

WASHINGTON STATE BAR ASSOCIATION

Board of Governors Olympia Meeting Update

The WSBA Board of Governors met Sept. 27-28, 2018, in the WSBA Conference Center in Seattle. Below is a recap of the meeting.

Top Takeaways

1. Washington Supreme Court Chief Justice Mary Fairhurst spoke about the Court's recent decision to undertake a comprehensive review of WSBA's structure and its directive to the Board of Governors to stop all action on proposed WSBA bylaw amendments at this time. She reiterated that no decision has been made, but in light of legal trends and concerns about bar structures at the national level, the Court wants a thoughtful, collaborative process to evaluate how to best move forward in Washington. This has been an ongoing discussion for the Court, and the U.S. Supreme Court's recent [Janus](#) ruling has made it more imperative. The decision to call a "time out" on proposed WSBA bylaw changes reflects the time needed to evaluate the structure. The Court has no process or timeline yet, but this is a priority. Justice Fairhurst said the Court exercised its plenary authority to issue the directive as part of its rightful role and responsibility. She also asked members to *not* infer more than what is in the language of the letter; the Board of Governors has much work to do beyond bylaw changes. WSBA's leadership has also been closely tracking what's happening at the federal level, and several governors have joined with colleagues and WSBA executives to examine the bar structure. More:
 - [Court letter to the WSBA Board of Directors](#)
 - [Chief Justice Fairhurst's comments at the meeting](#) (starting at 12:40)
 2. Oh, what a night! If you weren't able to attend the annual APEX Awards, please [watch the videos of our winners](#) to see excellence in the legal profession in action! We also ushered in our [new WSBA officers and governors](#).
 3. Mandatory Malpractice Insurance Task Force open forum: All members are invited to provide feedback directly to task force members from 2-3 p.m. Tuesday, Oct. 16, at the WSBA Conference Center (telephone participation available). The task force issued an [interim report](#) in July with a tentative conclusion that malpractice insurance should be mandated for Washington-licensed lawyers, with specified exemptions. [More information](#).
 4. The board tabled action until a committee can take additional comments from members about proposed amendments to Superior Court Civil Rules meant to curb the escalating cost of litigation. Stay tuned for more information as that feedback process develops. (More information below.)
 5. Insurance! The WSBA health-insurance exchange—an opportunity for members to access a new option for health, dental, vision, and life insurance for themselves and employees—should be open for enrollment in November. Check [wsba.org](#) for more information.
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Meeting Recap

- **Final FY2019 Budget.** The board approved [WSBA's budget for the next fiscal year](#). The budget maintains programs and services to fulfill our regulatory responsibilities, serve and protect the public, and support members to be successful in the practice of law. The budget is built on previously set lawyer-license fees of \$453; the Washington Supreme Court last month approved as reasonable fees of \$200 for active Limited License Legal Technicians (LLLTs) and Limited Practice Officers (LPOs) with a \$30 Client Protection Fund assessment for LLLTs. The budget includes a new Continuing Legal Education (CLE) revenue-sharing model with sections. The board also approved the 2019 *Keller* deduction schedule.
- **No Retaliation Policy.** In line with [the Court's directive](#), the board's Personnel Committee developed a more comprehensive anti-retaliation policy to supplement existing anti-harassment and anti-discrimination policies. Governors asked for the Personnel Committee to make a few clarifications in the policy before bringing the policy back to the board for adoption.
- **Rule Recommendations from the Civil Litigation Rules Drafting Task Force.** The Board of Governors debated this task force's recommended amendments and additions to the [Superior Court Civil Rules](#) (CR)—including 1, 3.1, 11, 16, 26, 37, 53.5, and 77—that focus on the principle of cooperation and require and/or encourage cost-efficient procedures. ([The full amendments are in the board materials starting on page 162.](#)) While the board's work to address the escalating cost of civil litigation has been underway since 2011 with various comment periods, several governors said now is the time when many members are paying attention and want to weigh in. Therefore, the board voted to form a four-person committee to take direct input from members on the amendments; the committee will report back in March when "meaningful time" will be reserved for a final vote on whether to recommend the amendments to the Washington Supreme Court.
- **Washington State Bar Foundation annual meeting.** Foundation President James Armstrong reported exciting news: Trustees have been hard at work to increase fundraising efforts, and the result is a \$275,000 gift to WSBA for FY2019 (a \$75,000 increase from last year). This will support WSBA's public-service and diversity/inclusion programs. The Board of Governors appointed for a second term several Foundation Trustees: Chad Arceneaux (Minority or Specialty Bar Representative), Vern Harkins (WSBA member), and Kristina Larry (At Large).
- **Council on Public Defense (CPD).** With the Board of Governors approval, the CPD will now provide a suggested amendment to [Superior Court Criminal Rule \(CrR\) 3.3](#) for consideration by the Supreme Court Rules Committee, as requested by Rules Committee Chair, Washington Supreme Court Justice Charles W. Johnson. The intent is to address the delay caused when a felony charge is filed in district court and subsequently refiled in superior court. [The full amendment is included in the meeting's late materials.](#) The board also passed changes to CPD's charter to clarify voting procedures, attendance expectations, and emeritus membership.
- **Fastcase presentation.** To serve members and support the integrity of the legal profession, WSBA contracts with a third-party vendor for an electronic legal research platform as a WSBA member benefit. In July, the board looked at two legal-research tools, Casemaker and Fastcase, and decided to renew a contract with Casemaker; the board also discussed adding Fastcase as a second tool. To that end, Fastcase representatives presented a demonstration of its platform to the board.

- **Law School Transparency Report.** The Washington Young Lawyers Committee received approval to support the Iowa State Bar Association’s Young Lawyers Division’s [Law School Transparency Report](#). The report has five measures (e.g., disclose borrowing and tuition data disaggregated by demographics) for adoption by law schools and the ABA Section of Legal Education and Admissions to the Bar that would increase transparency about the financial risks and job prospects faced by incoming law students.
- **Recommendations from the Court Rules and Procedures Committee.** The board approved for submission to the Washington Supreme Court suggested amendments to Superior Court Criminal Rules (CrR) 1.3, 3.4, and 4.4; to Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 4.2, 4.4, and 7.3; and to Civil Rule (CR) 30. ([The full amendments are in the board materials starting on page 271](#)). This committee follows the Court’s review schedule established in [General Rule \(GR\) 9\(i\)](#).
- **Annual conversation with the deans of Washington state law schools.** Dean Annette Clark from Seattle University School of Law and Dean Jacob Rooksby from Gonzaga University School of Law talked about changes and trends in legal education, admissions, and tuition, and they invited governors to visit their schools. (Dean Mario Barnes from the University of Washington School of Law was not able to attend.)

The agenda and materials from this Board of Governors meeting, as well as past meetings, are [online](#). The next regular meeting is Nov. 16 in Seattle. The Board of Governors is WSBA’s governing body charged with determining general policies of the Bar and approving its annual budget.