

Washington Supreme Court  
Practice of Law Board  
Annual Report for the Supreme Court

Fiscal Year 2021

Oct. 1, 2020, to Sept. 30, 2021

Michael Cherry

Chair, Washington Supreme Court Practice of Law Board

## 1.0 Executive Summary

Nov. 19, 2021

To the Justices of the Supreme Court,

Fiscal Year 2021—Oct. 1, 2020, to Sept. 30, 2021—was a year of planning for the Practice of Law Board. The Board worked on ensuring there is a plan for each of the Board's areas of responsibility under General Rule 25: Practice of Law Board (GR 25).

These plans are now in place:

**Education:** A Legal Checkup Plan will allow the Board to work with the Minority and County Bar Associations to develop a hard copy and online legal checkup to educate people on how to determine if they have a legal issue, and how to get competent legal services.

**Innovation:** A Legal Regulatory Lab (Sandbox) Blueprint will allow the Board to recommend to the Supreme Court for its approval a test bed for determining the correct regulation for online legal services and alternative business services.

**Coordination:** An unauthorized practice of law (UPL) database allows the measurement of complaints, and the Board is improving communication with the appropriate authorities to improve the Board's referral of complaints.

Although GR 25 does not specifically make diversity, equity, and inclusion a responsibility of the Board, the Board has created a plan to improve the diversity of the Board across several areas and is working toward being a diverse and inclusive Board which represents the people of Washington state.

But the Board can only plan for so long. Then it is time for the real work to begin. Therefore, Fiscal Year 2022 will hopefully see the Board act on the plans. As the Board moves forward, it will assess and measure results against the plans, and modify the plans as necessary to ensure it is educating the public on legal services, innovating new services, and appropriately addressing UPL.

The Board wants to thank the staff of the Washington State Bar Association, in particular Executive Director Nevitt, General Counsel Shankland, Assistant General Counsel Jennings, and Paralegal Jones. Without their assistance, the Board could not operate.

The Board wants to thank the Court staff, particularly Ms. Lipford and Ms. Vandervort for helping us communicate with the Court and schedule meetings, and to the Justices of the Supreme Court for being gracious and meeting with us several times throughout the year to offer guidance and direction.

Respectfully submitted,

/s/Michael Cherry, Chair, Practice of Law Board

## 2.0 Introduction

Washington Courts' Practice of Law Board ("**Board**"), with the assistance of the Washington State Bar Association ("**WSBA**"), is submitting this report to the Washington Supreme Court as the Board's report for fiscal year 2021, which ran from Oct. 1, 2020, through Sept. 31, 2021, as defined by General Rule 25: Practice of Law Board (GR 25).<sup>1</sup>

Per GR 25, the Board is responsible for: educating the public about how to receive competent legal assistance (educate); considering and recommending to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal- and law-related services (innovate); and receiving complaints alleging the unauthorized practice of law (UPL) in Washington by any person or entity (coordinate).

Although GR 25 does not define whether the report should cover the calendar or fiscal year, this report follows the WSBA fiscal year, as that aligns with the budget and recruitment process, which is part of the WSBA administration of the Board.

The Board submitted a similar, but different annual report to the WSBA. This is the last year the Board will be doing two such reports. Going forward, the Board will prepare a single annual report, following GR 25, which will be provided to the Supreme Court and WSBA.

During this fiscal year, the Board focused on formulating plans that both set goals and the methods and means to accomplish such goals and began to accurately measure the work of the Board. Although plans will need revision as work progresses toward goals, they provide continuity which the Board has sometimes lacked as it is staffed primarily by volunteers from the public and the legal community.

### 2.1 GR 25 Annual Report Requirements

Per GR 25(f) the Board is to file a written report and meet with the Court each year. The report must contain the following information:

- 1) Board roster, including any committees formed;
- 2) Board meeting agendas;
- 3) Short description of all UPL complaints received, the disposition of the complaint, and if applicable, the name of the agencies receiving the referral;
- 4) Progress report or copies of educational materials provided to the public;
- 5) Progress report on recommended new legal service providers or legal service delivery mechanisms;
- 6) Work plan for the fiscal year; and
- 7) Long-range work plan.

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<sup>1</sup> See Washington Courts, General Rule 25, available at [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=GR&ruleid=gagr25](https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr25).

### 3.0 Board Roster

#### 3.1 Overall Board (Fiscal Year 2021)

Per GR 25, the Board has 13 members. At least five Board members must be persons not currently authorized to practice law.

##### 3.1.1 Chair

The current Chair of the Board is Michael Cherry. He is an active lawyer member of the WSBA.

##### 3.1.2 Members Not Currently Authorized to Practice Law

These members of the Board are public members. They are not currently authorized to practice law.

Name	County
Pearl Gipson-Collier	Thurston
Brooks Goode	Spokane
Dr. David Sattler	Whatcom
Mir Tariq	King
Dr. Joseph Williams	King
Sonya Kraski (resigned 10/26/20)	Snohomish

##### 3.1.3 Members Authorized to Practice Law

These members of the Board are authorized to practice law.

Name	County
Jeremy Burke	Douglas
Michele Carney	King
Drew Simshaw	Spokane
Gary Swearingen	King
Michael Terasaki	King
Amber Rushbanks (resigned 03/29/21)	Clark
Vacant	

##### 3.1.4 Liaisons with Other Boards

Michelle Lucas was the liaison between the Access to Justice Board, Sunitha Anjilvel was the liaison with the WSBA Board of Governors, and Julie Shankland was the liaison with the WSBA Executive.

**3.2 Overall Board (Fiscal Year 2022)**

Per GR 25, the Board has 13 members. At least five Board members must be persons not currently authorized to practice law.

**3.2.1 Chair**

Michael Cherry will remain as Chair of the Board. He is an active lawyer member of the WSBA.

**3.2.2 Members Not Currently Authorized to Practice Law**

These members of the Board are public members. They are not currently authorized to practice law.

<b>Name</b>	<b>County</b>
Pearl Gipson-Collier	Thurston
Brooks Goode	Spokane
Dr. David Sattler	Whatcom
Mir Tariq	King

**3.2.3 Members Authorized to Practice Law**

These members of the Board are authorized to practice law.

<b>Name</b>	<b>Bar</b>
Jeremy Burke	Douglas
Drew Simshaw	Spokane
Michael Terasaki	King

**3.2.1 Candidates Submitted to the Court for Approval**

Dr. June Darling (Not Authorized), from Chelan County, Lesli Ashley (Authorized) from Spokane County, Sarah Bove (Authorized) and Kristina Larry (Authorized), both from King County have applied to be members of the Board and their applications are in process. If they are approved by the Court, then there will still be one vacancy for an authorized practitioner.

**3.2.2 Liaisons with Other Boards**

Judge Fred Corbit is the liaison between the Access to Justice Board, Governor Jordan Couch is the liaison with the WSBA Board of Governors, and Thea Jennings is the liaison with the WSBA Executive.

### **3.3 Sub-Committees**

To facilitate implementation of the plans, sub-committees have been created:

#### **3.3.1 Education—Legal Checkup**

- Lesli Ashley (LLLT)
- Brooks Goode (Public)
- Dr. David Sattler (Public)
- Michael Terasaki (Lawyer).

#### **3.3.2 Innovation—Legal Regulatory Lab**

- Sara Bove (LLLT)
- Pearl Gipson-Collier (Public)
- Drew Simshaw (Lawyer)
- Mir Tariq (Public).

#### **3.3.3 Coordination—UPL Referrals**

- Jeremy Burke (Lawyer—Prosecutor)
- Dr. June Darling (Public).

#### **3.3.4 Diversity and Inclusion**

- Sara Bove (LLLT)
- Michael Terasaki (Lawyer).

## **4.0 Board Agendas**

The Board holds monthly meetings. An agenda is circulated before each meeting and is published to the public, with the meeting dates on the Board page of the WSBA website.

### **4.1 Generic Agenda**

The basic agenda for Board meetings is:

#### **4.1.1 Minutes**

Approval of the minutes of the previous meeting.

#### **4.1.2 Operations**

Recruitment and Onboarding—information related to recruitment and diversity, ensuring new members are included.

Equity and Disparity Workgroup—report on WSBA Equity and Disparity Workgroup from our liaison to the group (Mir Tariq).

#### **4.1.3 Education**

Legal Checkup—update on work on the Legal Checkup.

#### **4.1.4 Innovation**

Legal Regulatory Laboratory—update on the work on the lab.

#### **4.1.5 Executive Session (Coordination)**

If there is a UPL complaint to review, the Board meeting goes into executive session (Board members only) to determine the disposition of the complaint.

#### **4.2 Monthly Agendas**

The monthly agendas are posted on the WSBA website before each monthly meeting, and then replaced by the next monthly agenda. The Board minutes are available from the Board page of the WSBA website.

### **5.0 UPL Complaints**

#### **5.1 Overall Complaints**

During fiscal year 2021, the Board received 19 complaints alleging UPL. This is a decrease of 10 complaints from the previous fiscal year.

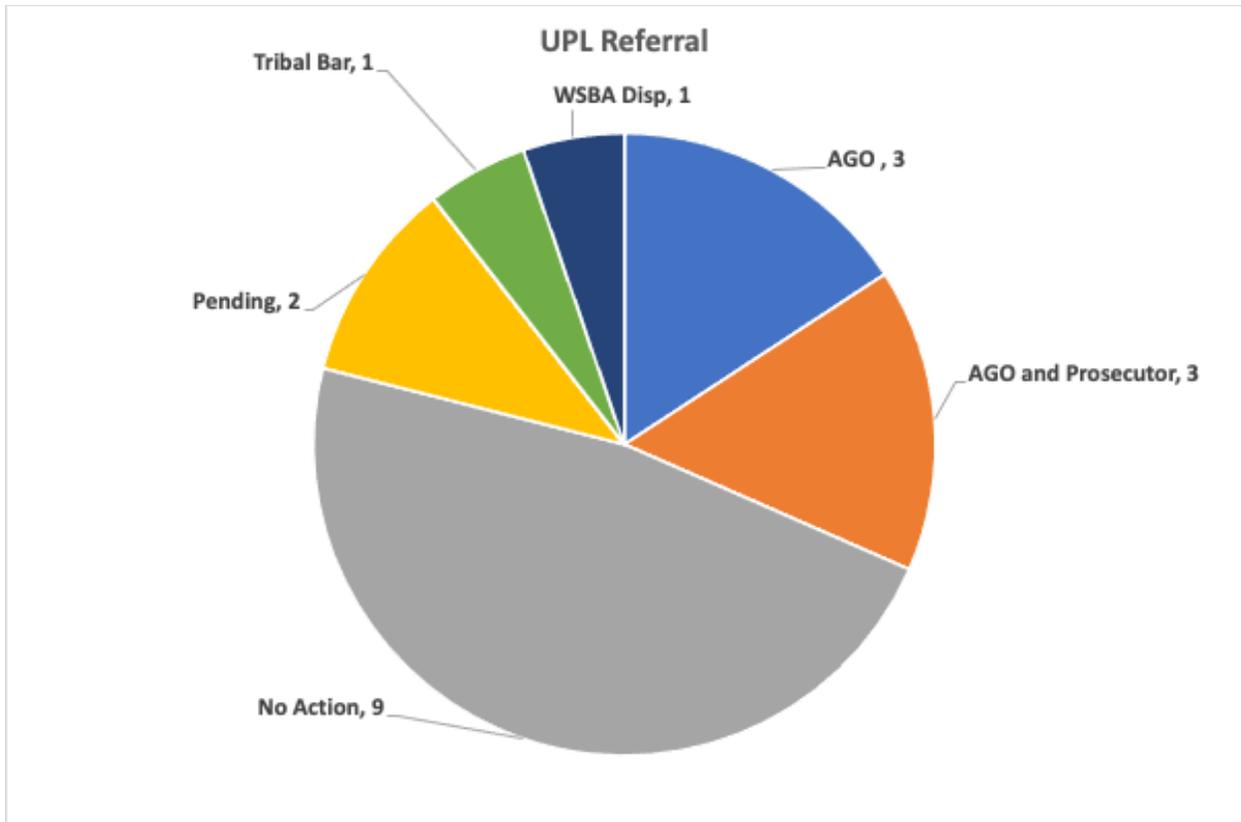
Nine complaints were closed without a referral to any agency because the Board felt they did not meet all the elements of UPL as defined by Revised Code of Washington (RCW) 2.48.180 and “General Rule 24: Practice of Law.”

Eight complaints were referred to the appropriate enforcement agencies follows:

- three complaints were referred to the Attorney General’s Office
- three complaints were referred to both the Attorney General’s Office and the appropriate prosecutor’s office
- one complaint was referred to a Tribal Bar Association
- one complaint was referred to WSBA’s Office of Disciplinary Counsel.

There were two complaints closed before Board review as one was merely an inquiry and a subsequent complainant did not file a complaint after inquiring.

Two complaints are deferred awaiting an opinion from the WSBA Office of General Counsel.



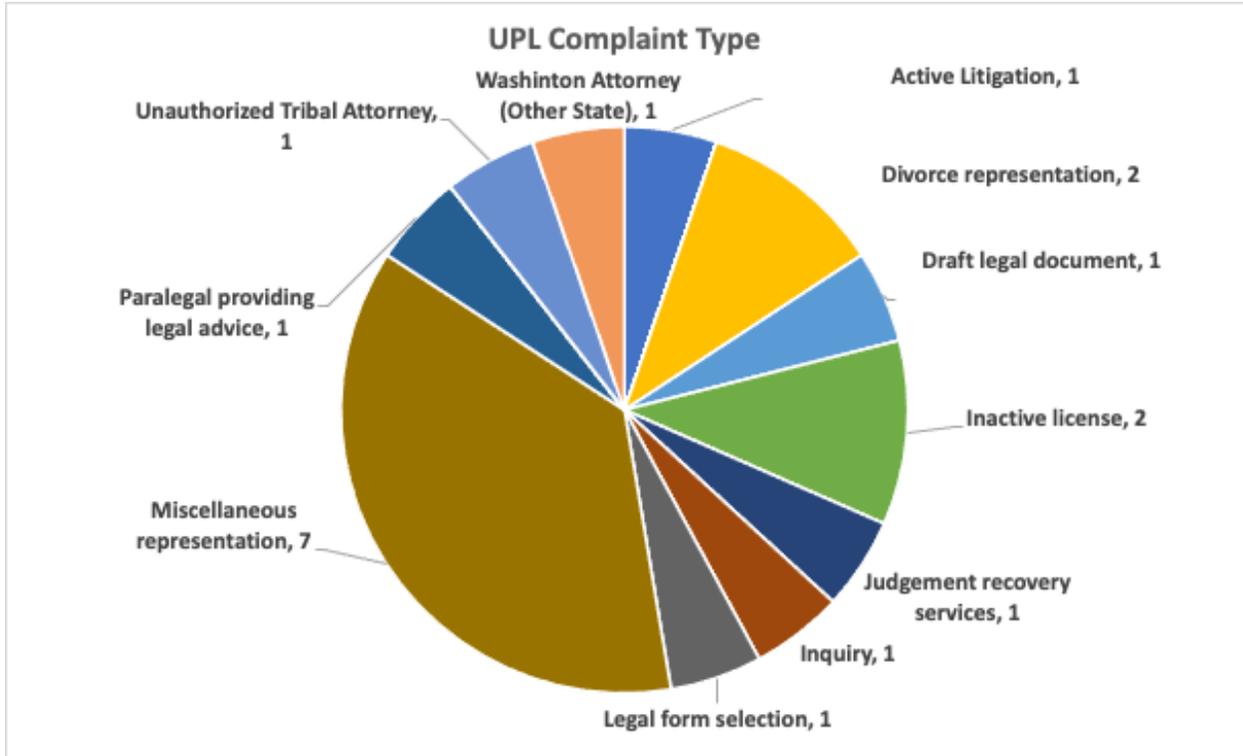
**5.2 UPL Trends**

Again, this year, UPL complaints spanned several categories.

This year the Board received several repeat complaints about a UPL matter, that is a second complainant made about a complaine that the Board had previously referred to an agency for action.

One such repeat complaine involved a “Constitutional” lawyer, advising people about non-compliance with government mandates and laws. This UPL involves offering legal advice while incorrectly relying on the Sixth Amendment right to counsel in federal prosecutions as bestowing the authority to provide legal advice.

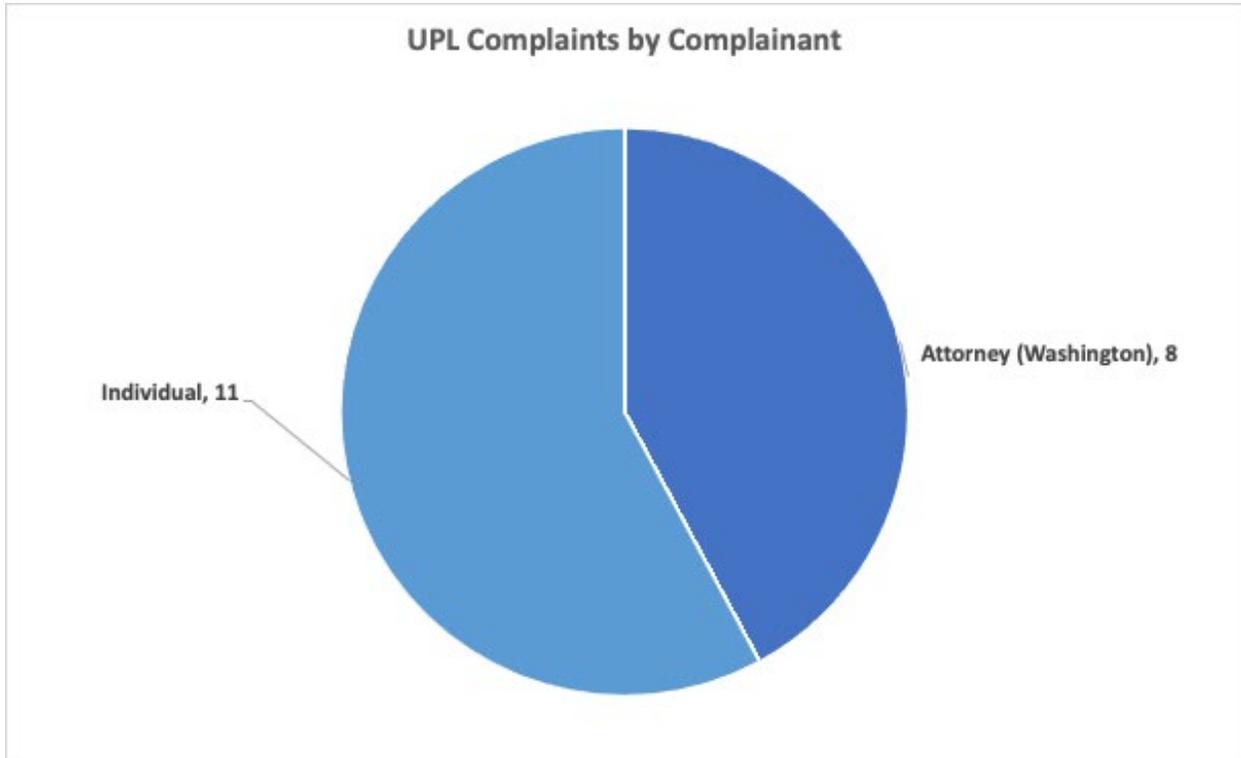
Other complaints involved pushing the bounds of mediation and the right of a lawyer to ghostwrite for a pro se litigant (extending the right to ghostwrite to a paralegal).



Two people against whom complaints were filed—one a lawyer whose assistants were allegedly providing legal advice and another a mediator providing divorce mediation— hired counsel to represent them in responding to the complaint, despite the Board having no investigative or other authority but to refer the matters to the appropriate enforcement agency.

### 5.3 UPL Process Improvements (Coordination)

This year did see more public (non-legal professional) complainants versus legal professional complainants. This is good because it is the public whom the Board is trying to protect by referring complaints for action.



To hopefully continue this trend, the Board, as part of its education responsibility, is improving information available to the public about UPL with a Frequently Asked Questions (FAQ) page and improved reporting form.

The Board will continue to address the responsibility to coordinate. The Board is improving relationships with the Attorney General’s Office (AGO) and with various county prosecutor’s offices.

The Board has added a county prosecutor as a member of the Board to assist us in understanding UPL from the prosecutor’s perspective. Finally, to further these goals, the Board has developed a diversity plan, outlined in a letter to the Supreme Court, to improve the diversity and inclusion of the Board.

### 6.0 Education

To address the responsibility to educate, the Board has prepared a plan for a Legal Checkup designed to help people determine if they have a legal issue and direct them to appropriate resources to address such issues.

The Board has created templates for the Legal Checkup and has looked for people to assist in creating the content. The Board contacted Seattle University School of Law and

Gonzaga University School of Law to see if externs were available to assist in generating content, but so far there has been no student interest.

## **7.0 New Legal Service Providers Innovation**

To address the responsibility to innovate, the Board is preparing a blueprint for a Legal Regulatory Laboratory (formerly called a sandbox) to permit the testing and potential authorization of entities to provide online legal services or for authorized legal service practitioners (LPOs, LLLTs, and Lawyers) to use alternative business structures.

The Board is also drafting proposed Court orders to create such a laboratory and provide for entities proving they address access to justice without increasing risk of harm to the public to offer such legal services on an ongoing basis.

This laboratory is modeled on the Legal Regulatory Sandbox operating under the supervision of the Utah Supreme Court's Office of Innovation.

## **8.0 Workplans**

### **8.1 Educate**

The current plan for the Legal Checkup is available to the public at [https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/wsba\\_polb\\_legal\\_checkup\\_background\\_and\\_plan\\_version\\_1\\_1\\_nov-9-2021.pdf?sfvrsn=8eb516f1\\_0](https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/wsba_polb_legal_checkup_background_and_plan_version_1_1_nov-9-2021.pdf?sfvrsn=8eb516f1_0).

### **8.2 Innovate**

The current plan for the Legal Regulatory Laboratory is available to the public at: [https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/2021-06-21-blueprint-\(v7\)-sent-to-court.pdf?sfvrsn=329d17f1\\_4](https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/2021-06-21-blueprint-(v7)-sent-to-court.pdf?sfvrsn=329d17f1_4).

### **8.3 Coordinate**

Although there is no formal plan for coordination with the appropriate authorities for UPL complaints, the Board plans to continue to work with the AGO and county prosecutors to improve the process, and to educate the public so they understand when and how to report UPL matters.

Information for the public, in the Legal Checkup, addresses how and when to make a UPL complaint.

### **8.4 Diversity and Inclusion**

The Board began work to understand the Board's baseline diversity across multiple factors and contacted members of the public and authorized legal practitioners to improve the diversity of the Board. Although WSBA resources on diversity helped the Board work on diversity through education and assistance, the lack of a diverse pool of volunteers is affecting the Board's ability to fill vacant seats on the board with diverse candidates.

The Board conducted a voluntary demographic survey of its membership to identify gaps and needs to advance diversity and inclusion on the Board. The Board worked with the WSBA DEI team to draft the questions and responses in the survey.

Although not a plan per se, the Board's letter to the Supreme Court on this matter, available at [https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/polb\\_letter-to-sct-re-plb-diversity-plan\\_march-2021.pdf?sfvrsn=492c17f1\\_0](https://www.wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/polb_letter-to-sct-re-plb-diversity-plan_march-2021.pdf?sfvrsn=492c17f1_0) defines our efforts in this important area.

The Chair has involved all members of the Board in discussions and has circulated the plans to the members for input and comment.

To better solicit input and involvement of the members, sub-committees are allowing members to work on the matters of most interest to them—while still allowing people to contribute to all the work the Board does.

Board demographics which are supplied and collected by the WSBA during the annual recruitment process for Boards and committees and which were reported to the WSBA Board of Governors are shown in the chart on the following page.

WASHINGTON COURTS PRACTICE OF LAW BOARD ANNUAL REPORT FY 2021

Category	Sub-category	Response
<b>Disability</b>	Yes	✓
	No	✓
	No Response	✓
<b>Ethnicity</b>	American Indian Native American Alaskan Native	x
	Asian	✓
	Black African American African Descent	✓
	Hispanic Latinx	x
	Middle-Eastern Descent	x
	Multi-racial Biracial	x
	Pacific Islander Native Hawaiian	x
	White European Descent	✓
	Not Listed	x
	No Response	x
	<b>Gender</b>	Female
Male		✓
Non-binary		x
Transgender		x
Two-spirit		x
Not Listed		✓
No Response		x
<b>Sexual Orientation</b>	Asexual	x
	Gay Lesbian Bisexual Pansexual Or Queer	x
	Heterosexual	✓
	Two Spirit	x
	Not Listed	✓
	No Response	x

Board demographics which are supplied and collected by the WSBA during the annual recruitment process for Boards and committees and which were reported to the WSBA Board of Governors are shown in the chart on the following page.

Category	Sub-category	Response
New or Young Lawyer	Yes	x
	No	x
Geographic	Congressional District 1	✓
	Congressional District 2	x
	Congressional District 3	x
	Congressional District 4	✓
	Congressional District 5	x
	Congressional District 6	x
	Congressional District 7S	x
	Congressional District 7N	x
	Congressional District 8	x
	Congressional District 9	x
	Congressional District 10	x
Other	✓	

## 9.0 Long-range Workplans

### 9.1 Educate

Continue work on the Legal Checkup, working with stakeholders including the public, the Minority and County Bar Associations. Update plan as necessary. Investigate the best way to bring the Legal Checkup to the Internet.

### 9.2 Innovate

Prepare a final version of the blueprint and prepare necessary orders for the Court to implement. Present to the Supreme Court for approval.

### 9.3 Coordinate

Continue to evaluate and refer complaints of UPL and educate the public on this issue. Work to ensure people know how to complain and that complaints are timely referred to the appropriate authority.

### 9.4 Diversity and Inclusion

Continue to work with WSBA staff to diversify the Board per the letter to the Supreme Court.

## 10.0 Budget

The annual budgeting process could include more communication with input from the Board. This matter is being discussed with Executive Director Nevitt and Board of Governor’s President Tollefson. The Board has been conservative in generating expenses, but it may need to spend money on better and focused technology.

For example, although the Board is working with WSBA staff to address the matter, the Board is concerned about placing the Board's information on the WSBA website. The information is virtually impossible for the public or legal providers to find as it is in an area related to volunteer recruitment rather than a place which allows the public to understand what the Board is responsible for and how it fulfills those responsibilities. If this cannot be changed, then the Board may need to create its own website.

Tools the Board are using, such as Box, may be inadequate for a collaborative Board to use. Therefore, the Board may need to investigate better tools that support online, collaboration (multiple people working in the same documents simultaneously).

For fiscal year 2021, the budget for the Board was \$9,000 in direct expenses and \$36,875 in indirect expenses. After a budget reforecast in the spring of 2021, the budget was revised as follows: direct expenses were budgeted at \$7,285 and indirect expenses at \$61,823.

## **11.0 Acknowledgments**

The Board wants to acknowledge and thank Michele Carney, Gary Swearingen, and Dr. Joseph Williams for their service to the Board and the community.

The Board wants to acknowledge the hard work of paralegal Kyla Jones, attorney Thea Jennings, General Counsel Julie Shankland, Chief Equity and Justice Officer Diana Singleton, Chief Regulatory Counsel Renata de Carvalho Garcia, and Chief Disciplinary Counsel Doug Ende, Chief Communications and Outreach Officer Sara Niegowski, and Executive Director Terra Nevitt for their support of the Board, and their day-to-day contributions to our work. Without their assistance and guidance, the Board could not have put plans in place and begun work on such plans.

Governor Sunitha Anjilvel has also helped support the Board, especially in keeping the Board of Governors up to date on the Board's work and helping the Board understand diversity and inclusion.

The Board appreciates the time and guidance that the Justices of the Supreme Court have given the Board so we can do the work of the Board, so it represents the Court and the judiciary positively in the view of the public.