAF and its work to develop this proposed rule change during the second half of 2019, including soliciting feedback from current MCLE providers regarding the possible impact of the proposed changes.

Elimination of Bias training represents an essential aspect of training and legal education that lawyers need to be the best lawyers they can be. By making these changes, the Bar is ensuring that lawyers receive more of this critical training and education. Altogether, these changes would, one, codify the State Bar’s commitment to supporting efforts to reduce implicit bias in the legal field and, two, comply with Business and Professions Code section 6070.5 (2019), which requires the Bar to incorporate implicit bias into the MCLE curriculum and mandates

training and content requirements. **We support the changes as proposed by COAF** and look forward to working with the Bar in making meaningful changes now and in the future to reduce bias in our profession.

Thank you again for this opportunity to comment. Please do not hesitate to reach out to me with questions or comments.

Sincerely,



Salena Copeland  
Executive Director, Legal Aid Association of California

Stephen Knight '  
Executive Director, Worksafe '

Erin Smith '  
Executive Director, Family Violence Appellate Project '

Jenny Farrell '  
Executive Director, Mental Health Advocacy Services '

Henry Martin '  
Director of Policy and Advocacy, Watsonville Law Center '

Kevin Aslanian '  
Executive Director, Coalition of California Welfare Rights Organizations '

Martina Cucullu Lim '  
Executive Director, Eviction Defense Collaborative '

Jennifer Kelleher Cloyd '  
Chief Program Officer, Law Foundation of Silicon Valley '

Diego Cartagena '  
President & CEO, Bet Tzedek Legal Services '

Andy Imperato '  
Executive Director, Disability Rights California '

Kimberly Irish '  
Chief Program Officer, OneJustice '

Carolina Martin Ramos '  
Director of Programs and Advocacy, Centro Legal de la Raza '

Cindy Liou '  
State Policy Director, Kids in Need of Defense (KIND) '

Public Comment re: Changes in Elimination of Bias (EOB) Requirement in Minimum Continuing Legal Education (MCLE) Rules

Submitted by Esther Ro (SBN 252203) and Leana Taing (SBN 304448)

We write in support of the proposal by the State Bar's Council on Access and Fairness to increase the Recognition and Elimination of Bias in the Legal Profession and Society MCLE requirement to two hours with one hour dedicated to recognizing implicit biases and bias-reducing strategies.

Additionally, the Council should consider requiring the dedicated implicit bias hour be completed in a participatory setting. The topic of implicit bias is well-suited and best explored in a live environment. The State Bar already recognizes the benefits of in-person learning in that half of the MCLE credits must be completed in a participatory setting. Being in a group setting, interacting, and listening to different viewpoints and experiences -- and feeling uncomfortable -- are invaluable in understanding, identifying, processing, and combating one's own biases.

Addressing implicit bias, however, represents only a partial solution that does not take into account systemic issues. Thus, we strongly urge the Council to consider a more holistic approach to address how attorneys can be allies and advocates for a just legal system and outcomes. Specifically, we propose the adoption of an anti-racism MCLE requirement focused on dismantling white supremacy and structural racism.

As attorneys, we should understand how law, which serves as the foundation of our profession, has been weaponized since the inception of this country to entrench white supremacy in nearly every aspect of American politics, economics, and society. Numerous State Supreme Courts, including ours, have issued statements recognizing the legal system has not worked fairly for everyone, and equal justice under the law is not yet a reality. Chief Justice Bernette Joshua Jackson of the Louisiana Supreme Court wrote a powerful and personal statement recognizing "the protests are the consequence of centuries of institutionalized racism that has plagued our legal system" and "[w]e are part of the problem they protest." Chief Justice Jackson reminds us that as members of the legal profession we possess "real power to change the African American community's lived experience of the legal system." An MCLE requirement

based on anti-racism would educate attorneys about the role the legal system has played in maintaining structural racism, how to envision an anti-racist legal system, and how to deploy anti-racist strategies in their day-to-day practices.

Further, the anti-racism requirement is important to address the fact that the legal profession stubbornly continues to be one of the least racially diverse professions in America. To be clear, structural racism and white supremacy, and their attendant privileges, permeate the legal profession and legal education. In contrast to implicit bias, which focuses on social cognitive theories to explain unconscious behavior on an individual level, structural racism focuses on the bigger picture of how our current institutional practices continue to advantage white people and disadvantage Black, Indigenous, and other people of color. Examples of these systems include law school access and admissions, how legal education is taught, how jobs are secured, and who is chosen to be in leadership positions at their law firms. An honest assessment of the racial issues embedded in legal education and the legal profession allows us to move forward collectively to find solutions. Acknowledging and addressing both implicit bias and structural racism is needed for the legal community to forge an anti-racist path going forward.

To that end, a name change in the requirement is necessary to signal the State Bar's commitment to addressing both implicit bias and racism in the legal profession. We propose renaming the requirement to "Recognizing and Eliminating Structural Racism and Implicit Bias in the Legal Profession and Society." The proposed name embodies a call to action to all legal professionals about the work that needs to be done individually and collectively on racial justice issues. Black Lives Matter has laid bare the depth and systemic nature of racism in this country. The time is now to be bold and imaginative on how each of us in the legal community can act to bring about real change in the daily lives of everyday people and in our profession.

## Proposed Revisions to Rules Establishing Minimum Continuing Legal Education Requirements for Licensees – Redline

### Rule 2.52 MCLE Activities

To receive MCLE credit, a licensee must complete an MCLE activity that meets State Bar standards.

- (A) The MCLE activity must relate to legal subjects directly relevant to licensees of the State Bar or have significant current professional and practical content.
- (B) The presenter of the MCLE activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the MCLE activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, or competence issues.
- (D) If the activity lasts one hour or more, the provider must make substantive written materials relevant to the MCLE activity available either before or during every MCLE activity. Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.
- (E) Programs and classes must be scheduled so that participants are free of interruptions.
- (F) On and after January 1, 2022, for all training dealing with, or including a component dealing with, implicit bias and the promotion of bias-reducing strategies, the MCLE provider must meet the requirements of Business and Professions Code section 6070.5.

*Rule 2.52 adopted effective January 1, 2008; amended effective January 1, 2013; amended effective July 1, 2014; amended effective January 25, 2019.*

Rule 2.71 Compliance periods

- (A) A compliance period consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A licensee must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.
- (B) Compliance with State Bar New Attorney Training must be effectuated and reported completed, in a manner established by the State Bar, by the last day of the month of an attorney's one-year anniversary as a State Bar licensee. Fees for noncompliance are set forth in [a the](#) Schedule of Charges and Deadlines.

*Rule 2.71 adopted effective January 1, 2008; amended effective February 1, 2018; amended effective January 25, 2019.*

## Rule 2.72 Requirements

(A) Until December 31, 2021, all licensees shall be subject to the following:

- (1) Unless these rules indicate otherwise, a licensee who has been active throughout a thirty-six-month compliance period must complete twenty-five credit hours of MCLE activities. No more than twelve and a half credit hours may be self-study.<sup>4</sup> Total hours must include no less than 6 hours as follows:
  - (a) at least four hours of legal ethics;
  - (b) at least one hour dealing with the recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color, race, religion, ancestry, national origin, physical disability, age, or sexual orientation; and
  - (c) at least one hour of education addressing substance abuse or other mental or physical issues that impair a licensee's ability to perform legal services with competence.
- (2) Required education in legal ethics, elimination of bias, or competence issues may be a component of an approved MCLE activity that deals with another topic.
- (3) A licensee may reduce the required twenty-five hours in proportion to the number of full months the licensee was inactive or exempt in the thirty-six-month compliance period. Up to half the reduced hours may be self-study.<sup>5</sup> A tool for applying this formula is available at the State Bar Web site.
- (4) Excess credit hours may not be applied to the next compliance period.<sup>6</sup>

(B) On and after January 1, 2022, all licensees shall be subject to the following:

- (1) Licensees reporting for the compliance periods ending January 31, 2022 and January 31, 2023, shall be subject to the requirements set forth in paragraphs (A)(1), (A)(2), (A)(3), and (A)(4) for the compliance periods ending January 31, 2022 and January 31, 2023.

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<sup>4</sup> Rule 2.83.

<sup>5</sup> Rule 2.83.

<sup>6</sup> But see Rule 2.93.

(2) Beginning with the compliance period ending January 31, 2024, all licensees shall comply with the following:

(a) Unless these rules indicate otherwise, a licensee who has been active throughout a thirty-six-month compliance period must complete twenty-five credit hours of MCLE activities. No more than twelve and a half credit hours may be self-study.<sup>7</sup> Total hours must include no less than ~~6~~7 hours as follows:

(i) at least four hours of legal ethics;

(ii) at least two hours dealing with the recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color, race, religion, ancestry, national origin, physical disability, age, or sexual orientation;

1. Of those two hours, at least one hour must focus on implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system; and

(iii) at least one hour of education addressing substance abuse or other mental or physical issues that impair a licensee's ability to perform legal services with competence.

~~(a)(b)~~ Required education in legal ethics, elimination of bias, or competence issues may be a component of an approved MCLE activity that deals with another topic, consistent with the requirements of Rule 2.52(F).

~~(b)(c)~~ A licensee may reduce the required twenty-five hours in proportion to the number of full months the licensee was inactive or exempt in the thirty-six-month compliance period, except that the requirements of paragraphs (B)(2)(a)(ii) and (B)(2)(a)(iii) may not be reduced to less than one hour each. Up to half the reduced hours may be self-study.<sup>8</sup> A tool for applying this formula is available at the State Bar Web site.

~~(c)(d)~~ Excess credit hours may not be applied to the next compliance period.<sup>9</sup>

<sup>7</sup> Rule 2.83.

<sup>8</sup> Rule 2.83.

<sup>9</sup> But see Rule 2.93.

*Rule 2.72 adopted effective January 1, 2008; amended effective July 1, 2014; amended effective January 25, 2019.*

## Proposed Revisions to Rules Establishing Minimum Continuing Legal Education Standards for Providers – Redline

### Rule 3.601 MCLE Activities

To be approved for MCLE credit, an MCLE activity must meet State Bar standards.<sup>2</sup>

- (A) The MCLE activity must relate to legal subjects directly relevant to licensees of the State Bar or have significant current professional and practical content.
- (B) The presenter of the MCLE activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the MCLE activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, or competence issues.<sup>3</sup>
- (D) If the activity lasts one hour or more, the provider must make substantive written materials relevant to the MCLE activity available either before or during the activity. Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.

(E) Programs and classes must be scheduled so that participants are free of interruptions.

~~(E)(F)~~ On and after January 1, 2022, for all training dealing with, or including a component dealing with, implicit bias and the promotion of bias-reducing strategies, an MCLE provider must meet the requirements of Business and Professions Code section 6070.5.

*Rule 3.601 adopted as Rule 3.501 effective January 1, 2008; renumbered as Rule 3.601 effective November 4, 2011; amended effective January 1, 2013; amended effective July 1, 2014; amended effective January 25, 2019.*

<sup>2</sup> Business & Professions Code § 6070(b) provides that programs offered by the California District Attorneys Association and the California Public Defenders Association are deemed to be approved MCLE. State Bar Rule 2.84 provides that “A licensee may claim MCLE credit for educational activities that the California Board of Legal Specialization approves for certification or recertification.”

<sup>3</sup> Business & Professions Code § 6070(b) provides that programs offered by the California District Attorneys Association and the California Public Defenders Association are deemed to be approved MCLE. State Bar Rule 2.84 provides that “A licensee may claim MCLE credit for educational activities that the California Board of Legal Specialization approves for certification or recertification.” See State Bar Rule 2.72 for a description of competence issues and elimination of bias.

## Rule 3.602 Responsibilities of every provider

Every provider must

- (A) comply with any State Bar rules and terms applicable to an approved MCLE activity;
- (B) retain the Record of Attendance for an MCLE activity for four years from the date of the activity and submit it to the State Bar upon request. The record must include the title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, or competence issues as a component of the topic of the activity, whether the activity is participatory or self-study, and the name and State Bar number of each attendee;
- (C) furnish an MCLE Certificate of Attendance to each attendee who has met the requirements for the MCLE activity. The certificate must include the provider name, title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, or competence issues as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (D) give each attendee who completes an MCLE activity a State Bar MCLE Activity Evaluation Form or its equivalent; retain the completed form for at least one year; and submit it to the State Bar upon request; ~~and~~
- (E) notify the State Bar in writing of any change in the name, address, or other contact information required by the State Bar; and
- (F) beginning January 1, 2022, if providing training dealing with, or including a component dealing with, implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system, attest to the following:
  - (1) The provider makes reasonable efforts to recruit and hire trainers who are representative of the diversity of persons that California's legal system serves.
  - (2) The trainers have either academic training in implicit bias or experience educating legal professionals about implicit bias and its effects on people accessing and interacting with the legal system.
  - (3) The training includes a component regarding the impact of implicit bias, explicit bias, and systemic bias on the legal system and the effect this can have on people accessing and interacting with the legal system.
  - ~~(4)~~(4) The training includes actionable steps licensees can take to recognize and address their own implicit biases.

*Rule 3.602 adopted as Rule 3.502 effective January 1, 2008; renumbered as Rule 3.602 effective November 4, 2011; amended effective July 1, 2014.*

### 3.603 State Bar MCLE Activity Auditors

A State Bar MCLE Activity Auditor may be a State Bar staff member, Board of Trustees member, California Board of Legal Specialization ~~Board or Commission~~ member, ~~California Young Lawyers Association member~~ or other person designated by the State Bar to conduct an audit of a particular MCLE program or class on behalf of the State Bar. A State Bar MCLE Activity Auditor may not have a business, financial or personal relationship with or oversight responsibility for the provider of the program or class being audited. A State Bar MCLE Activity Auditor may audit the particular MCLE program or class at no cost.

*Rule 3.603 adopted effective July 1, 2014.*

Rule 3.604 Suspension or revocation of provider approval

The State Bar may revoke a provider's approval for failure to comply with these rules or the terms of any applicable State Bar agreement only by majority vote of the ~~board~~ Board of Trustees, after notice and hearing, and for good cause shown.

*Rule 3.604 adopted as Rule 3.503 effective January 1, 2008; renumbered as Rule 3.603 effective November 4, 2011; renumbered as Rule 3.604 effective July 1, 2014; amended effective March 10, 2017.*

**The State Bar of California**

**2017-2022 Strategic Plan**

**Goal 4:** Support access to legal services for low- and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

**Objective m:** By December 31, 2020, adopt revised rules to modify the Elimination of Bias MCLE requirements in a manner that considers the creation of sub-topics and expanding the number of hours of requirement and is consistent with the time lines adopted in Business and Professions Code section 6070.5.

**AB 242 Bill Text**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** (a) The Legislature finds and declares all of the following:

(1) All persons possess implicit biases, defined as positive or negative associations that affect their beliefs, attitudes, and actions towards other people.

(2) Those biases develop during the course of a lifetime, beginning at an early age, through exposure to messages about groups of people that are socially advantaged or disadvantaged.

(3) In the United States, studies show that most people have an implicit bias that disfavors African Americans and favors Caucasian Americans, resulting from a long history of subjugation and exploitation of people of African descent.

(4) People also have negative biases toward members of other socially stigmatized groups, such as Native Americans, immigrants, women, people with disabilities, Muslims, and members of the LGBTQ community.

(5) Judges and lawyers harbor the same kinds of implicit biases as others. Studies have shown that, in California, Black defendants are held in pretrial custody 62 percent longer than White defendants and that Black defendants receive 28 percent longer sentences than White defendants convicted of the same crimes.

(6) Research shows individuals can reduce the negative impact of their implicit biases by becoming aware of the biases they hold and taking affirmative steps to alter behavioral responses and override biases.

(a) It is the intent of the Legislature to ameliorate bias-based injustice in the courtroom.

**SEC. 2.** Section 6070.5 is added to the Business and Professions Code, to read:

6070.5. (a) The State Bar shall adopt regulations to require, as of January 1, 2022, that the mandatory continuing legal education (MCLE) curriculum for all licensees under this chapter includes training on implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system. A licensee shall meet the requirements of this section for each MCLE compliance period ending after January 31, 2023.

(b) When approving MCLE providers to offer the training required by subdivision (a), the State Bar shall require that the MCLE provider meets, at a minimum, all of the following requirements:

(1) The MCLE provider shall make reasonable efforts to recruit and hire trainers who are representative of the diversity of persons that California's legal system serves.

(2) The trainers shall have either academic training in implicit bias or experience educating legal professionals about implicit bias and its effects on people accessing and interacting with the legal system.

(3) The training shall include a component regarding the impact of implicit bias, explicit bias, and systemic bias on the legal system and the effect this can have on people accessing and interacting with the legal system.

(4) The training shall include actionable steps licensees can take to recognize and address their own implicit biases.

(c) As part of the certification, approval, or renewal process for MCLE-approved provider status, or more frequently if required by the State Bar, the MCLE provider shall attest to its compliance with the requirements of subdivision (b) and shall confirm that it will continue to comply with those requirements for the duration of the provider's approval period.

**SEC. 3.** [Omitted]