



April 29, 2021

The Honorable Debra L. Stephens
Chief Justice, Washington State Supreme Court
415 12th Ave. SW
PO Box 40929
Olympia, WA 98504-0929
Sent via email: supreme@courts.wa.gov

The Honorable Charles W. Johnson
415 12th Ave. SW
PO Box 40929
Olympia, WA 98504-0929

Dear Chief Justice Stephens and Justice Johnson:

Kids in Need of Defense (KIND) submits this comment in support of the suggested amendments to Rule 11 of Washington's Admission and Practice Rules (APR 11) to require that at least one of the six Mandatory Continuing Legal Education (MCLE) ethics credits be focused on equity, inclusion, and the mitigation of implicit and explicit bias in the practice of law. KIND is the leading national nonprofit organization advocating for the rights of unaccompanied migrant and refugee children in the U.S., with a field office based in Seattle, Washington. Unaccompanied children are not guaranteed counsel in their immigration matters and have often experienced trauma and other Adverse Childhood Experiences (ACEs). KIND is a Qualified Legal Service Provider providing immigration legal services to unaccompanied children in Washington state, working in both state and immigration court to help them obtain legal status. Last year in Washington alone, KIND served over 480 clients and provided trainings to over 113 legal professionals. Almost all KIND clients are limited English proficient and are extremely low income. KIND also recruits, trains, and provides tailored mentoring to *pro bono* attorneys so that they can provide quality representation for this vulnerable population.

The suggested amendment to APR 11 would ensure Washington's legal professionals develop a baseline understanding on these issues and equipping them with the tools essential for effective advocacy and representation for unaccompanied children. Attorneys trained in these topics are more readily able to identify and address factors that limit a child and youth's ability to fully engage in and meaningfully participate in their legal proceedings and strengthen the attorney-client relationship necessary for successful legal outcomes. These trainings are more important than ever, as historic numbers—more than 22,000 unaccompanied children in federal government custody as of mid-April¹—are arriving to the United States, and coming to Washington state in need of immigration and other various legal services (e.g., housing, benefits, dependency, etc.).

KIND routinely provides trainings incorporating these principles to hundreds of legal professionals that can be readily made available as MCLE credits. The following are examples of training topics that KIND has provided (sometimes more than one topic in a single training) that could be available for credit:

- Language Access & Communication with Children and Youth: Language access is one of the main barriers to accessing legal services and due process concerns in the legal system. Limited English proficient clients and those with disabilities are routinely subjected to both implicit and explicit bias.

¹ Amy Taxin and Adriana Gomez Licon, "New migrant facilities crop up to ease crowding, again," The Seattle Times, Apr. 19, 2021, available at <https://www.seattletimes.com/seattle-news/health/new-migrant-facilities-crop-up-to-ease-crowding-again>.

Many KIND clients speak indigenous languages, thus experiencing additional language access barriers for services. These trainings focus on child and youth-developmentally appropriate client interviewing and counseling, looking particularly at best practices when working with interpreters. These trainings may help lead to a child's greater comprehension and involvement in their own case.

- Cultural Considerations: Training legal professionals to understand a client's cultural background and context benefits clients by ensuring they have access to advocates who are attune to the client's worldview. These considerations encompass but are not limited to race, age, disabilities, gender, gender identity, sexual orientation, national origin, and religion. Understanding intersectional systems of oppression is crucial to crafting client narratives and legal strategies, particularly as related to children who have experienced abuse, neglect, abandonment, domestic and sexual violence, trafficking, and persecution. Culturally sensitive and aware attorneys are more able to work with clients in a nonjudgmental manner, build trust, and ensure client ownership of their case.
- Dynamics of Power & Privilege: This training topic focuses on cultivating awareness of the role power and privilege play in the attorney-client relationship. Emphasis is placed on training legal professionals to recognize and understand the social considerations that influence a child client's ability to fully engage in their legal proceedings. This includes but is not limited to racial, age, disabilities, gender, gender identity, sexual orientation, national origin, religion, and related dynamics that can negatively affect the attorney-client relationship and optimal legal outcomes. This can also include socioeconomic factors, access to transportation, work schedule, age differentials, communication styles, and cultural nuances. Training attorneys to be aware of the role power and privilege play in their client interactions can provide a more equitable framework from which attorneys can approach their representation.
- Trauma-Informed Client Interactions and Management of Vicarious Trauma, Secondary Trauma, and Compassion Fatigue: Many KIND clients have experienced Adverse Childhood Experiences (ACEs), including trauma and toxic stress, shaping how they interact with the world. Trauma-informed trainings educate on how children subject to trauma may respond to these traumatic events, how it may impact legal services delivery, and how to provide trauma-informed services and interviewing techniques. Attorneys with these trainings are better able to serve their clients and maintain strong relationships with them. Attorneys working with trauma survivors can also experience vicarious trauma, secondary trauma, and compassion fatigue. Trainings on how to prevent and manage these reactions are important for both the attorney's own health and improve their relationships with their clients.

KIND commends the State Bar on the proposed amendment and supports the suggested amendment to APR 11 to incorporate required ethics credits in MCLE trainings. These credits will benefit vulnerable immigrant child and youth clients and the attorneys that represent them. Please contact me at cliou@supportkind.org should you have any questions. Thank you.

Sincerely,



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



Melody Young, Esq.
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Kids in Need of Defense (KIND)

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Dear Chief Justice Stephens and Justice Johnson:

Attached, please find Kids in Need of Defense (KIND)'s comment on the proposed APR 11 amendment to require that at least one of the six Mandatory Continuing Legal Education (MCLE) ethics credits be focused on equity, inclusion, and the mitigation of implicit and explicit bias in the practice of law.

Should you have any questions, please let me know. Thank you.

Sincerely,

Cindy C. Liou, Esq.

State Policy Director

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