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## COMMITTEE ON PROFESSIONAL ETHICS RULES OF PROCEDURE (Effective \_\_\_\_\_)

1. **General Purpose.** The Committee (a) provides guidance to the members of the Bar on legal ethics issues in the form of Advisory Opinions; (b) considers and proposes to the Board of Governors appropriate amendments to the Rules of Professional Conduct; (c) considers and reports to the Board of Governors on amendments and proposed amendments to the American Bar Association's Model Rules of Professional Conduct; and (d) in the Committee's discretion, conducts periodic outreach to the members of the Bar on these subjects.

2. **Selection and Appointment of Members and Chair.** The Committee consists of nine members, including the Chair. During the annual application cycle each year, after reviewing applications submitted to the Bar, the Chair in consultation with the Staff Liaison and BOG Liaison will nominate to the Board of Governors proposed Committee members who demonstrate knowledge and experience with legal ethics, and strong analytical and writing skills, for consideration for appointment. At all times, the principles of diversity enumerated in the WSBA BOG Committees and Boards Policy will be considered.

3. **Term of Appointment.** The term of appointment for membership on the Committee is three years. Terms of appointment are staggered to ensure continuity on the Committee, with three of the nine positions being appointed each year. Inaugural positions may be filled by appointments of less than three years, as designated by the Board of Governors, to permit as equal a number of positions as possible to be filled each year. Terms of office begin at the start of the fiscal year or when a successor has been appointed, whichever occurs later.

4. **Source of Issues.** The Committee may issue Advisory Opinions on significant legal ethics issues. Members of the Committee, as coordinated by the Chair, are expected to research and identify legal ethics issues of relevance to the WSBA membership and bring them to the attention of the Committee. The Committee identifies issues on which it will express its opinion. In identifying issues, the Committee may consider inquiries and suggestions submitted by members of the Bar, by Bar Sections, by lawyer professional organizations, by the Board of Governors, and by Bar staff, and it may pursue issues on the Committee's own initiative. The Committee's selection of issues may be guided by the breadth of relevance of an issue to members of the Bar, the significance of the issue and its potential effects on members of the Bar and the public, the likelihood of recurrence of an ethics issue, and the existence or absence of prior guidance on the issue (including whether that guidance is consistent). The Committee may also take into account the diversity of law practices in the State of Washington, including differences in geography, practice types, client bases, and levels of experience and sophistication. The Committee will generally avoid known instances of pending litigation, disciplinary proceedings, or other disputes.

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5. Form and Basis for Advisory Opinions. Each Advisory Opinion will set forth the operative facts and the basis for the decision, citing to appropriate sections of the Rules of Professional Conduct and any other pertinent sources of authority. To the extent possible, information that would disclose the identity of an inquirer or other interested party will be omitted. The Committee will apply the Rules of Professional Conduct, as amended from time to time, as the standard in formulating opinions pertaining to legal ethics. In rendering Advisory Opinions, the Committee also may consider court rules, statutes, regulations, court decisions, and other applicable authorities and sources of law.

6. Preparation of Advisory Opinions. The Chair has discretion to assign issues to individual Committee members or subcommittees for evaluation and/or preparation of draft Advisory Opinions. The Committee may solicit input from an inquiring or interested party, or from individuals or groups who have relevant experience with the issue under consideration or who are likely to be significantly affected by an Advisory Opinion adopted by the Committee. Any Committee members making such contact will disclose that contact to the other members of the Committee before or in conjunction with the Committee's consideration of the issue. The Chair has discretion to designate a draft Advisory Opinion as "proposed" for purposes of soliciting feedback from members of the Bar for a reasonable period of time, and in that event will submit that feedback to the Committee for consideration, prior to the Committee's final decision on designating the Advisory Opinion as adopted.

7. Effect of Advisory Opinions. All Advisory Opinions adopted by the Committee will be kept on file in the office of the Washington State Bar Association, will be made available to any inquirer, and will be published on the Bar's website or through one or more other forms of electronic communication generally available to the members of the Bar. Advisory Opinions are provided for the education of the Bar and reflect the opinion of the Committee only. Advisory Opinions are provided pursuant to the authorization granted by the Board of Governors, but are not individually approved by the Board of Governors and do not reflect the official position of the Bar Association.

8. Validity of Prior Advisory Opinions. A later Advisory Opinion supersedes earlier Advisory Opinions with which it is in conflict. The Committee may withdraw prior Advisory Opinions in its discretion.

9. Amendments to Rules of Professional Conduct. The Committee reports to the Board of Governors its opinion on any amendment to the ABA Model Rules of Professional Conduct. The Committee may, on its own initiative or on request of the Board of Governors or the Supreme Court, report to the Board of Governors its opinion regarding suggested or proposed amendments to the Washington Rules of Professional Conduct. When considering suggested or proposed amendments, the Committee may solicit input from individuals or groups who have relevant experience with the amendments under consideration or who are likely to be significantly affected by them. Any Committee members making such contact will disclose that contact to the other members of the Committee before or in conjunction with the Committee's consideration of the issue.

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10. Meeting Procedure s and Other Issues. The Chair will schedule meetings to occur no less frequently than every other month. The Committee will make reasonable allowances for members to attend telephonically or by other electronic means. A proposed Advisory Opinion or other issue presented for consideration at a Committee meeting will be deemed adopted upon the vote of a majority of the members of the Committee. When deemed necessary by the Chair, votes on Committee issues may be taken electronically. The Chair is a voting member of the Committee.

11. Open Meetings. Meetings of the Committee will be open, except where the Committee elects to proceed in an executive session. Public participation in the meeting's discussion will be permitted by permission granted by the Chair. Information that would disclose the identity of an individual inquirer will not be disclosed other than to members of the Committee.

12. Disclosure of Committee Member Interest. When a Committee member knows that the interest of a client, or the Committee member's own personal or professional interest, may be materially affected by a Committee decision, the Committee member shall disclose that fact, but need not identify the client. The Chair has the discretion to take appropriate action, including removing that member from the Committee's consideration of the issue.

13. Responses to Inquiries. The Committee will acknowledge and respond to all inquiries from members of the Bar concerning legal ethics issues. The Committee retains the discretion whether to provide analysis of or specific guidance on the issue raised.

14. Amendments to Procedural Rules. Amendments to these procedural rules will be adopted by the Committee, subject to final approval by the Board of Governors.