

# LLLT BOARD REPORT TO WASHINGTON SUPREME COURT

APRIL 21, 2021

## INTRODUCTION

The LLLT license continues to be a successful program offering access to affordable legal assistance to individuals who might otherwise have handled their family law matters completely unrepresented. It took several years to develop the program, gather the support of the community colleges, and to get the word out about the opportunity to enter the legal profession with a limited license. Despite the COVID-19 pandemic and the Court's decision to sunset the program, we are seeing the highest number of people, by far, applying for the LLLT exam and license. These individuals, together with currently licensed LLLTs, are excited to be part of the legal profession and to assist those who may otherwise go unassisted. Because of this Court's courage and leadership in launching the LLLT program, jurisdictions all across the United States and Canada are implementing and exploring limited license programs in their jurisdictions. The LLLT Board implores the Court to reverse its decision to sunset the LLLT program so that it can continue to be a model for the nation, and, most importantly, so that low and moderate income individuals may have more access to legal assistance in Washington state.

## LLLT PROGRAM BY THE NUMBERS

There are currently 46 LLLTs with an active license. The February 2021 LLLT exam saw 17 applicants, about double the average number of test takers at recent past exams. There are at least 40 and up to 56 individuals who are or will be eligible for the LLLT exam by the end of the Spring quarter. This means that the number of LLLTs is expected to double by July 2022. With eight people passing the Winter 2021 LLLT exam (which is the highest pass rate in recent years) we are well on our way. Finally, the LLLT program is forecast to have the lowest expenses since the first year of the program in addition to the second highest revenue<sup>1</sup>.

## LLLT PROGRAM SUCCESS & VIABILITY

The LLLT program has been and continues to be a success for the Washington legal profession in terms of providing competent limited legal assistance, increasing access to justice and leading by example for other jurisdictions across the United States. Most importantly, LLLTs have had a significant impact on the lives of the clients they serve. Not only is the LLLT program successful in terms of its original goals, but it is also a viable program and is more so every day. The original reasons for sunsetting the LLLT program were the high costs and the low interest in becoming licensed as a LLLT. However, both of these factors are improving significantly.

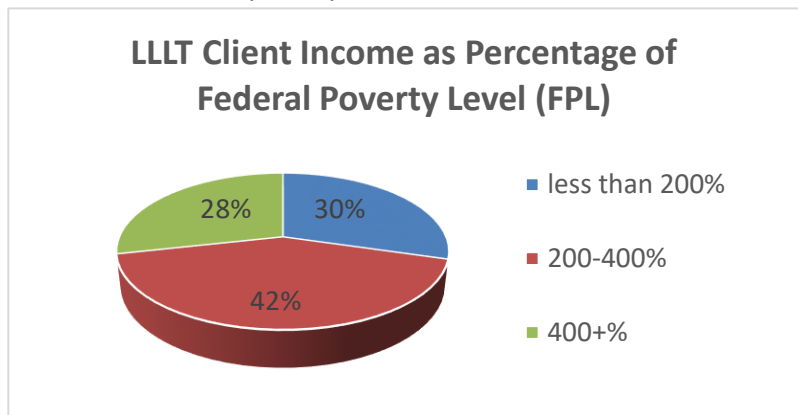
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<sup>1</sup> Fiscal year 2019 saw higher revenue due to mandatory attendance of a series of courses held by the LLLT Board related to changes to the scope of the LLLT license.

## MANY CLIENTS SERVED BY LLLTs

The greatest success of the LLLT program has been the ability to provide legal assistance to individuals who in most cases would not have been able to afford a lawyer, or who were in fact rejected by lawyers as clients. LLLTs have been an invaluable resource to their clients and to the judges and commissioners in the courts who interact with parties who have benefited from the assistance of a LLLT. It not only helps the parties, but increases the administration of the justice by reducing the burden placed on courts when dealing with pro se parties.

The LLLT program has always been considered as one way to increase access to justice in Washington, not the only solution. To demonstrate the significant impact the LLLT program has on clients in Washington, four LLLTs provided data about their clients for this report. The four LLLTs, who have been in practice for an average of 52 months, have assisted 562 clients. Of these, 30% of the clients were people of color, and nearly a third, 30%, had income that was less than 200% of the federal poverty level. Overall, 72% of clients served had income less than 400% of the federal poverty level. See Attachment 1 for additional client detail.



## NEW LIMITED LICENSE PROGRAMS ACROSS THE U.S. & CANADA

The Washington Supreme Court's groundbreaking decision to implement the licensing of limited licensed legal practitioners has spurred jurisdictions all across the United States and Canada to consider the value of limited legal license programs. Because of both experience in developing a program and observing the impact that the LLLT license has had on individuals in family law cases in Washington, the LLLT Board members continue to lend support to other jurisdictions across the United States and Canada which are exploring, developing and implementing their own limited license programs. LLLT Board members talk about their experiences, provide insight on lessons learned, and provide any information and resources available to them.

Four U.S. jurisdictions are licensing or are on the verge of licensing limited legal practitioners: Utah has already begun licensing Licensed Paralegal Practitioners; Arizona has recently adopted licensing of Legal Paraprofessionals; Minnesota has a two-year pilot project for licensing Legal Paraprofessionals; and California adopted the licensing requirements for its Paraprofessional Program in February 2021.

In addition to the four jurisdictions above, twelve additional U.S. jurisdictions and five Canadian jurisdictions are at some phase of exploring, developing and preparing limited license programs. A table of these jurisdictions with links to additional information is attached to this report; Attachment 2.

## COST OF ADMINISTERING THE LLLT PROGRAM

One of the primary reasons for sunseting the LLLT program was the cost of administering the program. These costs are forecast to be as low as, if not lower, than when the program first started due to various factors. One key factor is the way in which the WSBA now allocates the time of its management staff. Middle and upper management used to allocate their time amongst all the cost centers in a department. Now they allocate a substantial portion of time, if not all of it, to a general department management cost center because regardless of whether or not a certain program exists within the department, the management position would still exist.

Another factor leading to decreased staff allocation is the way in which the program, specifically the licensing, is administered. When LLLTs and LPOs became members of the Bar, many of the rules, procedures and processes were aligned with those of the lawyers. Now LLLT admission is handled by the admissions team, MCLE by the MCLE team, license renewal by the licensing lead, etc. The cost of administration for licensing is absorbed into the other cost centers who are already handling the licensing and admissions of thousands of lawyers and other licensed legal professionals. Even with no limited licenses to administer, the number of staff would not be reduced in these teams because the number is so small compared to the number of lawyers. Although the processes are incorporated into the other work of the other teams, the Board of Governors requires WSBA staff to separate out LLLT revenue and expenses into the LLLT cost center. There is still some specific support for the LLLT Board and general LLLT issues but not nearly as much as was allocated in past years.

There would most likely be less of a financial impact on the WSBA's budget if LLLTs continued to be licensed, even in only one practice area. The future projected revenue and expenses of the LLLT program show that the LLLT program may never get out of deficit spending because there are no new additional sources of revenue. On the other hand, if additional LLLTs are licensed then exam and license fee revenue will continue to increase, eventually bringing the program into an income generating scenario. Attachment 3 illustrates projected finances with a complete sunset of the LLLT program. Attachment 4 illustrates possible projected finances if licensing of family law LLLTs were to continue.

## INTEREST IN BECOMING LICENSED AS A LLLT

Another reason provided for sunseting the LLLT program was the apparent lack of interest by people in becoming licensed as a LLLT. The LLLT Board spent many years developing the scope, procedures, licensing requirements, rule sets, etc. for a new license to practice law, the likes of which had not been done before. (And now other jurisdictions are piggy-backing off of Washington's trail-blazing efforts.) The LLLT Board shifted focus a few years ago to researching the possibility of expanding into other practice areas, increasing the number of schools available to teach the LLLT curriculum, and exploring additional sources for access to financial aid. After much effort by the community colleges, the LLLT career was listed in two databases that are driven by information from the U.S. Department of Labor<sup>2</sup>. This was a valuable tool for promoting the LLLT as a career opportunity in the legal profession for students in the community college system. Unfortunately, just as interest began to increase and students were reaching the end of

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<sup>2</sup> [www.wois.org](http://www.wois.org) and [www.onetonline.org](http://www.onetonline.org)

the three year education pipeline (for those students who were able to attend full time), the Court decided to sunset the program. As a result, LLLT is no longer listed as a career option in those databases.

Recently, 15 students finished the family law practice education in the Fall and 40 students are anticipated to complete it at the end of Spring quarter this year. This, combined with additional former LLLT students who have not taken or passed the LLLT exam, means 50 – 60 or more individuals are pursuing the LLLT license. It would not be surprising if the number of LLLTs licensed by July 2022 is 92 or more which would be double the current number of active LLLTs.

The number of people in the pipeline would have been greater but the Court's decision to sunset the program and the COVID pandemic significantly impacted students in the following ways:

- Covid has placed a number of extra hardships on students including loss of jobs, housing issues, taking on additional jobs to compensate for household income loss, etc.;
- Some students have had to become caretakers of family members or friends for healthcare reasons or provide educational support to their children;
- Many students tried to take a particularly large load of credits in order to finish the LLLT requirements by the sunset deadline including LLLT/paralegal core curriculum and the LLLT practice area classes which created additional academic and economic burdens that have been exacerbated by the pandemic challenges;
- The rushed timeline reduced the availability of academic financial resources including federal and state financial aid, Veteran funds and disability resources; and
- Many potential students simply could not, or did not want to, carry the high class load to finish in the shortened window of time and chose instead to pursue something else.

Washington community and technical colleges and other educational institutions went through a rigorous process to set up LLLT classes, hire instructors and fund the LLLT courses. These institutions have been negatively impacted by the sudden decision to end the LLLT program.

### INCREASED INTEREST BY MALES AND BY BLACK, INDIGENOUS AND PEOPLE OF COLOR (BIPOC)

The LLLT program has been criticized for being a profession of mostly white women. The LLLT program had a waiver of some of the education requirements for people who had 10 years of experience as a paralegal; people with such experience are mostly white women. However, as new paralegals entered the educational pipeline we began to see a more diverse pool of LLLTs. Whatcom Community College was able to provide some demographic data on the current LLLT students finishing the final quarter of the LLLT family law practice area courses. This data shows that 32.5% of the students are BIPOC, 52.5% are adults 40 years old and above, and at least 7.5% are men. See Attachment 5.

The decision to sunset will have a negative impact on BIPOC who had an interest in an affordable career in the legal profession (and on BIPOC clients who, as discussed above, represent 30% of the reported LLLT clients). This, at a time when the Court is advocating that it “administer justice and support court rules in a way that brings greater racial justice to our system as a whole.”

## CONCLUSION

The LLLT program is so successful that jurisdictions across the nation are already implementing their own programs. Washington state's innovation, with this Court's leadership, led the way for increasing access to legal assistance with well-educated and regulated legal professionals with a limited license to practice law. The LLLTs are attracting low to moderate income clients, BIPOC clients, and creating opportunities in the legal profession for working age, family-rearing age, and BIPOC adults. The LLLT Board asks the Court to reconsider its decision to sunset the LLLT program and continue to be a leader of change in the legal profession and access to justice.

## Attachments

1. LLLT Client Data
2. Legal Regulation Innovation Table
3. Finance Projection with Sunset
4. Finance Projection Continuing Family Law
5. LLLT Practice Area Course Student Demographics