RESOLVED, That the American Bar Association encourages all state, territorial, and tribal courts, bar associations and other licensing and regulatory authorities, that have mandatory or minimum continuing legal education requirements (MCLE) to modify their rules to:

1. include as a separate credit programs regarding diversity and inclusion in the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”); and

2. require a designated minimum number of hours for this separate credit without increasing the total number of required MCLE hours and without changing the criteria for MCLE credit.

FURTHER RESOLVED, That the American Bar Association, through its Goal III and other entities, assist in the development and creation of diversity and inclusion continuing legal education programs to ensure attorneys can meet their MCLE requirements.
I. Introduction

The ABA Diversity & Inclusion 360 Commission (the “Commission”) was created in August 2015 to formulate methods, policy, standards and practices to best advance diversity and inclusion over the next ten years. The Commission was charged with reviewing and analyzing diversity and inclusion in the legal profession, the judicial system, and the American Bar Association. Moreover, the Commission was charged with recommending specific action items to move the needle on diversity and inclusion in an impactful way. The Commission has examined diversity and inclusion related continuing legal education because of its potential to significantly impact the profession, the judicial system and the rule of law.

In 2004, the House of Delegates approved Resolution 110 amending the language of the Commentary to Section 2 of the Model Rule for Minimum Continuing Legal Education. The amended language provided that regulatory systems require lawyers, either through a separate credit or through existing ethics and professionalism credits, complete as part of their mandatory continuing legal education those programs related to racial and ethnic diversity and the elimination of bias in the profession. The resolution being sponsored by the Diversity & Inclusion 360 Commission builds and expands on that prior recognition of the importance and need for programs regarding diversity and inclusion in the legal profession and further expands the definition of diversity and inclusion consistent with current ABA Goal III to include all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities. The Commission believes that while the 2004 resolution was a good start to address the need for diversity and inclusion programs, more can be and should be done to advance diversity and inclusion in a meaningful and productive manner.

The resolution encourages all state, territorial and tribal courts, bar associations and other licensing and regulatory authorities that currently require mandatory continuing legal education (MCLE) to modify their rules to include, as a separate required credit, programs regarding diversity and inclusion in the legal profession of all persons, regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”). Although several states currently allow MCLE credits for D&I CLE, only California and Minnesota have adopted stand-alone D&I CLE requirements.

The resolution does not specify the number of hours for D&I CLE, or increase the total number of MCLE hours required. Rather, the resolution encourages the adoption of a separate credit within those MCLE requirements to ensure that all attorneys receive education regarding the elimination of bias, and diversity and inclusion.
II. Current Status of MCLE and Diversity and Inclusion CLE

Forty five states currently have mandatory continuing legal education. Therefore, the proposed resolution has the potential to impact the vast majority of attorneys in the United States. As referenced above, California and Minnesota have already adopted stand-alone D&I MCLE requirements. Their requirements are as follows: California: California requires one (1) hour of “Recognition and Elimination of Bias in the Legal Profession and Society” as a component of its three-year MCLE requirements. http://mcle.calbar.ca.gov/Attorneys/Requirements.aspx.

Minnesota: Minnesota requires two (2) hours related to “Elimination of Bias” as a component of its three-year MCLE requirements. https://www.mbcle.state.mn.us/mbcle/pages/general_info.asp.

Additional states allow programs on elimination of bias to qualify for ethics and/or professionalism credits, but do not create separate D&I CLE requirements. Those states include Hawaii, Kansas, Illinois, Maine, Nebraska, Oregon, Washington, and West Virginia.

The Commission considered the merits of both approaches – those that create a separate D&I CLE category, and those that provide ethics credits for D&I CLE. Ultimately, the Commission concluded that the California and Minnesota models best advance the goal of diversity and inclusion by ensuring all attorneys actually receive D&I CLE.

Recognizing the wide array of existing MCLE requirements, the Commission declined to specify a precise number of required hours. Rather, each jurisdiction should determine the appropriate number of required hours within their current MCLE requirements.

III. The Availability of D&I Inclusion CLE

The resolution calls upon the ABA, through its Goal III and other entities, to assist in the development and creation of D&I CLE. This is to ensure that all attorneys can satisfy their new D&I CLE requirement. Although we are confident that CLE providers will ultimately develop programming in response to the new D&I CLE requirement (similar to the prevalence of ethics and professionalism CLE classes), the Commission wants to ensure that all attorneys have access to D&I CLE, and that a potential lack of availability of D&I CLE does not deter any jurisdiction from adopting a D&I CLE requirement.

IV. Conclusion

The resolution encourages each jurisdiction that currently has MCLE to designate a minimum number of credit hours for D&I CLE. In order to ensure that all state and territorial bar associations’ attorneys can meet those requirements, the resolution calls upon the American Bar Association, through its Goal III and other entities, to assist in the development and creation of D&I CLE. The resolution is consistent with the ABA’s
longstanding commitment to diversity and inclusion in the legal profession as evidenced in Resolution 110 approved by the House of Delegates in 2004. It is also consistent with multiple states that have recognized the need for D&I CLE. As such, we respectfully request that House of Delegates adopt the resolution.

Respectfully submitted,

Diversity and Inclusion 360 Commission
1. **Summary of Resolution(s).** The resolution encourages all state, territorial, and tribal courts, bar associations and other licensing and regulatory authorities that currently require mandatory continuing legal education (MCLE) to modify their rules to include, as a separate required credit, programs regarding diversity and inclusion in the legal profession of all persons, regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”). Although several states currently allow MCLE credits for D&I CLE, only California and Minnesota have adopted stand-alone D&I CLE requirements.

2. **Approval by Submitting Entity.** The Diversity and Inclusion 360 Commission approved this Resolution at its fall meeting on October 6, 2015.

3. **Has this or a similar resolution been submitted to the House or Board previously?** In 2004, the House approved Resolution 110 amending the language in the Commentary to Section 2 of the Model Rule for Minimum Continuing Legal Education. The amended language provided that regulatory systems require lawyers, either through a separate credit or through existing ethics and professionalism credits, complete as part of their mandatory continuing legal education those programs related to racial and ethnic diversity and elimination of bias in the profession.

4. **What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?** This resolution builds and expands on Resolution 110. Additionally, Goal III of our Association seeks increased awareness of diversity and inclusion, and the elimination of bias. This resolution addresses the intent of Goal III.

5. **If this is a late report, what urgency exists which requires action at this meeting of the House?** n/a

6. **Status of Legislation.** (If applicable) n/a
7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

8. Cost to the Association. (Both direct and indirect costs) None anticipated

9. Disclosure of Interest. (If applicable) n/a

10. Referrals. We have or will refer to all committees, sections, and divisions, particularly the Standing Committee on CLE, Litigation Section, TIPS, Business Law, Young Lawyers Division, and the entities within the Diversity Center, and NCBP.

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

   Darcee S. Siegel                           David B. Wolfe                                 Eileen M. Letts
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   Livingston, NJ 07039-1784       Chicago, IL 60603-5091

12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

   Darcee S. Siegel                           David B. Wolfe                                 Eileen M. Letts
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EXECUTIVE SUMMARY

1. Summary of the Resolution

This Resolution encourages all state, territorial, and tribal courts, bar associations and other licensing and regulatory authorities who require mandatory continuing legal education (MCLE) to modify their rules to include, as a separate credit, programs regarding diversity and inclusion in the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”). Further, this resolution while requiring a designated minimum number of hours for a separate credit, will not increase the total number of required MCLE hours or in any way change or alter the criteria for MCLE credit.

2. Summary of the Issue that the Resolution Addresses

This Resolution addresses the need to provide stand-alone Diversity and Inclusion CLE requirements for all attorneys who practice in MCLE states. The Resolution also advances Diversity and Inclusion by assisting in the development and creation of diversity and inclusion continuing legal education programs to ensure all attorneys can meet their MCLE requirements. The Resolution is in accordance with Goal III of the American Bar Association, which is to eliminate bias and enhance diversity in the profession.

3. Please Explain How the Proposed Policy Position will address the issue

This Resolution will increase the legal profession’s understanding and awareness of issues relating to diversity and inclusion, and the elimination of bias, by ensuring that all attorneys who are obligated to comply with MCLE requirements receive education related to diversity and inclusion, and the elimination of bias.

4. Summary of Minority Views

No minority views or opposition to this Resolution have been identified.