

WASHINGTON STATE
B A R A S S O C I A T I O N

Board of Governors Meeting
Meeting Materials

July 16-17, 2021
Skamania Lodge, Stevenson, WA
Zoom and Teleconference



**Board of Governors Meeting
Skamania Lodge, Stevenson, WA
July 16-17, 2021**

WSBA Mission: To serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

**PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE
ALL ITEMS ON THIS AGENDA ARE POTENTIAL ACTION ITEMS**

**To participate remotely: Join via Zoom or Call 1.888.788.0099
Friday, July 16th – Meeting ID: 836 8193 2644 Passcode: 262528
<https://wsba.zoom.us/j/83681932644?pwd=K0pSdkRMNXdmTHZkdHhTYlo1a1N1dz09>**

**Saturday, July 17th – Meeting ID: 830 2877 4454 Passcode: 920840
<https://wsba.zoom.us/j/83028774454?pwd=NGg3TDZ3UHJXMkYxREI2VlIWUEtrZz09>**

FRIDAY, JULY 16, 2021

9:00 AM – CALL TO ORDER & WELCOME

CONSENT CALENDAR

A governor may request that an item be removed from the consent calendar without providing a reason and it will be discussed immediately after the consent calendar. The remaining items will be voted on *en bloc*.

- Approve May 20-21, 2021 Board of Governor Meeting Minutes 7
- Approve June 8, 2021 Board of Governor Special Meeting Minutes 19
- Approve July 6, 2021 Board of Governor Special Meeting Minutes 22
- Client Protection Board Recommendations 24
- Judicial Recommendation Committee Recommendations 25

**ANNOUNCE BASIS FOR MOVING INTO EXECUTIVE SESSION PURSUANT TO THE WSBA BYLAWS
ARTICLE VII.B.7.a.4**

EXECUTIVE SESSION

**CONTINUED DISCUSSION WITH LEGAL COUNSEL RE A REQUEST TO AUTHORIZE COLLECTIVE
BARGAINING FOR WSBA STAFF**

RETURN TO PUBLIC SESSION

REPORT AND POTENTIAL ACTION RE MATTERS DISCUSSED IN EXECUTIVE SESSION

STANDING REPORTS

- PRESIDENT ELECT’S REPORT ON THE ANNUAL RETREAT**
- PRESIDENT’S REPORT** 31
- EXECUTIVE DIRECTOR’S REPORT** 67
- MEMBER AND PUBLIC COMMENTS** (30 minutes reserved)
Overall public comment is limited to 30 minutes and each speaker is limited to 3 minutes. The President will provide an opportunity for public comment for those in the room and participating remotely. Public comment will also be permitted at the beginning of each agenda item at the President’s discretion

SPECIAL REPORTS

- WASHINGTON STATE BAR FOUNDATION REPORT ON THE MODERATE MEANS PROGRAM**, Vice President Tracy Flood

12:00 PM – RECESS FOR LUNCH & PRESENTATION OF LOCAL HERO AWARDS

AGENDA ITEMS & UNFINISHED BUSINESS

- PROPOSED AMENDMENTS TO APR 9**, Prof. Lisa Kelly, University of Washington School of Law; Prof. Christine Cimini, University of Washington School of Law; Prof. Lisa Brodoff, Seattle University School of Law; Prof. Gail Hammer, Gonzaga Law School; Acting Director of the Ronald A. Peterson Clinic Carwina Weng, Seattle University School of Law and Associate Director for Regulatory Services Bobby Henry 112
- LAW CLERK BOARD PROPOSED AMENDMENTS TO APR 6 AND LAW CLERK PROGRAM REGULATIONS**, Board Members Christell Casey and Alexa Ritchie and Associate Director for Regulator Services Bobby Henry 146
- PROPOSED COMMENT TO PROPOSED GR 40 RE INFORMAL DOMESTIC RELATIONS TRIALS**
- COMMITTEE ON PROFESSIONAL ETHICS PROPOSED AMENDMENTS TO RPC 1.6**, CPE Chair Pam Anderson and CPE Subcommittee Chair Lucinda Fernald 188

SPECIAL REPORTS CONTINUED

- DIVERSITY COMMITTEE REPORT**, Gov. Sunitha Anjilvel, Chair, Andrea Jarmon, Equity and Justice Manager Diana Singleton 239
- WASHINGTON YOUNG LAYWERS COMMITTEE REPORT**, Chair Brian Neuharth..... 243
- UPDATE ON THE FUTURE OF WORK AT WSBA**, Terra Nevitt, Executive Director
- REPORT ON THE BOARD’S EQUITY, DIVERSITY, AND INCLUSION ACTIVITIES**, Pres. Sciuchetti

5:00 PM – RECESS

SATURDAY, JULY 17, 2021

10:00 AM – RESUME MEETING

TRAINING

- OPEN MEETINGS PROVISIONS OF THE WSBA BYLAWS**, General Counsel Julie Shankland

AGENDA ITEMS & UNFINISHED BUSINESS

- PERSONNEL COMMITTEE ITEMS**, Gov. Alec Stephens and Human Resources Director and Chief Culture Officer Glynnis Klinefelter Sio LM
- COMMITTEE & BOARD CHAIR APPOINTMENTS**, Pres. Elect Brian Tollefson 248

12:00 PM – RECESS FOR LUNCH

- PROPOSED REVISION TO SMALL TOWN AND RURAL COMMITTEE CHARTER**, Volunteer Engagement Advisor Paris Eriksen..... 275
- SECOND READ: WSBA BYLAW AMENDMENTS, ARTICLE VI. RE GOVERNOR ELECTIONS**, Gov. Alec Stephens and Volunteer Engagement Advisor Paris Eriksen..... 280

CONSENT CALENDAR & STANDING REPORTS CONTINUED

REPORTS OF STANDING OR ONGOING BOG COMMITTEES

Committees may “pass” if they have nothing to report. Related agenda items will be taken up later on the agenda. Each committee is allocated, on average, 3-4 minutes.

- Executive Committee, Pres. Kyle Sciuchetti, Chair
- APEX Awards Committee, Gov. Russell Knight, Chair
- Personnel Committee, Gov. Jean Kang, Chair
- Legislative Committee, Gov. PJ Grabicki, Chair
- Nominations Review Committee, Gov. Jean Kang & Pres-elect Brian Tollefson, Co-Chairs
- Diversity Committee, Gov. Sunitha Anjilvel, Co-Chair
- Long-Range Planning Committee, Pres. Kyle Sciuchetti, Chair
- Member Engagement Workgroup, Gov. Bryn Peterson, Co-Chair
- Budget & Audit Committee, Treas. Dan Clark, Chair 294
- Equity & Disparity Workgroup, Gov. Alec Stephens
- Supreme Court Bar Licensure Task Force, Gov. Williams-Ruth

NEW BUSINESS

GOVERNOR ROUNDTABLE (Governors’ issues of interest)

3:30 PM – ADJOURN

INFORMATION

- General Information 295
- Financial Reports..... 311

2020-2021 Board of Governors Meeting Issues

AUGUST (Bosie, ID)

Standing Agenda Items:

- WSBA Treasurer Election
- Financials (Information)

SEPTEMBER (Olympia, WA)

Standing Agenda Items:

- Final FY2022 Budget
- 2021 Keller Deduction Schedule
- WSBF Annual Meeting and Trustee Election
- ABA Annual Meeting Report
- Legal Foundation of Washington Annual Report
- Washington Law School Deans
- Chief Hearing Officer Annual Report
- Professionalism Annual Report
- Report on Executive Director Evaluation
- Supreme Court Meeting
- Financials (Information)

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING

Minutes

Held Virtually
May 20-21, 2021

Call to Order and Welcome ([link](#))

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Kyle Sciuchetti on Thursday, May 20, 2021 at 9:10 AM. Governors in attendance were:

Hunter Abell
Sunitha Anjilvel
Lauren Boyd
Treas. Daniel D. Clark
Matthew Dresden
Carla Higginson
Russell Knight
Tom McBride
Bryn Peterson
Brett Purtzer
Alec Stephens
Brent Williams-Ruth

Also in attendance were President-Elect Brian Tollefson, Immediate Past President Rajeev Majumdar, Gov-Elect Serena Sayani, Gov-Elect Francis Adewale, Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Disciplinary Counsel Doug Ende, Director of Advancement Kevin Plachy, Chief Equity & Justice Officer Diana Singleton, Chief Financial Officer Jorge Perez, Chief Regulatory Counsel Renata Garcia, Executive Administrator Shelly Bynum, Chief Communications & Outreach Officer Sara Niegowski, Director of Human Resources & Chief Culture Officer Glynnis Klinefelter Sio, Betsylew Miale-Gix (WSAJ), Nancy Hawkins (Family Law Section), James E. MacPherson (WDTL), and Michael Cherry, Chalia Stallings-Ala'ilima, and Kari Petrasek.

Executive Session Announcement ([link](#))

Pres. Sciuchetti made welcoming remarks and announced the purpose and basis for moving into Executive Session pursuant to the WSBA Bylaws Article VII (B)(7)(a)(2) and (4) to receive any

confidential discipline information regarding the candidates for President-Elect and to discuss with legal counsel a request to authorize collective bargaining for WSBA staff. He noted that the Board would be in executive session until 10:00 AM. Pres. Sciuchetti announced an extension of executive session to 10:30 AM. Treas. Clark was not present for the portion of the executive session relating the receipt of any confidential discipline information regarding the candidates for President-Elect.

Report on Executive Session ([link](#))

Pres. Sciuchetti noted the purpose of the executive session and provided background regarding a petition for the WSBA to authorize collective bargaining. He noted that the Board was not prepared to take action at this time, but would continue to gather information in order to make that decision. He noted that the topic would be on the agenda at the July meeting for continued discussion and potential action.

Review Interview and Election Procedures ([link](#))

Pres. Sciuchetti reviewed the process for the President-Elect election under the WSBA Bylaws, noting that the Bylaws direct that candidates should not be present for each other's interviews and that the election will be by secret ballot. Discussion followed about whether the Bylaws should be amended to promote transparency in voting and discussion. Gov. Higginson moved that the Board invite the candidates to be present for the discussion. Gov. Abell seconded. Discussion followed regarding the distinction between being present for each other's interviews vs. the Board's deliberations; concern about adopting procedures outside of the Bylaws on the floor of meetings; and clarification that the motion was limited to the Board's deliberation and not to candidate interviews. The Board heard public comment from James MacPherson who noted the history of the voting procedures and in support of having candidates present for the discussion, but not for the interviews. The motion passed 8-1 with Govs. Stephens and Clark abstaining. Gov. McBride was not present for the vote.

Pres. Sciuchetti requested that the candidates not be present for the discussion pursuant to the WSBA Bylaws.

Interviews and Selection of 2020-2021 WSBA President-Elect ([link](#), [link](#))

Allen D. Brecke. Mr. Brecke delivered his opening statement. Executive Director Nevitt asked and Mr. Brecke responded to the three preset questions. Board members asked and Mr. Brecke answered additional questions. Pres. Sciuchetti allowed an additional five minutes for questions and answers noting that each candidate would receive 15 minutes for questions and answers as well.

Daniel D. Clark. Treas. Clark's opening statement and his responses to the preset questions were delivered by video. Treas. Clark answered additional questions from the Board. Due to the delay caused by typing, Treas. Clark received additional time to receive and respond to questions.

C. Olivia Irwin. Ms. Irwin delivered her opening statement. Executive Director Nevitt asked and Ms. Irwin responded to the three preset questions. Board members asked and Ms. Irwin answered additional questions from the Board.

The candidates were invited back into the room for the discussion. Gov. Higginson requested that public comment not be taken during the Board's discussion. Discussion followed, including a desire to hear from members and support for Gov. Clark's candidacy. The Board heard public comment from James E. Macpherson in support of Gov. Clark's candidacy. Pres. Sciuchetti and Executive Director Nevitt provided direction on the election, noting that Executive Director Nevitt, Pres. Elect Tollefson, and Pres. Sciuchetti would tally the results. The Board voted via electronic secret ballot. Pres. Sciuchetti announced that Gov. Clark was the winner of the election.

Practice of Law Board ([link](#))

Chair Michael Cherry provided an overview of the Practice of Law Board's (POLB) scope of work and reported on its current activities. He discussed new avenues for legal services, including online legal services and presented the risks of doing nothing. He reported that the POLB will be proposing the creation of a legal regulatory sandbox to support innovative legal services, while closing the justice gap and ensuring consumer protection. He noted that the intent is for the sandbox to be funded through fees from sandbox participants and grants and not by legal practitioners. He presented the risk benefit model that will be used and the process for entering into and existing out of the sandbox. He noted that the next step is to present a first draft of the proposal to the Washington Supreme Court on July 1, noting that it will be an iterative process and that the POLB will continue to seek the input from the Board of Governors and other interested parties.

Discussion followed, including the need for accountability for those in large companies making decisions that could harm the public; the nature of the monitoring anticipated; potential accountability mechanisms for non-members; concern about endorsing online legal services; how the sandbox model might serve to improve the quality of services; questions about how the bar can seek to regulate private industry and clarification that the regulation would only apply to the law-side of the business and would be pursuant to court order; a request for the slides to be provided to the governors and the public; clarification that the Board is not being asked to take any action at this point; that the preferred approach is to continue regulating individuals and for the legal profession to adapt to innovative ways of delivering legal services; regulation of entities

without a presence in the United States; the appropriate entity to monitor sandbox participants and the need for sufficient resources to monitor the technology being used; support for the POLB's intent, noting that criminal enforcement of the unauthorized practice of law has never been a useful tool; and the limitations of looking at other jurisdictions given the deep diversity among bar associations.

Consent Calendar ([link](#))

Gov. Dresden moved for approval of the consent calendar. Motion passed unanimously.

President's Report ([link](#))

Pres. Sciuchetti commented on the challenges and benefits of hybrid meetings, noting that the next meeting in July was originally planned for Portland but will likely be moved to Vancouver to facilitate a better connection to the local bar associations. He noted that the July meeting will include our annual retreat, which is being planned by Pres. Elect Tollefson. He commented on his work with the Legal Foundation of Washington to support federal funding for legal aid.

Executive Director's Report ([link](#))

Executive Director Nevitt referenced her written report and highlighted several items, including recognition of the reelection of Gov. Sunitha Anjilvel to a second term on the Board; activities to recognize well-being in law week; activities to recognize volunteer recognition week; continued planning in response to the easing of public health restrictions; a new online platform for Bar News; and the upcoming Access to Justice Conference to be held remotely in August.

Legislative Session Wrap-Up ([link](#))

Chief Communications & Outreach Officer Niegowski provided the legislative wrap-up noting that the legislature met almost entirely remotely and was largely successful in accomplishing its work. In terms of WSBA's priorities, both pieces of WSBA-Request legislation were signed into law. Both were put forth by the Business Law Section. SB 5005 originated from the Corporate Act Revision Committee of the Business Law Section. The bill updated the Washington Business Corporation Act to enable corporations to deliver notices and other communications to shareholders and directors by email and other forms of electronic transmission without obtaining prior consent. SB 5034 originated from the Nonprofit Corporations Committee of the Business Law Section. The bill is a comprehensive update and modernization of the Washington Nonprofit Corporations Act, which has not received a significant overhaul since it was enacted in 1967. Among the many changes in the new act are more efficient processes for electronic transmission of notices and meetings, more comprehensive rules governing members and directors, and updates in record keeping and filing requirements. It also addresses charitable assets of nonprofit corporations and addresses the authority of the attorney general to investigate and intervene to protect charitable assets.

She noted that WSBA commented on several other pieces of legislation. The Board Legislative Committee (BLC) took action to support funding for Resolution Washington, the statewide association of dispute resolution centers. The BLC also took action, in collaboration with the Elder Law Section, to oppose the passage of HB 1197, an act relating to health care decisions made by a designated person. The BLC also voted to support the passage of SB 5339, but that bill did not pass out of policy committee.

Finally, WSBA monitored numerous proposals of interest to WSBA sections. She noted that WSBA referred 712 bills to sections, tracked 489 bills by request, and coordinated action on 11 bills.

Chief Niegowski also announced the return of Sanjay Walvekar as WSBA's Outreach & Legislative Affairs Manager.

Board of Bar Examiners Report ([link](#))

Board of Bar Examiners Chair Bruce Turcott provided an overview of the functions of the Board, which includes grading the exams, and writing the Washington law component of the exam. He spoke to the lack of diversity of the Board and explained the recruiting and appointment process. He spoke positively about the Q&A session we recently did. He noted that the Board has been doing grading remotely and will need to decide whether to return in person. Vice-Chair Cathy Helman presented on the bar exam grading process. Admissions Manager Gus Quiniones presented on the innovation of using a secure online grading software to facilitate a more efficient and secure process. He also highlighted upcoming projects, which includes remote grading of the July exam in August and updating the Washington Law Component of the exam in January 2022. He spoke to the upcoming July exam, which will be conducted remotely. He noted that there are currently there are 762 lawyer applicants, 88 LPOs, and 41 LLLTs. Discussion and questions followed, including a clarification that the BOBE members and the graders are one in the same; the efforts being made to recruit members of color to serve on the Board; why WSBA adopted the UBE originally, one reason being the portability of the score; the anonymity of grading; and the amount of Washington law tested on the exam and the specifics of how the Washington Law Component is administered.

Member & Public Comments ([link](#))

There was no public comment.

Reports of Standing or Ongoing Board of Governors Committees ([link](#))

Executive Committee. Pres. Sciuchetti reported that at its last meeting the committee met with the Character & Fitness Board, LLLT Board, and Limited Practice Board and discussed the process

for electing the president-elect. He noted the committee may want to take up revising the election process for the future.

APEX Awards Committee. Gov. Knight noted that the Board adopted the nominations of the APEX Committee on the consent agenda. He noted the names will remain confidential until honorees have been notified.

Personnel Committee. No report.

Legislative Committee. No report.

Nominations Review Committee. Pres. Elect Tollefson noted that the committee meets almost monthly to address any pending nominations but that the bulk of the work will occur at its June meeting when they will consider the nominations for all WSBA entities.

Diversity Committee. Gov. Anjilvel reported that WSBA will be sponsoring the Joint Minority Mentorship Program, that the committee is working on a recurring diversity column for the Bar News, and that the committee is working to develop a pipeline program to foster diversity in the profession.

Long-Range Strategic Planning Council. Pres. Sciuchetti noted that the Board adopted the draft strategic goals and the council's charter at the April meeting. He noted that the council is moving forward to identify specific issues to accomplish in the short-term, and in the next five to 10 years.

Member Engagement Workgroup. Gov. Peterson reported that WSBA has engaged with a company to conduct a member survey.

Budget & Audit Committee. Treas. Clark referred to his written materials.

Equity & Disparity Workgroup. Gov. Stephens reported that the next meeting will be June 3. He noted the workgroup will be proposing possible revisions to the interpretation of GR 12.2 and has met with General Counsel. The workgroup is also looking at experiences of people of color in the justice system. He noted his concern with the lack of demographic data in terms of making progress on having more representative entities.

Supreme Court Bar Licensure Task Force. Gov. Williams-Ruth reported on the April meeting of the task force where the creation of subcommittees was discussed. He noted that the task force has

not get gotten into substantive discussions and that he is listening to the perspectives of governors and the public and that he will be taking those perspectives to the task force.

Update RE Proposed Rules for Discipline & Incapacity ([link](#))

Gov. Purtzer presented the proposed language to send out to members about the proposed amendments. He noted that the recommendation of the ad hoc committee is to encourage comment by members rather than for the Board to take a position, at least initially. Discussion followed including note that the Criminal Law Section has submitted a letter in opposition to the proposed rules and they are encouraging the Board to support their viewpoint; that efficiency, effectiveness, and public protection are important and may not always reflect the desires of the membership, particularly when it comes to discipline; and the importance of gathering input before taking a position.

Update on the Future of Work at WSBA ([link](#))

Executive Director Nevitt provided an update on the transition to a new normal at WSBA. Watch tape, including the results of employee pulse surveys that demonstrate strong continued interest in working remotely; the benefits of a more remote work force; the potential costs of transitions; and a potential subleasing opportunity. Discussion followed regarding the amount of space available for sublet; what the space will look like and how it will support remote workers to be in the office as needed; what reopening WSBA will look like with regard to traffic into the office; reconfiguration of the 6th floor in order to better control access to address health and safety concerns; that WSBA is not requiring vaccinations but will continue to require masking for as long as is prudent; and software that can be used to support hoteling.

Governor Liaison Reports ([link](#))

Gov. Boyd reported a request from the Criminal Law Section to consider moving WSBA's office to a less expensive location in central Washington.

Council on Public Defense Matters ([link](#))

Chair Stearns provided an overview of the Ayers case as background of the CPD proposed rule changes. In that case, an individual was appointed counsel to represent over 100 people, despite not admitted to practice law in the State of Washington. He noted that the proposed changes are intended to avoid a repeat of that malfeasance by ensuring the independence of public defense. He provided an overview of the changes, including revisions to Standard 18 relating to defense contracts; a proposed new Standard 19 to set forth the process for appointing counsel and overseeing public defense; and amendments to the three appointment rules CrRLJ 3.1(d)(4), CrR 3.1, and JuCR 9.2(d).

Chair Stearns detailed the 18 month process the Council on Public Defense engaged in to develop these proposals, including extensive stakeholder input. Discussion followed, including the impact and potential burden of these changes on various jurisdictions, especially small counties and cities. Gov. Purtzer moved the proposal as set forth in the materials. Discussion continued, including whether these changes, which are largely advisory will have the desired impact; outreach to judges; the potential cost of implementing these proposals and the necessity of them; and the potential economic benefit of provided good quality representation; why the proposals shouldn't be requirements; and the nature of the feedback received and the responses thereto, which was largely supportive, though not unanimous. Motion passed unanimously with Govs. Clark and Stephens abstaining. Govs. Higginson and Knight were not present for the vote.

Prof. Boruchowitz presented the Emergency Guidance Caused by Pandemic Driven Increased Public Defense Workloads for approval. He presented the scope of the challenge and its impact. He noted that the statement will help public defenders in working with local governments, which can support with allocation of federal funding and by expanding diversions programs. Discussion followed regarding the allocation of federal funds and whether public defense should be a priority for those funds. Gov. Stephens moved for approval. The Board heard public comment from Nancy Hawkins encouraging the Board to seek funds for the Courts in general, which have many funding needs. Discussion followed, including a concern about reducing bail across the board. Motion passed 9-1 with Gov. Higginson abstaining. Gov. Knight was not present for the vote.

Discussion RE At-Large Young Lawyer Governor Election ([link](#), [link](#))

Volunteer Engagement Advisor Paris Eriksen presented an overview of the recruitment process. General Counsel presented the issue before the Board given that there was only one candidate for the at-large seat. Past Pres. Majumdar spoke to the intent of the Bylaw, which was to prevent the Young Lawyers Committee undue influence in the process. Discussion followed regarding the other criteria of being an active member that qualifies as a "Young Lawyer"; support for declaring the only candidate as the winner, which is how a congressional seat would be treated; and clarification of the action(s) being requested.

Chair Neuharth presented the Young Lawyer Committee's recruitment and vetting process, which included personal outreach and an interview of Mr. Couch. He noted that the Young Lawyer Committee is not taking a position on what approach the Board should take to avoid the appearance of favoritism. Discussion continued, including how the outreach for this seat compared to the outreach conducted for the Diversity At-Large Seat and the number of members that could qualify for the position. Gov. Higginson moved that we extend the deadline to seek additional candidates. Discussion followed, including opposition to the motion; whether additional outreach would be useful; reasons that eligible members may not be seeking the

position; that the Board's role should be to set policy rather than second-guessing the actions taken; a desire to treat Mr. Couch, who did apply on time equitably; a desire to promote competition for Board positions; lack of support for the Board selecting candidates for the ballot rather than the Young-Lawyers Committee; disappointment in having a single applicant; that single applicants also occur for congressional seats and officer elections; that Jordan Couch is a highly qualified candidate; that the Bylaws don't set a specific deadline as is the case with other elections; that the committee is supportive of having a competitive process if that is what is desired; that we haven't treated other positions in the same manner; the value of having more than one candidate; support for sticking with the process, especially given the nearly universal agreement that Mr. Couch is a strong candidate; that extending the deadline would promote inclusion; that all of the positions should be treated the same and that only; that the at-large seats are distinct because of the entities serving in a gatekeeper role; and a desire to understand the deficiencies in the in process. Gov. Stephens moved the question. Motion to call the question failed 6-5. Gov. Knight was not present for the vote.

Discussion continued, including that extending the deadline gives the appearance of the Board acting out of a lack of appreciation for the candidate; question about what will happen in the event that additional candidates cannot be recruited; and that the process was followed. The Board heard public comment from Bestylew Miale-Gix, speaking in her personal capacity, in opposition to the motion. The Board heard public comment from Chalia Stallings-Ala'ilima in opposition to the motion.

Discussion continued, including concern about taking an ad-hoc approach; whether extending the deadline is consistent with the bylaws vs adding a name; concern that extending the deadline is arbitrary and frustrates fairness by changing the rules midway; that there are no election policies; that extending the deadline makes sense given that we don't have any additional candidates in mind; that the motion is not intended to set a precedent; that the motion is not a critique on the candidate or process; and opposition to extending the deadline. Gov. Higginson's motion was restated to extend the deadline for submission of names for the at-large position to July 12 and to ask the Young Lawyers Committee to forward two additional names, if they can, to the Board. It was clarified that it would be up to the Young Lawyers Committee as to how to handle the process. Motion failed 8-2. Gov. Clark was not present for the vote.

Gov. Stephens moved to approve the recommendation and certify that Jordan Couch is the winner of the election. Motion passed 8-1 with Gov. Higginson abstaining. Gov. Clark was not present for the vote.

Committee on Professional Ethics Recommendation to Withdraw Proposed Amendments to RPC 7.2 and 5.4 ([link](#))

Committee on Professional Ethics Chair Pam Anderson presented the request. She noted that WSBA's proposed amendments to RPC 7.2 and 5.4 to the Supreme Court that would've made it clear that a referral service could be entitled to a portion of a fee for referral. In the meantime, the Court adopted other changes that resulted in RPC 7.2 being reserved. The Committee is recommending that the Board withdraw its recommendations and remand the matter back to the Committee on Professional Ethics to determine if additional amendments are needed. Gov. Purtzer moved the proposal. Motion passed unanimously. Govs. Clark and Knight were not present for the vote.

Proposed Amendments to APR 9 ([link](#))

Associate Director Bobby Henry introduced the proposed amendments to APR 9, which provide a limited license for legal interns. Professor Lisa Kelly presented the proposal of the law schools, which would allow clinical students in their 2L year to serve as licensed legal interns. She noted that the majority of states do allow students to be licensed interns before their 3L year, as do some tribal, federal, and administrative courts. The amendments will help law schools to answer the call to graduate students that are practice-ready. She summarized that 2Ls are more than capable of exceeding as legal interns, particularly under the close supervision of an experiential law program. She further noted that clinics support student-well-being and retention, especially for students of color; allow students to understand the depth of legal need promoting a commitment to public service; serve access to justice needs; and benefit courts by reducing pro se representation. Assoc. Dir. Henry presented the other amendments proposed by regulatory staff which will broaden who qualifies to graduates of LLM programs and the Rule 6 Law Clerk program; expand the options available in the event of misconduct by an intern; elimination of a provision denying access to the bar exam in the event of misconduct as only the Washington Supreme Court can make such a determination; and facilitate electronic processes. Discussion followed as the benefits of experiential education and curiosity about why the limited license was originally limited to 3Ls.

Gov. Williams-Ruth moved to adopt the proposed revisions. Discussion continued about the value of experiential education; changes in law school curriculum; clarity about which 2Ls can participate and a question as to whether clinical experience should be a prerequisite to becoming a Rule 9; the level of support and supervision provided in clinical education; that the supervising attorney is personally responsible for actions of the intern; clarification that the expansion only applies to those in a clinical program and not to students interning with attorneys in private or government practice; whether it is sufficiently clear that it is limited to those enrolled in clinical programs; whether encouraging students to veer into social justice is appropriate before law students have learned the basics of practice; whether there are insufficient 3Ls for the clinics;

whether instead we should encourage 2Ls to intern in law offices; that the social justice aspect is not intended to be political, but to teach lawyering skills and the focus is on those who can't afford legal services because that's the required focus; the distinction between clinical experience and working with a practicing attorney; that there are an abundance of 2Ls and 3Ls that would like clinical experience; the specific provisions creating the exception for clinical students; clarification that, if approved, the WBSA would be co-sponsors with the three law schools.

Gov. Higginson moved to postpone to the July meeting. Discussion followed regarding the nature of the concern being raised; comments in opposition to the motion to postpone; and that the proponents anticipated that there may be feedback that may require additional work. Motion to postpone passed 7-2. Govs. Clark, Abell, and Knight were not present for the vote.

Professor Kelly shared her contact information and requested any additional feedback be sent. Gov. Williams-Ruth volunteered to share his suggested language. Gov. Stephens urged the presenters to engage in dialogue with Gov. Purtzer.

Report on the Board's Equity, Diversity, and Inclusion Activities, Including Discussion of April 19 Training ([link](#))

Pres. Sciuchetti began the discussion by acknowledging the anniversary of the death of George Floyd, noting the conviction of Derek Chauvin for his murder. ChrisTiana ObeySumner summarized the most recent training of the Board and invited general feedback and questions. Discussion followed about the impact of the training. ChrisTiana moved to their specific questions, including what topic(s) the Board would like to see incorporated into the training and an invitation to share a concept or a term from the training, conversations, or in your own education you are grappling with. Suggested topics included pronouns and gendered language; having meaningful dialogue with such a broad group; the role of WSBA in this work; reconciling individual roles with institutional roles; and the history of exclusion in the context of structural racism. Discussion continued about the lack of participation in the discussion; that the public nature of the discussion puts a damper on the discussion; appreciation for the organizational investment in the training; a call to action to practice being uncomfortable in responding to these questions; a desire to explore whether or not we believe in systemic racism and hidden truths; working on speaking up and the importance of interrupting; how to engage in effective outreach with communities of color and other underserved groups; appreciation for the training; and lack of action, despite training. Mx. ObeySumner presented and explained their praxis for equitable growth.

Budget and Audit Committee Items ([link](#))

Selection of WSBA Financial Auditor. CFO Perez noted that the policies and procedures require an RFP for audit services every 6 years. He reported that WSBA has solicited eight and received four proposals. He presented the Budget and Audit Committee's recommendation to renew our engagement with Clark Nuber noting the competitive bid, the lack of need for transition, and our satisfaction in working with them. Gov. Stephens moved for approval. Discussion followed about the potential downsides of continuing with the same firm and support for the proposal noting Clark Nuber's experience with governmental and dues-paying organizations. Motion passed unanimously. Govs. Abell, Clark, Higginson, and Knight were not present for the vote.

Proposal to Increase the Facilities Reserve. CFO Treasurer presented the Budget & Audit Committee's proposal to move \$500K from unrestricted funds to the Facilities Fund in preparation for the termination of our lease in 2026. He noted that it can be moved back if needed. Gov. Peterson moved for approval. Discussion followed regarding the nature of the projections; the reason for adding to the reserve; and the history of building up the fund. Motion passed unanimously. Govs. Abell, Clark, Higginson, and Knight were not present for the vote.

Governor Roundtable ([link](#))

Gov. Williams-Ruth commented on the murder of George Floyd and the Supreme Court's letter of June 4, noting that the letter was the end of the discussion about whether our system of justice has problems of race and that we must do something about it. He proposed that we adopt a policy that restricts travel to jurisdictions that have passed voter registration laws. He introduced a second proposal to deal with conflicts of interest for members of the Board of Governors. He expressed concern about the action taken yesterday to diverge from the Bylaws without notice to the members and about what will happen if some governors chose to engage entirely remotely. Gov. Anjilvel noted that the Diversity & Inclusion Plan is set to be reviewed next year, which will be the 10 year anniversary.

ADJOURNMENT

There being no further business, Pres. Sciuchetti adjourned the meeting at 3:59 PM on Friday, May 21, 2021.

Respectfully submitted,

Terra Nevitt
WSBA Executive Director & Secretary

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS SPECIAL MEETING

Minutes

Held Virtually

June 8, 2021

Call to Order and Welcome

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Kyle Sciuchetti on Tuesday, June 8, 2021 at 8:33 AM. Governors in attendance were:

Hunter Abell
Sunitha Anjilvel
Lauren Boyd
Treas. Daniel D. Clark
Matthew Dresden
Carla Higginson
Russell Knight
Bryn Peterson
Brett Purtzer
Alec Stephens
Brent Williams-Ruth

Also in attendance were Immediate Past President Rajeev Majumdar, Executive Director Terra Nevitt, General Counsel Julie Shankland, Director of Advancement Kevin Plachy, Chief Financial Officer Jorge Perez, Executive Administrator Shelly Bynum, Chief Communications & Outreach Officer Sara Niegowski, Director of Human Resources & Chief Culture Officer Glynnis Klinefelter Sio, and Nancy Hawkins (Family Law Section).

Chair Maryanne Mohan presented the request of the WSBA Indian Law Section to submit a comment in support of federal judicial nominee Lauren King. Chair Mohan noted that 75% of the Executive Committee of the Indian Law Section approved the request to support the judicial appointment of Lauren King, a former Chair of the Indian Law Section and tribal member. Discussion followed, including that Lauren King has not yet been rated by the American Bar Association; that the will not go through WSBA's Judicial Recommendation Committee as they review state appointments by the Governor; the reason for a distinction between the election of judges and appointments; whether the Board of Governors could weigh-in on the appointment

of a Superior Court judge; that the judicial recommendation process results in ratings rather than recommendation of a specific candidate; that in 1985, as the request of a member of the Board, the Board adopted a resolution supporting an appointment to the federal court, which referenced a prior resolution of that type; support for allowing the section to express its support for a candidate and distinguishing an expression of support from a recommendation; clarification of the federal appointment process, which involves a single nomination, not a candidate, and the view that a candidacy would raise issues that a singular nomination does not; and that the letter makes clear that the Indian Law Section is speaking for itself and not for WSBA.

Gov. Stephens moved to approve the letter the Indian Law Section has requested to send. Discussion followed, including a concern about taking this action without having an independent rating of the nominee; that the Board should not endorse candidates for judicial office, although the nominee appears well qualified; concern that WSBA and its sections will be drawn into judicial nomination wars and that ratings are preferred to specific endorsements; concern that there was a lack of meaningful notice to members; the unique character of the Indian Law Section; support for supporting native American judges given their underrepresentation and a desire to see the letter better articulate the expertise of the Indian Law Section; questions as to why responding to a request by a Federal Senator is different from the work we do in responding to state legislators; that the candidate has been thoroughly vetted by Sen. Murray and the Federal Administration; support for the letter; that this is a political issue; and whether a letter could be approved that would not recommend the candidate but instead spoke to qualities that the section was uniquely situated to speak to. Gov. Grabicki moved the question. Motion to call the question failed 8-4.

Discussion followed, including reiteration that this could not come to the Judicial Recommendation Committee because that group advises the Governor and that the process is not an election; that a decision to allow this letter to go forward should not have anything to do with others that wish to become a nominee; that history demonstrates that these requests come up rarely and on a case-by-case basis; that there is a difference between the WSBA weighing-in and an individual expressing support; that the WSBA should never weigh-in on a federal appointment, and that drawing a narrow distinction between elections and appointments is unwise; reiteration that WSBA is not being to endorse or recommend anyone; that voting no will send an unintended negative message to the Senator requesting the information; that the request puts the organization in a difficult position and while it may be permissible, it is unwise; and that there is no distinction between WSBA and the section speaking and lack of support for the motion. Gov. Stephens moved the question. Motion to call the question passed unanimously.

The underlying motion was clarified to authorize the Indian Law Section to submit their letter of support for Lauren King. Motion tied 6-6. Pres. Sciuchetti voted in support of the motion. Motion passed 7-6.

ADJOURNMENT

There being no further business, Pres. Sciuchetti adjourned the meeting at 9:30 AM.

Respectfully submitted,

Terra Nevitt
WSBA Executive Director & Secretary

DRAFT

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS SPECIAL MEETING

Minutes

Held Virtually

July 6, 2021

Call to Order and Welcome

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Kyle Sciuchetti on Tuesday, July 6, 2021 at 5:32 PM. Governors in attendance were:

Hunter Abell
Sunitha Anjilvel
Lauren Boyd
Matthew Dresden
PJ Grabicki
Bryn Peterson
Alec Stephens
Brent Williams-Ruth

Also in attendance were Immediate Past President Rajeev Majumdar, Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Regulatory Counsel Renata Garcia, and Executive Administrator Shelly Bynum.

Pres. Sciuchetti presented the request to approve an exception to current BOG policy, which requires applicants for admission to complete the character and fitness process prior to sitting for the bar exam due. Noting that technical issues that are not the fault of the applicant have caused delays in receiving the necessary information to complete the process timely. Gov. Grabicki moved for approval. The motion was restated to approve a one-time exception to WSBA admissions policies, due to technical difficulties, to conditionally approve applications for the Summer 2021 bar exam that are pending receipt of an NCBE report and that do not indicate significant character and fitness concerns based on internal review.

Motion passed unanimously.

ADJOURNMENT

There being no further business, Pres. Sciuchetti adjourned the meeting at 5:35 PM.

Respectfully submitted,

Terra Nevitt
WSBA Executive Director & Secretary

DRAFT

WASHINGTON STATE BAR ASSOCIATION

Office of General Counsel

Nicole Gustine, Assistant General Counsel

TO: WSBA Board of Governors
FROM: Nicole Gustine, Assistant General Counsel
DATE: June 23, 2021
RE: Confidentiality of Client Protection Board Recommendations

The Board of Governors (BOG) is responsible for approving gifts from the Client Protection Board. Per Court Rule, all of the materials, reports, and deliberations shall not be public. (APR 15 Procedural Regulations, Regulation 13(b)). As such, the recommendations are placed on the Consent Calendar. If discussion is requested by any Governor, it shall be taken up in Executive Session.

APR 15

CLIENT PROTECTION FUND PROCEDURAL REGULATIONS REGULATION 13. CONFIDENTIALITY

(a) Matters Which Are Public. On approved applications, the facts and circumstances which generated the loss, the Client Protection Board's recommendations to the Trustees with respect to payment of a claim, the amount of claim, the amount of loss as determined by the Client Protection Board, the name of the lawyer, LLLT, or LPO causing the loss, and the amount of payment authorized and made, shall be public.

(b) Matters Which Are Not Public. The Client Protection Board's file, including the application and response, supporting documentation, and staff investigative report, and deliberations of any application; the name of the applicant, unless the applicant consents; and the name of the lawyer, LLLT, or LPO unless the lawyer, LLLT, or LPO consents or unless the lawyer's, LLLT's, or LPO's name is made public pursuant to these rules and regulations, shall not be public.

The following report of CPB recommendations contains only pre-approved applications, and is therefore provided to you as a Trustee, confidentially. The report will not appear in the BOG meeting's public session materials. Please take the time to review the materials thoroughly prior to the BOG public session meeting. **Please do not discuss any details regarding the matters, including the names or amounts related to the matter, at the public session meeting.**



WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Michiko Fjeld, Chair, WSBA Judicial Recommendation Committee
CC: Sanjay Walvekar, Staff Liaison to the Judicial Recommendation Committee
DATE: July 16, 2021
RE: WSBA Judicial Recommendation Committee June 10, 2021 Interviews and Recommendations

ACTION: Approve the recommendations of the WSBA Judicial Recommendation Committee.

The WSBA Judicial Recommendation Committee met via Zoom on June 10, 2021 for the purpose of conducting interviews with five individuals interested in being considered for future openings on the Washington State Court of Appeals and the Washington Supreme Court. Per committee guidelines approved by the Board of Governors, the proceedings and records of the committee, including applicant names, committee discussions, and committee votes, are kept strictly confidential. The committee's recommendations are available in the Governor's materials via the WSBA BOX cloud-sharing service.

TO: WSBA President Kyle Sciuchetti

FROM: WSBA Coronavirus Response Task Force
Kevin Plachy, Chair
Michael Cherry, Deputy Chair

DATE: June 29, 2021

RE: Final Memo from the WSBA Coronavirus Response Task Force

The purpose of this memo is to request that you sunset the Washington State Bar Association (WSBA) Coronavirus Response Task Force (also known as the External Task Force or CETF), as the task force has met its goals as summarized in this memo, and all of Washington State is effectively reopening on June 30, 2021. It has been an honor to work for yourself and Former President Majumdar to help the membership and staff of the bar; however, as our work is complete, it is time to sunset the task force.

About the WSBA Coronavirus Response Task Force

On March 25, 2020, then WSBA President Majumdar issued an order creating The WSBA Coronavirus Response Task Force (also known as External Task Force or CETF). The objective of the External Task Force was to advise to the WSBA Office of the President on matters affecting WSBA members and the public because of the Covid-19 pandemic. The External Task Force worked collaboratively with the WSBA Coronavirus Internal Task Force (CITF) composed of interdepartmental WSBA staff to identify WSBA member and public needs so that the Internal Task Force can develop programs and provide resources to address the issues. The CETF consists of 12 members nine of whom are volunteers and 3 of whom are WSBA Staff members who also serve on the internal task force and serve as a bridge from the external task force to the internal task force.

CETF Members include: Kevin Plachy, Chair; Michael Cherry, Deputy Chair; Emily Albrecht, Jeanne Marie Clavere, Jordan Couch, Margeaux Green, Carla Higginson, Devorah Signer Hill, Debi Perluss, Kari Petrasek, Mir Tariq, and Brian Tollefson. Staff Liaisons to the External Task Force include Janey McCaulley and Sara Niegowski, and the WSBA Board of Governors liaison is Governor Hunter Abell. Other task force members who served partial terms included Destinee Evers and Jennifer Slattery.

The CITF consists of staff members across multiple departments of the WSBA and is led by Paris Erikson, Volunteer Engagement Advisor, Education Programs Manager, Shanthi Raghu, and Equity and Justice Manager, Diana Singleton.

The other members of the CITF include: Margeaux Green, Jeanne Marie Clavere, Julianne Unite, Rex Nolte, Colin Rigley, Noel Brady, Thea Jennings, Bobby Henry, Dan Crystal, and Sue Strachan.

Since its inception in March 2020, the CETF has held regular meetings that have usually occurred monthly.

CETF Accomplishments

The CETF identified many topics affecting the membership and public and transmitted a list of the most relevant and immediate of them to the Internal Task Force to implement programs and provide resources to assist WSBA members and the public. In response and in coordination with the CETF, the CITF developed the following free live and on-demand CLEs made available to all WSBA members from April through June of 2020:

- Curated a library of 14 on-demand CLEs on COVID-19 related topics. 3,737 members registered for 18,433 free on-demand CLE products (24,765.5 CLE Credits) from April 3 through June 30, 2020. Based on the number of units delivered, the total value of the on-demand offerings came to \$1,492,319.50.
- Developed a free five session live webinar series entitled *Practicing During a Pandemic*. The series attracted 6,875 individuals. Based on live attendance, the live webinar series value totaled approximately \$391,477.50.
- As a point of reference - the total value of the live and on-demand offerings was approximately \$1,883,797.00.

In collaboration with the CETF, the CITF has also provided several other resources to members and the public including:

- WSBA COVID-19 Resource page, which can be found at <https://www.wsba.org/for-legal-professionals/member-support/covid-19>.
- Several BLOG posts on challenges members are facing during the Coronavirus pandemic including challenges with working remotely and self-care during a time of crisis.
- Participated in creating a resource on the WSBA website for small firms on the CARE Act and how to apply for SBA Paycheck Protection Program grants and loans, including a free webinar to members featuring a Director from the SBA who explained details of the program and how to apply.
- Collected resources and information about public service programs aimed at helping the public during the Coronavirus pandemic and posted them to the WSBA COVID-19 Resource Page.
- Curated the Reopening Guide for WA State Law Firms published on our website: https://www.wsba.org/docs/default-source/resources-services/wsba_reopening_guide_071320-mr.pdf?sfvrsn=c5f808f1_14.

As part of its charter, the CETF has also issued advice to the WSBA Office of the President on several matters affecting the members and profession during the pandemic. The list of issues and advice provided are:

- Should WSBA offer guidance to members about whether legal services are considered “essential” under Governor Inslee’s Stay Home, Stay Healthy Order? The External Task Force recommended that WSBA not provide official guidance and suggested members be referred to the Governor’s website where they could make a request to have their particular practice evaluated by the Governor’s office directly.
- After receiving feedback from a group of practicing professionals in estate planning and probate, and notary professionals issued a memo to the Office of the President regarding remote witnessing of wills and remote notarizations. At the request of the President, our task force drafted and issued a memo to WA Department of Licensing (DOL) pointing out inconsistencies with the WAC emergency rules related to notary journal requirements. DOL accepted our feedback and modified the rules to clarify that electronic notary journals do not require a signature of the principal.
- During two meetings, convened a group of 21 practicing professionals (eighteen attorneys and three judges) in the areas of Landlord/Tenant, Criminal Law, Family Law and Estate, Probate/Guardianship to obtain feedback on court operations. Under that feedback, issued a memo to the Office of the President regarding the restart of the courts. The memo discussed the feedback received from the practicing professionals and their perspectives on what has been working throughout the COVID-19 crisis, what has been challenging, and what they perceive as helpful things to continue beyond the COVID-19 pandemic. The memo also identified Issues that the courts must address as they reopen. The CETF also shared the memo with the Administrative Office of the Courts who has convened a committee to review court operations during the COVID pandemic.
- Reviewed WSBA Video Deposition Guidance developed by the Civil Rules Revision Workgroup in collaboration with the President of the Washington Association of Court Reporters. The task force voted that the guidance would usefully inform the membership and recommended that President Majumdar have WSBA try to publish the guidance to WSBA members.

Membership Impact Survey

After taking initial actions to support both WSBA members and the public during the COVID-19 pandemic, including offering free live and on-demand Continuing Education Programs, resolving issues with remote and online notarization, and creating a workplace reopening brochure, the CETF asked how best to continue supporting members during the pandemic. In September 2020, the CETF realized that the pandemic was not winding down, and therefore, thought about better ways to determine what additional actions and possibly long-term support members of the bar and the public might need to continue to provide legal services during and after the pandemic. The CETF designed a survey consisting of nine questions with pre-populated answers, and two open-ended questions to collect data on the impact of the pandemic on survey respondents.

The questions collected data about both business operations and interactions with clients and the courts during the pandemic. In addition, the survey collected demographic data about the survey respondents. The WSBA sent the survey out to all active members. The CETF worked with the WSBA Communication's Staff and the WSBA Sections to get word out to encourage members' participation.

The survey was conducted throughout the month of November: 616 people responded, which represents approximately 1.5% of the total membership. The CETF worked with WSBA Communications to publish the results in the March, 2021 issue of The Bar News. The survey results are also available online at the WSBA COVID-19 Resource Page [here](#).

As Washington residents have become vaccinated, the health impacts have diminished and the Governor has signaled the state will soon reopen as of June 30. As a result, the CETF believes its' original goals have been accomplished and has unanimously determined to sunset the task force. While we believe the work of the CETF is now complete, the course of the past year and a half, as well as the survey response, suggest that there is more work to do to address the needs of WSBA members and the public as the pandemic impacts and the post-pandemic recovery continues over the next several months.

Future Recommendations

The CETF members recommend that the WSBA continue to support members and the public through:

- Continuing to provide remote CLE programming, particularly in topic areas that support the changing workforce including remote work and technological solutions for practice management.
- Continue to expand and enhance services that support member well-being and mental health.
- Involvement in task forces and committees that influence WA court decisions about continuance of modifications of court operations made during the pandemic including, remote hearings, remote depositions, etc. with emphasis on assuring access to justice for all Washington residents.
- Through its influence with the WA Supreme Court and legislature, continue to influence the path towards a more uniform statewide court system in WA.

As the Chairs of the CETF, Kevin Plachy and Michael Cherry want to extend a gracious "thank you" to the task force members, both external and internal, for working so cooperatively and earnestly to support the legal profession and public throughout this pandemic. We would also like to thank Past President Rajeev Majumdar for moving quickly to establish the task force and President Kyle Sciuchetti for agreeing to extend the task force's term when it was deemed necessary. It has been an honor and privilege to support the legal profession through these unprecedented times and on behalf of all the task force members we thank you for the opportunity to serve.

Respectfully Submitted,

WSBA Coronavirus Response Task Force

Kevin Plachy, Chair

Michael Cherry, Deputy Chair

Blueprint for a Legal Regulatory Sandbox in Washington State

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Table of Abbreviations

Abbreviation	Meaning
ATJ	Access to justice
ATJB	Access to Justice Board
POLB	Practice of Law Board
RPC	Rules of Professional Conduct
RCW	Revised Code of Washington
UAPL	Unauthorized practice of law (RPC 5.5(C))
UPL	Unlawful practice of law (RCW 2.48.180)
WSBA	Washington State Bar Association

1.0 Executive Summary

This proposal outlines a blueprint to create a legal regulatory sandbox in Washington State. Such a legal regulatory sandbox may help address the access to justice (ATJ) gap while protecting consumers from harm and helping to determine the appropriate regulation required to authorize non-traditional legal service providers to provide non-traditional legal services in Washington State. It will also allow for the collection of data about a non-traditional legal service so data-driven decisions about regulatory reform can be made. The Washington Supreme Court's Practice of Law Board (POLB) is proposing that Washington Supreme Court's Legal Regulatory Sandbox follow Utah Supreme Court's Legal Regulatory Sandbox model.

Therefore, the legal regulatory sandbox proposed by this blueprint would be created by a Washington Supreme Court order defining the regulation and monitoring of a non-traditional legal service providers in the legal regulatory sandbox for a defined period. As any non-traditional legal service providers will be operating in the legal regulatory sandbox under an explicit Supreme Court order, the non-traditional legal service providers would be authorized, and therefore, not be liable for Unlawful Practice of Law (UPL). Similarly, a legal professional¹ working for the entity providing the non-traditional legal service would also be authorized by the Supreme Court to provide legal advice in the legal regulatory sandbox, and therefore, would not be disciplined for violation of those Rules of Professional Conduct (RPC) authorized for testing in the legal regulatory sandbox by the Supreme Court order. In all other respects, the entity and its employees would still be required to follow all statutes, regulations, and court rules.

A non-traditional legal service provider operating in the legal regulatory sandbox could provide an online legal service (OLS), offer legal services through an alternative business structure (ABS), or both.

An OLS typically offers legal services from the internet. Such services may assist a consumer in filling out forms that the consumer may file with the court or may analyze the consumer's problem (perform the client intake), and then refer the consumer to a legal professional for a referral fee. Most OLS are moving beyond mere scrivener services to using machine learning or artificial intelligence to assist the consumer in making choices that affect the consumer's legal rights or responsibilities.

An ABS typically changes the traditional form of a legal firm. For example, an ABS may allow a virtual law firm where several lawyers, each with their own firm, work collaboratively to provide a range of legal services to consumers. Another ABS might allow equity ownership in a legal firm by a professional not licensed to practice law.

¹ This blueprint uses the term 'legal professional,' rather than lawyer, to acknowledge that Washington Courts already authorize lawyers, limited practice officers (LPOs), and limited legal license technicians (LLLTs) to practice law.

This legal regulatory sandbox blueprint is a work in progress. Just as a blueprint shows a property owner what a building might look like before construction begins, this blueprint attempts to paint a picture of the legal regulatory sandbox for the Supreme Court and other stakeholders.

With a building, an engineer must take the blueprint and determine if the plan is feasible. For example, the engineer will determine if the materials can sustain the loads. Similarly, this blueprint needs additional ‘engineering’ work. A brief list of the next steps is outlined in Section 5.0 of this blueprint but putting the blueprint into final form—building the legal regulatory sandbox—will require input from many parties. And even when built and operational, ongoing maintenance of the legal regulatory sandbox, which may modify its structure, will be required.

Although this blueprint for a legal regulatory sandbox borrows heavily from the work being done in Utah it was drafted with consideration and inputs from other jurisdictions and experts. The POLB wants to acknowledge the contributions of the Access to Justice Board (ATJB) Technology Committee, John Lund and Lucy Ricca from the Utah Office of Legal Innovation, Crispin Passmore, who is active in legal regulatory reform in the UK, and Andrew Perlman, Dean of the Suffolk School of Law.

2.0 Regulatory Sandboxes

Regulatory sandboxes are not new, nor are they unique to legal services.

In software development, a sandbox is “an isolated testing environment that enables users to run programs or execute files without affecting the application, system, or platform on which they run.”² “In financial markets, regulatory authorities have set up several initiatives, including regulatory sandboxes and innovation hubs, to engage and support financial technology (FinTech) startups.”³

Similarly, a legal regulatory sandbox allows for a non-traditional legal service provider to offer a non-traditional legal service while collecting data about the effect of the service on the ATJ gap and evaluate whether there is any potential consumer harm. It is a safe environment to test a new non-traditional legal service.

For example, the Utah Supreme Court has created an Office of Legal Innovation, which is running a legal regulatory sandbox where “any entity that wants to offer non-traditional legal services must seek approval.”⁴

² Linda Rosencrance, “Sandbox (Software Testing and Security), TechTarget.com, available at <https://searchsecurity.techtarget.com/definition/sandbox>.

³ Ahmad Alaassar, Anne-Laure Mention, Tor Helge Aas, “Exploring A New Incubation Model for FinTechs: Regulatory Sandboxes,” Technovation, May 2021, available at <https://www.sciencedirect.com/science/article/pii/S0166497221000183#bib15>.

⁴ Rebecca Love Kourlis and Neil M. Gorsuch, “Legal Advice is Often Unaffordable. Here’s How More People Can Get Help: Kourlis and Gorsuch, USA Today, Sept. 17, 2020, available at <https://www.usatoday.com/story/opinion/2020/09/17/lawyers-expensive-competition-innovation-increase-access-gorsuch-column/5817467002/>.

The regulatory sandbox can also be thought of as a laboratory. Experiments that test a hypothesis for modifying regulations for entities practicing law can be run to see if such proposed changes reduce the ATJ gap, while creating minimal risk to consumers.

3.0 A Legal Regulatory Sandbox for Washington State

A legal regulatory sandbox would allow legal professionals and entrepreneurs to offer a non-traditional legal service to consumers in Washington State. Such a legal regulatory sandbox has both goals and safeguards designed to ensure consumers get competent legal services.

3.1 Goals of the Legal Regulatory Sandbox

The goals of the legal regulatory sandbox are:

3.1.1 Create Regulatory Relationships

Create regulatory relationships between a non-traditional legal service provider and courts and regulatory agencies to provide the appropriate oversight of legal services and ensure the public is not harmed by a non-traditional legal service.

In using the legal regulatory sandbox to think about regulatory reform, some RPCs are not appropriate for experimentation or change. For example, RPC 1.1 Competence, 1.3 Diligence, and 1.4 Communications are so important to the practice of law they are required for both traditional and non-traditional legal services.

Other RPCs may need to be modified to allow for a legal regulatory sandbox. For example, 5.4 Professional Independence may require limited modification to allow legal professionals to work with non-legal professionals in the provision of a non-traditional legal service in the legal regulatory sandbox.

The RPCs most open to testing in the legal regulatory sandbox include, 1.5 Fees, 1.7 Conflicts, 5.4(b) and (d) Professional Independence, and 5.5 Unauthorized Practice of Law.

3.1.2 Encourage Innovation

Encourage legal professionals and entrepreneurs to experiment with innovative business models and non-traditional legal services to reduce the ATJ gap.

3.1.3 Enable In-Depth Data Collection

Enable in-depth data collection about any reduction of the ATJ gap and the benefits and harms to consumers through the provision of a non-traditional legal service, which will allow the Supreme Court to make data-driven decisions about the future of regulating legal services in Washington.

3.1.4 Timely Regulatory Reform

Enable timely regulatory reform. The legal regulatory sandbox may cut down the time to enable regulatory reform by several years. For example, recent changes to advertising RPCs took over 60 months from the start of rewriting to the final approval by the Supreme Court. Testing rule changes in a legal regulatory sandbox might be completed in 24-30 months because regulation testing is focused on specific regulations with supporting data be collected and analyzed for the change.

The possibility exists that some changes may become obvious based on less than 24-months' worth of data, but generally, participants would operate in the legal regulatory sandbox for two years.⁵

3.2 Safeguards of the Legal Regulatory Sandbox

Safeguards of a legal regulatory sandbox are:

3.2.1 No Skirting of Regulations

There is no intent to allow people or entities to operate in an unregulated environment. Rather, the intent is to determine the appropriate regulations to balance reducing the ATJ gap while protecting consumers of legal services from harm. The data collected during operation in the legal regulatory sandbox may generate regulatory changes for both licensed legal professionals and non-traditional legal service providers.

3.2.2 No UPL or Unauthorized Practice of Law

There is no intent to remove the restriction against UPL or unauthorized practice of law (UAPL). The intent provides pathways for legal professionals and entrepreneurs to provide non-traditional legal service under the authorization and active supervision of the Washington Supreme Court or its delegate.

3.3 The Overall Legal Regulatory Sandbox Model

An entity wanting to offer a non-traditional legal service in the Washington State Legal Regulatory Sandbox will apply by detailing:

- The entity's structure and key personnel;
- The services the entity wants to provide in Washington State;
- How the non-traditional legal service reduces the ATJ gap;
- The risk of harm to consumers;

⁵ Utah has already modified its legal regulatory sandbox based on early data. For example, as of the Utah Supreme Court's December 10, 2020, statement on referral fees, the Innovation Office will not consider applications setting forth bare referral fee arrangements between lawyers and nonlawyers. Bare referral fees are compensation paid to nonlawyers for the sole purpose of ensuring the referral of legal work. The Innovation Office will continue to consider applications in which fee sharing is one component in a more comprehensive innovative proposal. See: <https://utahinnovationoffice.org/about/what-we-do/>.

- How such harm will be mitigated;
- How these factors will be measured and reported while operating in the Legal Regulatory Sandbox.

If the application appears to meet the goals of the legal regulatory sandbox, then a Supreme Court order will be prepared to allow the operation of the non-traditional legal service in the legal regulatory sandbox. After approval of the Supreme Court, the entity may provide the defined and approved services and only the defined and approved services under the order.

While operating in the legal regulatory sandbox, the entity will provide quarterly reports measuring performance against goals. Based on these reports, the entity may continue to operate in the legal regulatory sandbox, or it may be necessary to request a modification to the Supreme Court order based on new knowledge gained from operating in the legal regulatory sandbox. Sometimes, it may also be necessary to terminate operation of the non-traditional legal service because the non-traditional legal service does not reduce the ATJ gap or is causing consumer harm.

Consumer harm could include factors such as loss of money, poor or incomplete legal service, untimely legal service, failing to exercise a legal right, or failure to meet a legal obligation.

If at the end of the legal regulatory sandbox term the entity is continuing to operate in compliance with the Supreme Court order and to meet ATJ goals without causing consumer harm, then a final Supreme Court order that defines the non-traditional legal service's ongoing operation in Washington State will be drafted and approved by the Supreme Court. Then the non-traditional legal service providers may continue to operate within the boundaries of that Supreme Court order. Such a Supreme Court order could also include specifics on any disciplinary action that would apply if the service deviates from the order, and any fee or other responsibilities that apply to the non-traditional legal service provider as it continues to operate.

This overall model for a legal regulatory sandbox is shown in Figure 1.

BLUEPRINT FOR A LEGAL REGULATORY SANDBOX IN WASHINGTON STATE

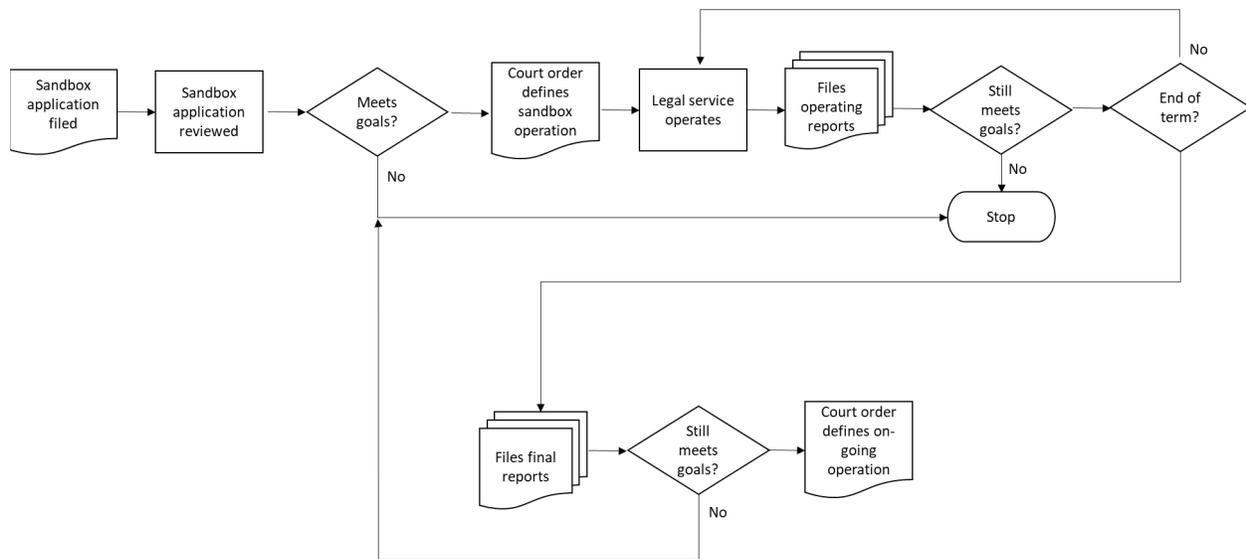


Figure 1. Overall Legal Regulatory Sandbox Model

While operating in the legal regulatory sandbox, entities are still subject to all statutes, regulations, court rules, and court orders. For example, operating in the legal regulatory sandbox does not protect the entity from prosecution for violations of the Consumer Protection Act. A legal professional working for the non-traditional legal service providers is not automatically protected from discipline for violation of an RPC. The only protections or safe harbor provided by the legal regulatory sandbox is for statutes and court rules relating to UPL and to specific RPCs as defined in the Supreme Court order. Similarly, entities approved for operation after successfully completing a term in the legal regulatory sandbox remain subject all other applicable statutes, regulations, and court rules and to the Supreme Court order, including business, licensing, and financial regulations.

To prevent consumer harm, the legal regulatory sandbox model must be transparent. It must be obvious to consumers which non-traditional legal service providers may operate in the legal regulatory sandbox, and which are authorized after operating successfully in the legal regulatory sandbox to continue to operate.

3.4 Management and Operation of a Legal Regulatory Sandbox

An entity—for the purpose of this blueprint, a Legal Regulatory Sandbox Board—will be required to manage and operate a legal regulatory sandbox for the Supreme Court. Several entities could provide such management and operational oversight, including the Washington State Bar Association (WSBA), the POLB, or a new Legal Regulatory Sandbox Board. Membership of such a Legal Regulatory Sandbox Board will need legal, corporate structure and management, and technical expertise.

The responsibilities of the Legal Regulatory Sandbox Board would be to:

- Evaluate and recommend to the Court applicants for participation in the Legal Regulatory Sandbox;

- Monitor performance of the non-traditional legal service providers providing the non-traditional legal service;
- Monitor performance of the non-traditional legal service itself;
- Take corrective action including suspension of operations in the Legal Regulatory Sandbox in cases of consumer harm.

3.4.1 WSBA as the Legal Regulatory Sandbox Managing Entity

The advantage of WSBA operating as the Legal Regulatory Sandbox Board is that such work could be viewed as within the duties already delegated to the bar by the Supreme Court to administer legal professionals admitted to practice law in Washington State. In addition, WSBA has many of the personnel capable of and needed to operate such a Legal Regulatory Sandbox Board.

The disadvantage of WSBA operating the Legal Regulatory Sandbox Board is that WSBA could have an inherent conflict of interest between existing licensed legal professional members and the entities wanting to provide the new non-traditional legal service. Such a conflict could complicate WSBA operations per recent litigation such as *North Carolina State Board of Dental Examiners v. Federal Trade Commission*⁶, and *Janus v. American Federation of State, County, and Municipal Employees*⁷.

Putting WSBA in this role could also have a chilling effect on entities' willingness to apply for the legal regulatory sandbox for similar conflict reasons.

However, even if WSBA does not manage the legal regulatory sandbox or act as the Legal Regulatory Sandbox Board, WSBA could under delegation and supervision by the Supreme Court, ensure compliance of entities that exit the legal regulatory sandbox and receive a court order allowing continued operation, like its role in administering license renewal of legal professionals today.

3.4.2 An Existing Supreme Court Board as the Legal Regulatory Sandbox Managing Entity

The advantage of an existing Washington Supreme Court Board such as the POLB or the Access to Justice Board (ATJB) operating as the Legal Regulatory Sandbox Board is that the Supreme Court would not have to create a new entity.

The disadvantage of an existing Washington Supreme Court Board operating as the Legal Regulatory Sandbox Board are these boards are staffed with volunteers who are well equipped to study problems and advise on solutions, but rarely have time for extensive document review. As volunteers they have typically agreed to a specific meeting cycle.

⁶ State Bd. of Dental Examiners v. FTC, 135 S. Ct. 1101 (2015), available at https://scholar.google.com/scholar_case?case=15100091775350559869.

⁷ Janus v. American Federation of State, 138 S. Ct. 2448 (2018), available at https://scholar.google.com/scholar_case?case=10508098745881210548.

The volume of work associated with the position would be greatly increased by taking on the management of a legal regulatory sandbox.

Further, the same conflicts that exist for WSBA may persist if such boards manage the legal regulatory sandbox, as the boards are administered by WSBA; and there is a strong connection between the boards and WSBA.

Finally, with the POLB there could be a conflict if a non-traditional legal service provider strayed from operation defined in its Supreme Court order and because of not following the order committed UPL, for example, by offering services while in the legal regulatory sandbox not authorized by the Supreme Court order. The POLB plays a role in UPL by referring UPL complaints to the Attorney General's Office or county prosecutors.

3.4.3 Create a New Independent Legal Regulatory Sandbox Board

A newly created and independent Legal Regulatory Sandbox Board may be the best alternative. The Legal Regulatory Sandbox Board would have a small nucleus, perhaps made up of a designee from WSBA, the POLB, and the ATJB. There could also be a significant number of public members with an independent Chair. Affirmative actions will be taken to nominate public members with experience:

- Working in underrepresented communities;
- Providing legal aid and pro bono services;
- Working in the technology community.

This core Legal Regulatory Sandbox Board membership could then pull in expertise as needed based on the applicant and the non-traditional legal service, from a variety of sources, including the Washington Supreme Court, WSBA, the WSBA sections (for specific legal subject matter expertise), the law schools in Washington State, and members of the bar and the tech community.

The advantage of such a Legal Regulatory Sandbox Board is that it can be small, flexible, and responsive, and it would be relatively free from conflict.

The disadvantage of such a Legal Regulatory Sandbox Board is that its functioning would have to be funded by either application fees or grants.

The new Legal Regulatory Sandbox Board would work with WSBA and the other Supreme Court Boards while taking an arm's-length approach from the day-to-day operations or administration of WSBA. For example, when the new Board uses the services from WSBA, then the new Legal Regulatory Sandbox Board would be charged the going rate for such services, to ensure WSBA member's fees are not paying for entities to operate in the Legal Regulatory Sandbox.

3.5 A Model for Assessing Legal Regulatory Sandbox Admission and Participation

A model that attempts to measure the reduction in the ATJ gap while also measuring the risk of consumer harm will help evaluate applicants for participation in the legal regulatory sandbox.

This model sets criteria such as reducing the ATJ gap against the risk of harm to consumers. When such harm might occur, this model will assist the Legal Regulatory Sandbox Board in evaluating admission to, operation in, and graduation from the legal regulatory sandbox (see Figure 2).

Legal Regulatory Sandbox Risk Analysis Model

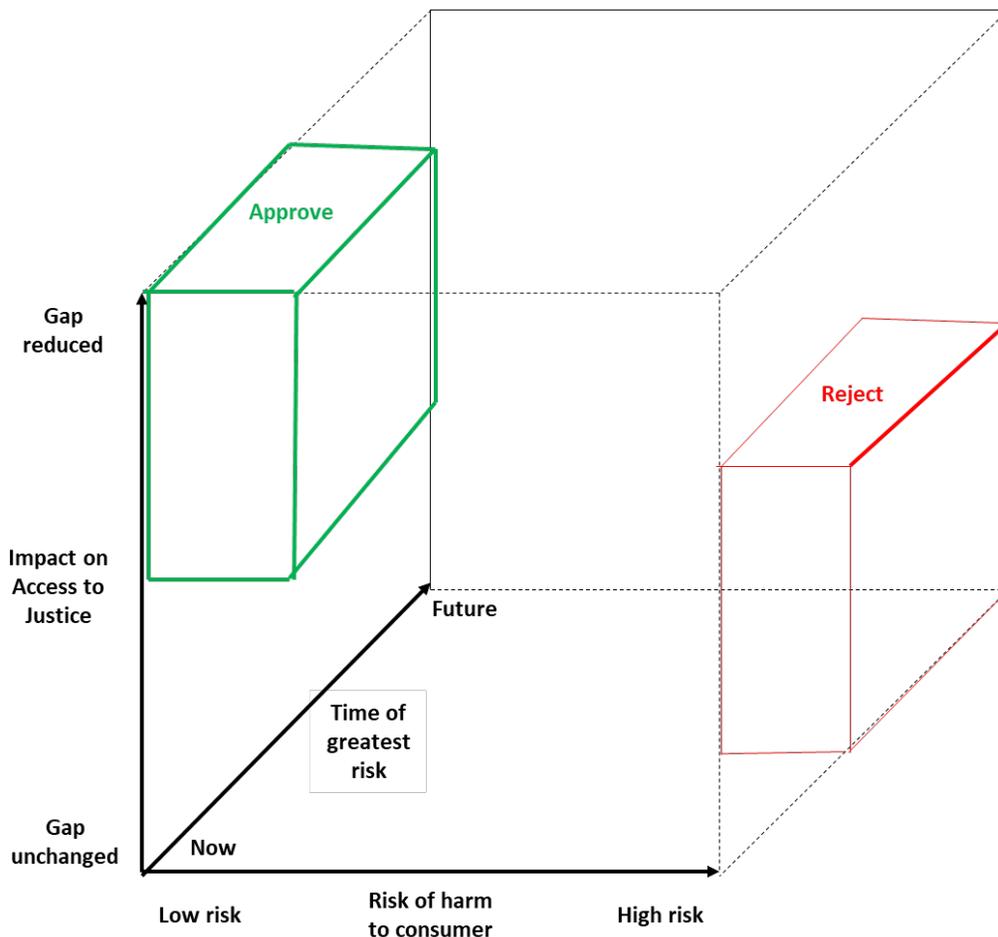


Figure 2. Legal Regulatory Sandbox Risk Analysis Model

3.5.1 Risk of Harm to Consumer

The ‘x,’ or horizontal, axis of this model (labeled ‘Risk of harm to the consumer’) shows that applicants for participation in the legal regulatory sandbox will be evaluated based on the estimated risk of consumer harm created by allowing consumers to use the non-traditional legal service.

3.5.2 Reducing the ATJ Gap

The ‘y,’ or vertical, axis of this model (labeled ‘Impact on ATJ’) shows that applicants for participation in the legal regulatory sandbox will be evaluated based on how much their proposed non-traditional legal service reduces the ATJ gap.

3.5.3 Other Criteria

The ‘z,’ or diagonal, axis in this model (labeled ‘Time of greatest risk’) shows that applicants for participation can also be measured against other criteria, for example whether potential harm to consumers is likely to be noticed or occur in the present (now) or the future (later).

However, this z axis is flexible. It could just as well be used to manage other criteria such as effect on equity (changing versus reinforcing the status quo) created by the non-traditional legal service being evaluated.

3.5.4 Model Usage Examples

Applicants proposing to use the legal regulatory sandbox to test a non-traditional legal service that appears to reduce the ATJ gap, that is determined to have a low risk of harm, and where harm to consumers—if any—occurs in the present would likely be approved. For example, an OLS designed to assist a person get a temporary protection order might fall in the green area and be easily approved for participation in the legal regulatory sandbox.

Applicants proposing to use the legal regulatory sandbox to test a non-traditional legal service with a lesser impact on the ATJ gap and a higher risk of harm (especially where harm might not be recognized immediately) will need deeper consideration and may be denied admission to the legal regulatory sandbox. Such applicants may have to submit additional information and be subject to additional data collection requirements while in the legal regulatory sandbox and potentially after successfully leaving the legal regulatory sandbox. For example, an online trust generation application that reduces the ATJ gap but might not show evidence of harm for a several years might not be appropriate for admission to the legal regulatory sandbox.

Between the green and red box in the model may fall proposed non-traditional legal service which may be granted admission to the legal regulatory sandbox if suitable data can be collected and analyzed to determine reduction of the ATJ gap, the benefit to consumers, and the risk of harm to consumers to determine whether admission to the legal regulatory sandbox is appropriate.

Once in the legal regulatory sandbox, ongoing evaluation and review will determine where within the model a particular applicant’s non-traditional legal service lies, whether the benefits outweigh any risk of harm to consumers, and whether continued operation in the legal regulatory sandbox or a form of licensure should be allowed.

3.6 Admission to the Legal Regulatory Sandbox

A proposed flowchart for the admission process to the legal regulatory sandbox is shown in Figure 3.

Admission to the Legal Regulatory Sandbox

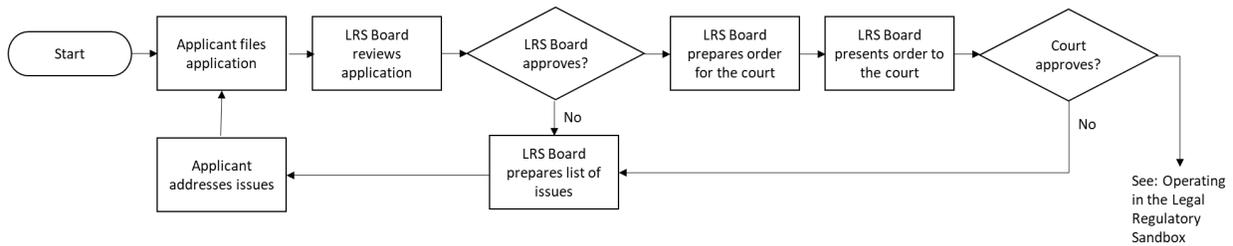


Figure 3. Admission to the Legal Regulatory Sandbox

Admission to the legal regulatory sandbox begins with an applicant applying (see Legal Regulatory Sandbox Application below) with the Legal Regulatory Sandbox Board. (For a sample completed application, see Appendix B.)

The Legal Regulatory Sandbox Board will review the application, using the Legal Regulatory Sandbox Risk Analysis Model and other criteria as warranted.

If the Legal Regulatory Sandbox Board approves the application, it will draft an order for the Supreme Court (see Legal Regulatory Sandbox Approval Order below) that defines the operating rules and operational data to be collected while the applicant is offering non-traditional legal service in the legal regulatory sandbox. (For a sample Supreme Court order, see Appendix C.)

If the Supreme Court approves the order, then the applicant can operate for a maximum of two years in the legal regulatory sandbox and offer the non-traditional legal service in Washington State during the order.

If the Legal Regulatory Sandbox Board has issues with or questions about the application, or the Supreme Court has any concerns about issuing the order, the applicant may address the issues and ask that their application be reviewed again.

3.7 Legal Regulatory Sandbox Application

At a minimum, applicants to the legal regulatory sandbox must provide the following information:

3.7.1 Description of the Proposed Non-traditional Legal Service

A description of the proposed non-traditional legal service, including:

- a) The nature and scope of the non-traditional legal service, including the specific legal issue(s) the non-traditional legal service will address;
- b) The intended market for the non-traditional legal service and whether they are or intend to operate in another jurisdiction’s legal regulatory sandbox;
- c) The entity providing the non-traditional legal service, including state of incorporation, and key management;
- d) When the provision of non-traditional legal service can begin to be offered;
- e) The costs of the non-traditional legal service to consumers.

3.7.2 How the Non-traditional Legal Service Reduces the ATJ Gap

A description of the non-traditional legal service benefits, including:

- a) Which specific consumers the non-traditional legal service targets;
- b) How the non-traditional legal service provides a high-quality legal service;
- c) How the non-traditional legal service is cost-effective;
- d) How the non-traditional legal service is more accessible to consumers than available legal services;
- e) Other aspects of the non-traditional legal service that help close the ATJ gap.

3.7.3 Risk of Harm to Consumers

A description of the risk of harm to consumers that the non-traditional legal service will create, including:

- a) What potential harm could befall a consumer using the non-traditional legal service;
- b) Which consumers are at most risk of harm;
- c) When the risk is likely to occur (present or future);
- d) How any risk of harm can be measured (that is, what data will be collected to show risk and steps to mitigate the risk).

3.7.4 Entity Information

A description of the entity proposing the non-traditional legal service, including:

- a) type of entity;
- b) state of incorporation;
- c) officers;
- d) years of operation;
- e) financial information;
- f) business plan for the non-traditional legal service;
- g) number of legal professionals (if any) involved in the creation and management of the non-traditional legal service (and any disciplinary actions against such legal professionals).

3.7.5 Other Material Information

Any other information that will help the Legal Regulatory Sandbox Board and the Supreme Court evaluate admission to the legal regulatory sandbox, such as a description of RPCs or Court Rules which may need to be modified in the legal regulatory sandbox.

3.8 Legal Regulatory Sandbox Approval Order

When the Legal Regulatory Sandbox Board approves an applicant for operation in the legal regulatory sandbox, the Legal Regulatory Sandbox Board will draft an order for the Supreme Court outlining the non-traditional legal service providers duration and the oversight of the Supreme Court via the Legal Regulatory Sandbox Board while the non-traditional legal service is in the legal regulatory sandbox. Elements of the order include:

3.8.1 Approved Non-traditional Legal Service

A description of the non-traditional legal service, including any legal transactions that the non-traditional legal service can perform.

3.8.2 Unapproved Legal Services

A description of the specific legal work that the non-traditional legal service cannot perform.

3.8.3 Appropriate Regulation

A description of regulations, including any RPCs that will apply to the provision of the non-traditional legal service, and any new or proposed modified RPCs which might be needed.

3.8.4 Data Reporting

A description of the data to be reported to the Legal Regulatory Sandbox Board on a quarterly basis, and mandatory data to be provided at the end of the legal regulatory sandbox duration. The data collected will be analyzed to show whether the ATJ gap was reduced, and whether the entity managed risked to consumers.

Required data will differ by the services being provided, but may include:

- a) Number of consumers served since last report;
- b) Number of completed transactions or services;
- c) Number of incomplete transactions or services (and explanation);
- d) Average cost per transaction or service;
- e) Elapsed time to provide each transaction or service;
- f) Number and type of complaint;
- g) Number of complaints resolved and manner of resolution;
- h) Time to resolve each complaint;
- i) Other data based on the transaction or service.

3.8.5 Mitigation Plan

A description of the mitigation plan if harm to consumers occurs.

3.8.6 Legal Regulatory Sandbox Duration

The duration of time the applicant may operate in the legal regulatory sandbox (typically two years for all applicants).

3.9 Operating in the Legal Regulatory Sandbox

A proposed flowchart for operating in the legal regulatory sandbox is shown in Figure 4.

Operating in the Regulatory Sandbox

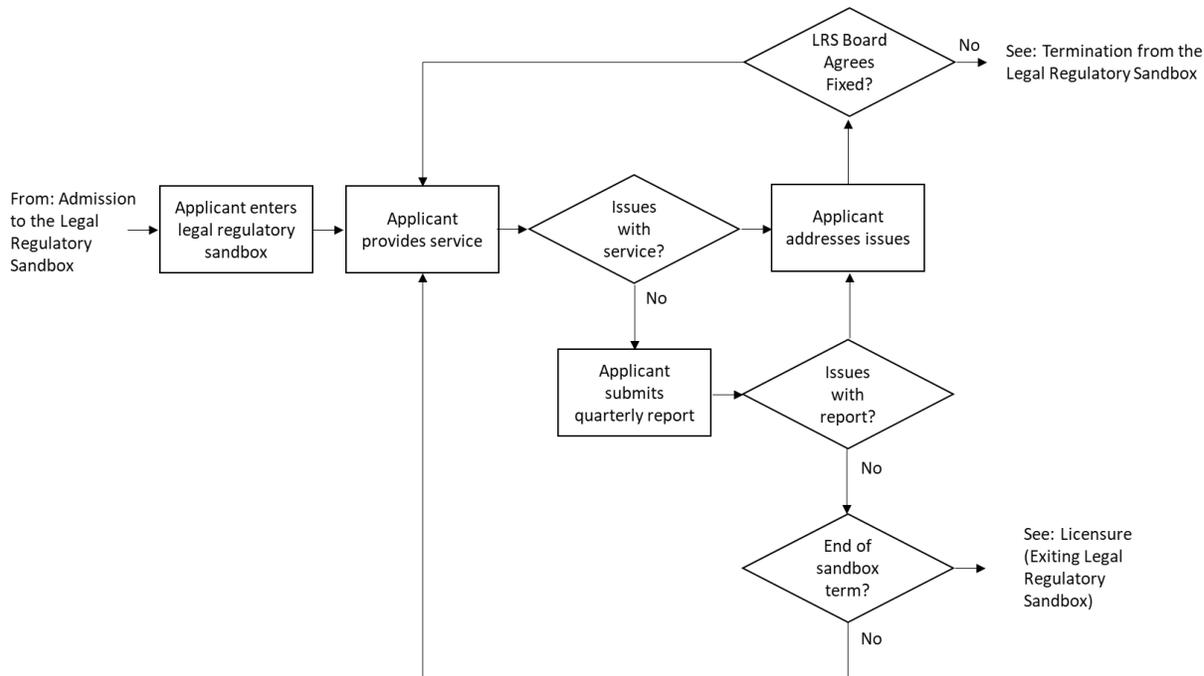


Figure 4. Operating in the Legal Regulatory Sandbox

Operation in the legal regulatory sandbox begins with the applicant getting an order from the Supreme Court defining operation of the non-traditional legal service in the legal regulatory sandbox.

If there are issues reported with the non-traditional legal service, the applicant must address such issues to the satisfaction of the Legal Regulatory Sandbox Board to continue operating in the legal regulatory sandbox.

Even if there are no issues reported with the non-traditional legal service, the applicant must submit quarterly reports to the Legal Regulatory Sandbox Board (see Data Reporting above). If there are issues with the report, the applicant must address the issues to the Legal Regulatory Sandbox Board’s satisfaction to continue to provide the legal service.

However, if the applicant does not address the issues and continues to operate, then the protection of the legal regulatory sandbox ends (see Termination from the Legal Regulatory Sandbox, below).

If the applicant operates in the legal regulatory sandbox and continues without issue to the end of the term, then the applicant leaves the legal regulatory sandbox (see Licensure, below).

Operations in the legal regulatory sandbox continue in this manner until the end of the time in the legal regulatory sandbox as defined in the Supreme Court order. If the Supreme Court does not authorize continued operation of the non-traditional legal service after the end of the time in the legal regulatory sandbox, an orderly shutdown will be needed to ensure no consumers are harmed by withdrawal of the non-traditional legal service.

3.10 Termination from the Legal Regulatory Sandbox

A proposed flowchart for termination from the legal regulatory sandbox for cause is shown in Figure 5.

Exiting Legal Regulatory Sandbox (Termination for Cause)

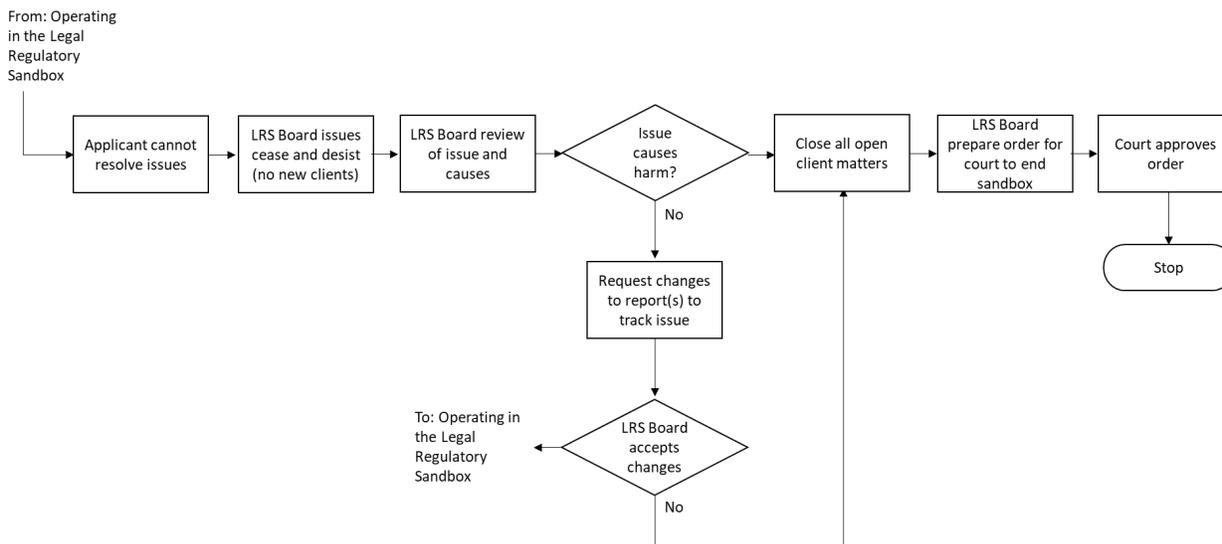


Figure 5. Exiting the Legal Regulatory Sandbox (Termination for Cause)

If an applicant’s operation in the legal regulatory sandbox creates issues, such as consumer harm, then the Legal Regulatory Sandbox Board will inform the applicant to discontinue taking on new clients and conclude existing transactions while the Legal Regulatory Sandbox Board reviews the issues and causes.

If the Legal Regulatory Sandbox Board determines the issue is harming consumers, then the applicant will close all pending matters promptly and place the applicant under the review of the Legal Regulatory Sandbox Board. The Legal Regulatory Sandbox Board will review the reported data, and data about the incidents of harm, and may have a hearing with the applicant to review the situation. If the Legal Regulatory Sandbox Board determines the legal service is causing harm, then Legal Regulatory Sandbox Board will prepare a court order to terminate the applicant’s authorization to operation in the legal regulatory sandbox.

It will be necessary to decide how to handle non-traditional legal service which do not affect the ATJ gap, and do not harm consumers. The Supreme Court may not want to authorize such services—mere lack of harm may not justify allowing continued operation.

If the issue is not harming consumers, then the Legal Regulatory Sandbox Board will work with the applicant to continue to monitor the issue (which may require additional reporting), and the applicant may resume operation in the legal regulatory sandbox.

If after receiving an order from the Supreme Court withdrawing authorization to provide the non-traditional legal service, and the applicant ignores such an order and continues offering such services in the Washington State legal market, then the applicant would be subject to action under the Consumer Protection Act and UPL statutes, and any other laws that apply.

3.11 Licensure (Exiting the Legal Regulatory Sandbox)

A proposed flowchart for successfully exiting from the legal regulatory sandbox is shown in Figure 6.

Licensure (Exiting Legal Regulatory Sandbox)

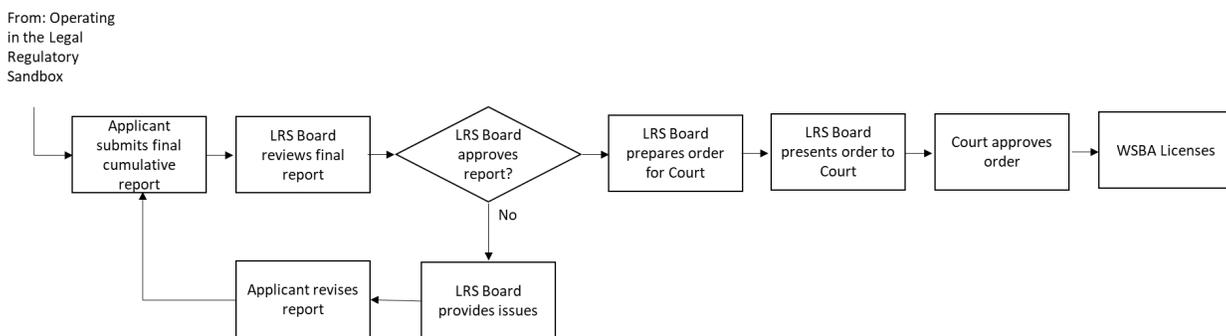


Figure 6. Licensure (Exiting Legal Regulatory Sandbox)

If an applicant completes the duration of the time in the legal regulatory sandbox, and there are no outstanding issues after review of the final report by the Legal Regulatory Sandbox Board, then the Legal Regulatory Sandbox Board will prepare an order for the Supreme Court.

The Supreme Court will have the discretion to approve or not approve the order, particularly if the Supreme Court feels the data does not support the conclusion the non-traditional legal service should be allowed to continue to operate. If the Supreme Court approves the order, then the applicant may provide the non-traditional legal service within the structure defined by that Supreme Court order. The Supreme Court can determine whether the non-traditional legal service addresses ATJ to such a positive degree, that it will allow other non-traditional legal service providers to follow the same order (without going through the legal regulatory sandbox).

This is essentially licensure, and the definition of what this entails, including reporting to the WSBA as an authorized legal service provider, and the licensure fees remains to be determined.

3.12 Duration of the Legal Regulatory Sandbox

There are two ways the legal regulatory sandbox duration could be measured. It could exist for a defined period, such as two years. (Utah started with a two-year fixed term which was recently expanded to seven years.)

Or the legal regulatory sandbox could have a rolling duration. For example, each applicant would be initially authorized by the Supreme Court order to operate in the legal regulatory sandbox under the order for two years. This means that the total duration of the legal regulatory sandbox would be for two years from the date that the last applicant enters the legal regulatory sandbox.

This blueprint proposes the second duration model. This is necessary to ensure that each applicant operates for the same duration and helps to ensure that data for each applicant is collected for a consistent period so analysis of the data will be more accurate. This rolling duration is shown in Figure 7.

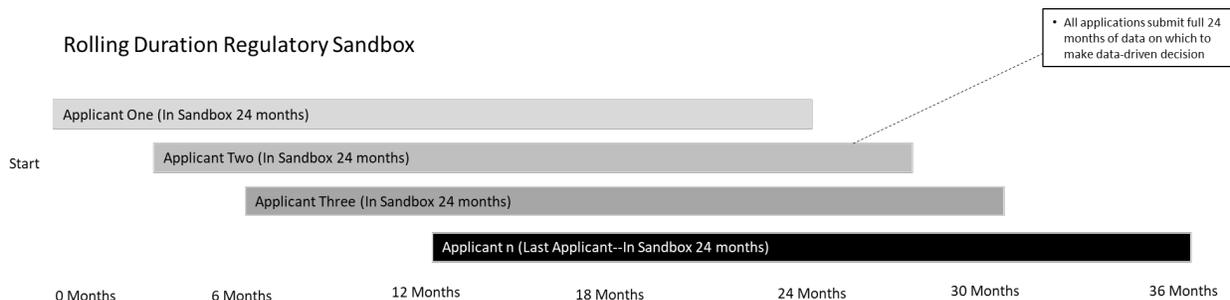


Figure 7. Rolling Duration Legal Regulatory Sandbox

3.13 Funding the Legal Regulatory Sandbox

3.13.1 Estimated Operating Budget per Legal Regulatory Sandbox Applicant

It is estimated that reviewing each application to participate in the legal regulatory sandbox will require approximately four person hours (two legal professional hours at \$200/hour, and two administrative hours at \$100/hour) for a total cost of \$600.00.

Reviewing a report (each quarter) will take the one hour of legal professional time, and one hour of administrative time for \$300.00.

Preparing a final report and court order would take two person hours (one professional, one admin) for a cost of \$300.00.

Therefore, the cost of completing a two-year term per application in the legal regulatory sandbox would be:

Application fee	\$600.00
Quarterly report reviews	\$2,100.00
Final report review	\$300.00
	\$3,000.00

Each non-traditional legal service would require its own application. An entity providing two non-traditional legal service would complete two applications. Circumstances could change these fees. For example, whether the applicant is a non-profit, a startup, or an existing for-profit entity might affect which fees would be charged. For example, non-profits and qualified legal services providers would not be charged; instead, each for-profit applicant might pay a non-profit support fee to underwrite the costs of non-profits operating in the legal regulatory sandbox.

Utah does not appear to charge fees, relying instead on grants. Utah considers the collection of data as the cost of being in the legal regulatory sandbox. This blueprint assumes that grants would be sought to cover some operation costs, and some costs would be borne by applicants.

3.13.2 Source of Funding

Ideally, the legal regulatory sandbox could initially be bootstrapped to run from the fees collected to operate in the legal regulatory sandbox. Later, ongoing funding could be supplied from licensing fees for those applicants granted a license to operate in the Washington State legal services market, and from grants from organizations that fund legal service alternatives.

4.0 Next Steps

This is a blueprint for the legal regulatory sandbox. The next steps include:

- a) Incorporating feedback from the Court and other parties
- b) Formalizing the Legal Regulatory Sandbox Board and appointing members
- c) Fund-raising (grants)
- d) Determining the RPCs and other regulations that can be tested within the legal regulatory sandbox and which cannot be tested within the legal regulatory sandbox
- e) Formalizing application processes
- f) Formalizing the court orders (templates)
- g) Creating a reporting database schema and database for collecting legal regulatory sandbox data (and standardizing with other states)
- h) Finding two test organizations to run through the process to determine what changes are needed to improve the legal regulatory sandbox and expand capacity.

5.0 Appendix A: Problem Statement

5.1.1 The Practice of Law in Washington State

Under Washington State statutes and court rules, only an authorized and licensed lawyer, a person supervised by an authorized and licensed lawyer, a Limited License Legal Technician (LLLT), or a Limited Practice Officer (LPO) can lawfully provide legal services to the public.

5.1.2 The ATJ Gap in Washington State

The Civil Legal Needs study update stated: “more than three-quarters of all low-income households in Washington State experience at least one civil (not criminal) legal problem each year. In the aggregate, low-income people experience more than one million important civil legal problems annually.”⁸

Additionally, “low-income people face more than 85 percent of their legal problems without help from an attorney. Attorney assistance is most successfully secured in family-related matters, but even here only 30 percent of legal problems reported are addressed with the assistance of an attorney. Removing family-related problems, low-income people receive help from an attorney with respect to less than 10 percent of all civil legal problems.”⁹

An update to the study in 2015 found that due to a variety of economic and social factors, “the average number of civil legal problems per low-income household having nearly tripled since 2003.”¹⁰

The Civil Legal Needs Update challenged the courts and the officers of the courts including judges, lawyers, LLLTs, and LPOs to ensure that low-income people in Washington State understand their legal rights and know where to look for legal help when they need it; to squarely address not only problems presented, but the systems that result in disparate experiences depending on one’s race, ethnicity, victim status or other identifying characteristics; and to know the costs and consequences of administering a system of justice that denies large segments of the population the ability to assert and effectively defend core legal rights.

It is clear “for decades, the United States has sought to bridge this ATJ gap through incremental improvement, such as volunteerism (i.e., pro bono work)

⁸ Washington State Supreme Court, Task Force on Civil Equal Justice Funding, The Washington State Civil Legal Needs Study, September 2003, available at <https://www.courts.wa.gov/newsinfo/content/taskforce/civillegalneeds.pdf>.

⁹ Id.

¹⁰ Washington State Supreme Court, Civil Legal Needs Study Update Committee, 2015 Washington State Civil Legal Needs Study Update, Oct. 2015, available at https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.

and legal aid.”¹¹ However, “closing this ATJ gap requires both incremental improvement and breakthrough change.”¹²

5.1.3 Online Legal Services

A variety of entities are offering online legal services. Many of these entities are helping people with their civil legal problems. Under the statute and rules, these entities may be unlawfully practicing law.

One such entity, Legal Zoom, assists people by providing form-based legal services, and they may refer a person to an authorized legal practitioner (lawyer, LLLT, or LPO). Today, LegalZoom operates in Washington State under an Assurance of Discontinuance between LegalZoom and the Washington State Attorney General’s Office.¹³ This agreement essentially requires LegalZoom to follow guidelines outlined in the agreement, such as not “Comparing, directly or by implication, the costs of Respondent’s self-help products, i.e., legal forms as contemplated in GR24(b)(8), and clerical services with those provided by an attorney, without, in close proximity to each such comparison, clearly and conspicuously disclosing to Washington consumers that Respondent is not a law firm and is not a substitute for an attorney or law firm.”¹⁴

Although it is not clear whether LegalZoom was the first entity to offer online legal services to people in Washington, many others have followed and online legal services are available covering a wide variety of legal services including family law, immigration, arbitration assistance, traffic infractions, and other civil legal matters. Some of these entities are Washington based (that is, registered with the Washington Secretary of State) and others are foreign entities.

At its annual meeting with the Supreme Court on Feb. 4, 2021, the POLB identified there were over 50 OLS providers providing legal services in Washington State. Approximately 20 of these providers, such as WestLaw and CLIO, primarily provide services to legal professionals. Over 14 legal service providers, such as Avvo and LegalZoom, provide services to both legal professionals and the public, including referring people to a legal professional (generally a lawyer). Finally, over 17 legal service providers, such as FairShake and Hello Divorce, target their services to the public.

¹¹ Robert W. Gordon, *Lawyers, the Legal Profession & Access to Justice in the United States, A Brief History*, DAEDALUS, Winter 2019, at 177, 178.

¹² Georgetown Law Ctr. On Ethics & the Legal Profession, *2020 Report on the State of the Legal Market*, 2-3 (2020)

¹³ *In Re the Matter of LegalZoom.com, Inc. a Delaware Corporation*, Sept. 15, 2010 available at https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/News/Press_Releases/2010/LegalZoomAOD.pdf.

¹⁴ *Id.* at 2.1(a).

These OLS providers offer legal services across a wide spectrum of legal matters, including family law, contract disputes, traffic infractions, and immigration. Several service models are in use, including referrals to legal professionals and do-it-yourself services. They are getting positive reviews from both the public and the press and are raising significant venture capital, which means they will continue to offer more services.

To be clear, these services may not be targeting people in Washington specifically; because they are internet services, they are there if people in Washington try to use them.

The advantage of such online legal services is they are addressing the ATJ gap in Washington. People using such services are likely doing better with their legal matter than simply being a pro-se litigant. They provide timely and often simplified advice. Typically, they are also less expensive than traditional legal services.

The disadvantage of such online legal services is they are not regulated in a similar manner as traditional legal services and may not be following Washington statutes and court rules. They may not be offering accurate and complete advice. Consumer harm may be going unreported.

5.1.4 UPL Complaints and Online Legal Services

As of April 2021, the POLB has had two UPL complaints brought to its attention. Neither were referred to the Attorney General's Office or a county prosecutor for action because there was no evidence of harm to the consumer in either case. However, this does not mean that the entities were not practicing law.

5.1.1 Addressing ATJ and Online Legal Services

Several jurisdictions in the US and Canada are addressing the ATJ gap by examining the role that online legal services could play. Several alternatives be considered from doing nothing to using a regulatory sandbox to take a risk-based and data-driven approach to regulatory reform, particularly regarding regulating online legal services and ABS.

The danger of doing nothing is that the online legal services are not going away. Again, this is evidenced by the investment of venture capital into the companies offering such services. And there is the danger such services will become accepted by the public and spontaneous deregulation will occur. Some would argue this is already taking place. An example of spontaneous deregulation can be found in what happened to municipalities when ride-share and home-share services entered cities without regard to cab and zoning ordinances.

As various businesses try to create new service delivery models aimed at filling the urgent need for legal advice, they find their ideas and initiatives stifled by certain existing regulatory rules. Many smaller legal service startups can't secure funding because there are questions as to whether their businesses may operate; meanwhile, regulators hesitate to amend the existing rules, citing potential harm to the public because of these new business models and service providers. New business models, innovative partnerships, and creative approaches to new licenses are all shut down by the lack of flexibility under the current rules.

With so many people unable to access meaningful legal assistance, the time has come for us to consider opening the pool of legal service providers and eliminating the limitation that only attorneys and LLLTs may own law firms. Without data, we cannot do so responsibly. There is a simple way to solve both problems: a regulatory sandbox.

6.0 Appendix B: Mockup Washington Legal Regulatory Sandbox Application

This is a sample of how an applicant might supply information to the Legal Regulatory Sandbox Board for consideration to test a non-traditional legal service in the legal regulatory sandbox. The company is fictitious, but much of the data is accurate and might reflect information for an online software based legal service.

6.1 General Legal Regulatory Sandbox Information for Applicants

6.1.1 Purpose of the Legal Regulatory Sandbox

The legal regulatory sandbox tests and evaluates innovative models for providing non-traditional legal service that reduce the ATJ gap, while minimizing the risk of harm to the public. Such innovative services may not be capable of being offered under the Rules of Professional Conduct (RPC) or would be considered the Unlawful Practice of Law under the Revised Code of Washington (RCW) 2.48.180.

6.1.2 Authority for the Legal Regulatory Sandbox

The Washington State Legal Regulatory Sandbox is authorized by Washington Supreme Court order (number), dated (date).

6.1.3 Disbarred or Suspended Legal Professionals

No legal professional disbarred or suspended by any bar or licensing authority can participate in any entity offering non-traditional legal service in the legal regulatory sandbox.

6.1.4 No Temporary Admission to Practice in Washington

The legal regulatory sandbox is not a means by which out-of-state lawyers can practice law in Washington State, without otherwise complying with the WSBA regulations as delegated by the Washington Supreme Court to the WSBA.

6.1.5 No Impact on Washington State or Federal Laws or Regulations

The legal regulatory sandbox does not and cannot impact requirements imposed by other applicable Washington or Federal Laws, the laws or requirements imposed by other jurisdictions, or the requirements imposed by other regulatory agencies. Authorization to provide non-traditional legal service within the legal regulatory sandbox does not release or indemnify any entity or individual from conforming to all other applicable laws, regulations, and court rules.

6.1.6 Legal Professionals Still Bound by RPCs

Except as temporarily modified by the Supreme Court order allowing the entity to provide non-traditional legal service within the legal regulatory sandbox, legal professionals working with entities in the legal regulatory sandbox shall maintain their duties under the RPCs.

6.1.7 Applications and Reports are Public Information

Applications for admission to the legal regulatory sandbox, and reports of operations in the legal regulatory sandbox are public documents to ensure the transparency of the legal regulatory sandbox.

Entities whose non-traditional legal service involve trade secrets as defined by RCW 19.108.010(4) may request such trade secrets be handled by the Legal Regulatory Sandbox Board under RCW 19.108.050.

6.1.8 Penalties for False or Misleading Application Information

Making false or materially misleading statements in this application is the basis for loss of authorization to participate in the Legal Regulatory Sandbox, and other criminal and civil sanctions may apply.

6.1.9 Changing Information

If information supplied as part of this application changes, the entity shall ensure the information is updated promptly.

6.2 Description of the Proposed Non-traditional Legal Service

6.2.1 Legal Service Model

- Legal professionals employed or managed by non-legal professionals
- Less than 50% non-legal professional entity ownership
- Over 51% non-legal professional entity ownership
- Legal professional sharing fees with non-legal professional
- Non-legal professional service provider with legal professional involvement
- Non-legal professional service provider without legal professional involvement
- Software or internet service provider with legal professional involvement
- Software or internet service provider without legal professional involvement**
- Other: _____

6.2.2 Primary Legal Service Category of Legal Service

Select One

- Accident/Injury
- Adult care
- Business
- Civil misdemeanor
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End-of-life Planning

- Family law
- Financial issues
- Healthcare
- Housing (Rental)**
- Housing (Mortgage)
- Housing (Manufactured Home)
- Immigration
- Military
- Native American and Tribal Law
- Public benefits
- Real estate
- Traffic

6.2.3 Secondary Legal Service Category of Legal Service

Select all that apply

- Accident/Injury
- Adult care
- Business
- Civil misdemeanor
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End-of-life Planning
- Family law
- Financial issues
- Healthcare
- Housing (Rental)
- Housing (Mortgage)
- Housing (Manufactured Home)**
- Immigration
- Military
- Native American and Tribal Law
- Public benefits
- Real estate
- Traffic

6.2.4 Nature and Scope of the Non-traditional Legal Service

“Safe Rental Spaces Washington” (SRSWA) is an OLS designed to assist tenants with a smartphone, secure their rights against a landlord renting an unsafe (uninhabitable) premise.

SRSWA helps a tenant secure their rights under the Washington Residential Landlord Tenant Act (RLTA), including the Revised Code of Washington (RCW) 59.18.070(1), 59.18.070(2), 59.18.070(3), 59.18.080, 59.18.090, and common law cases *Apostle v. City of Seattle* (70 Wash. 2d 59), *Javins v. First National Realty Corporation* (428 F.2d 1071), *Foisy v. Wyman* (83 Wash. 2d 27), and *Landis & Landis Const. LLC v. Nation* (286 P. 3d 979).

To use the application, the tenant downloads the SRSWA application from the Apple or Android store to their smartphone. The application is a free download. The tenant enters information about their landlord, property, who notices about the tenancy are to be sent to per the lease, and the issue making their rental unit unsafe (uninhabitable).

Machine learning based artificial intelligence determines whether the issue is an imminent health hazard, such as no heat in the winter or extreme rodent infestation, a minor problem, such as a refrigerator or stove not working, or some other matter making their residence unsafe.

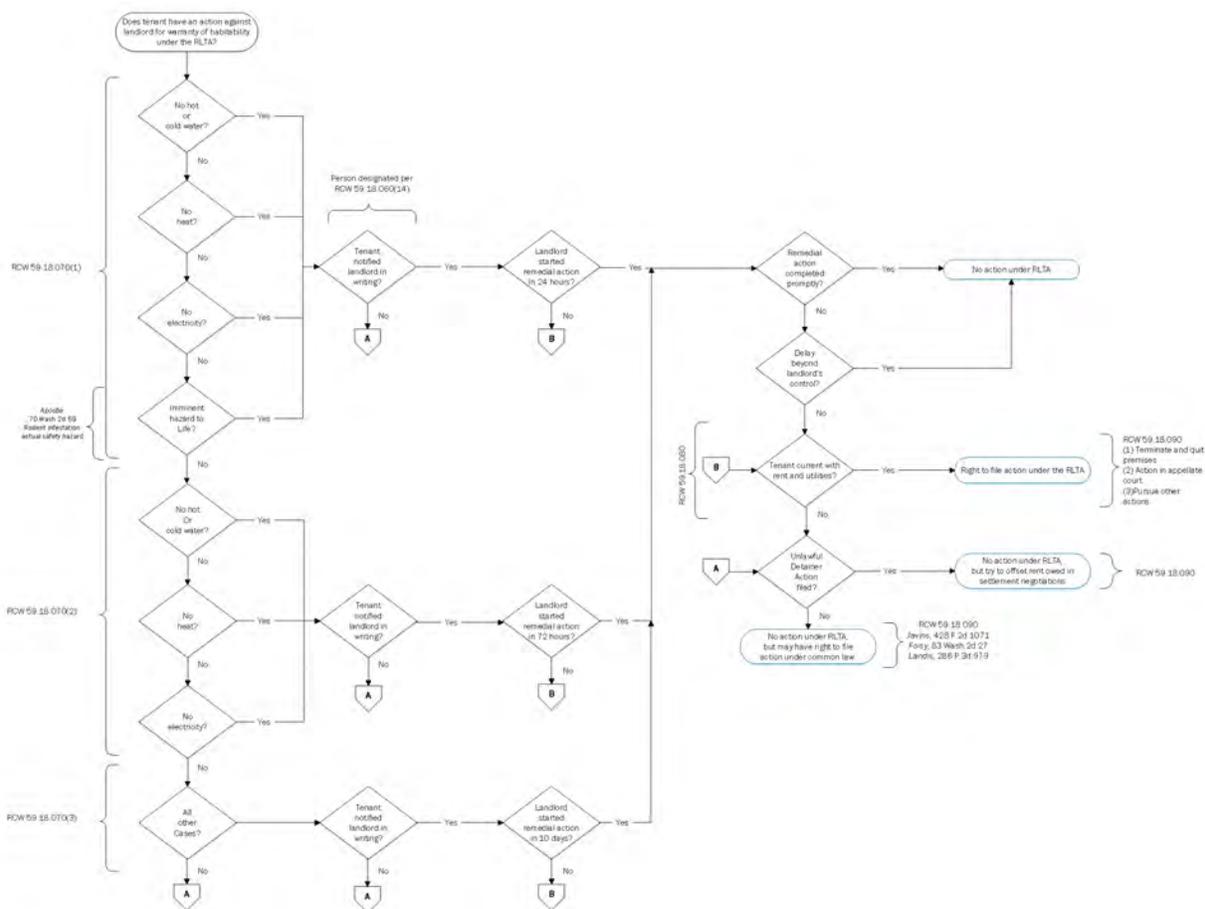
Based on the specific uninhabitable condition, the SRSWA application will generate and send a notice requiring that the landlord commence repairs in the statutorily defined period. Such notice will be sent so it proves service, such as certified mail.

If the landlord does not commence remedial action in the statutorily defined period, and the delay is the landlord’s fault (landlord could rectify issue if they chose to but have not yet acted), then the SRSWA application will guide the tenant through exercising their statutory rights including terminating the lease and quitting the premises, suing the landlord for damages in small-claims court, or effecting repairs and charging the landlord for the cost of repairs and damages.

If available, the lease can be scanned, including documents on the status of the mechanical systems in the rental unit, and the mold, smoke detector, and tenant’s obligations under the lease will be scanned and machine learning analyze the data to modify the algorithm.

Application is doing more than merely functioning as a scrivener to fill-in forms but is deciding about the tenant’s legal rights such as determining which part of the statute applies in each scenario, delivering notices in manner which assures proof of service, and commencing a legal action including potential starting a civil case in small claims or other court.

In complex cases, the SRSWA application will assist the client in finding lawyers willing to sue the landlord.



6.2.5 The Intended Market for the Non-traditional Legal Service

The population of Washington State in July 2019 was 7,614,893.¹⁵ The Census Bureau estimated there were 3,195,004 housing units. A housing unit is a house, an apartment, a group of rooms, or a single room. 63% of the housing units are owner occupied, so 37% are rented. With about 2.55 people per housing unit, the calculated number of people renting would be $(3,195,004 * 0.37) * 2.55$ or 3,014,486.27.

The number of households in Seattle are 323,446.¹⁶ Using the same estimates as for the state, the number of rental households would be $(323,446 * 0.37)$ or 119,675 units. Looking at City of Seattle Code complaints for 2019¹⁷, the number of complaints about power, heat, plumbing, mold, and bugs was about 25% of the total code complaints. This means that approximately $(119,675 * 0.25)$ or 29,918 rental units in Seattle had a potential safety or habitability issue.

¹⁵ <https://www.census.gov/quickfacts/WA>.

¹⁶ <http://www.seattle.gov/opcd/population-and-demographics/about-seattle>

¹⁷ <https://data.seattle.gov/Community/Code-Complaints-and-Violations-Map/rsmq-5vwm>

Using this number statewide, $(3,195,004 * 0.25)$ or 798,751 rental units per year in Washington had a habitability issue.

The SRSWA application is not designed for any other jurisdiction at this time, as each state has different landlord-tenant law statutes.

6.2.6 When the Provision of Non-traditional Legal Service can Begin

The SRSWA application is in beta testing and will be ready for initial distribution to consumers in January 2022.

6.3 How the Non-traditional Legal Service Reduces the ATJ Gap

6.3.1 Which Specific Consumers the Non-traditional Legal Service Targets

The SRSWA application targets tenants in Washington State.

6.3.2 How the Non-traditional Legal Service Provides High-quality

The SRSWA algorithms, machine learning training, and test data has been reviewed by lawyers who advise tenants in the RLTA for a variety of agencies, including the King County Bar Association Housing Justice Project, and the Tenants Union. It follows the statutory definition of what constitutes or makes a rental unit uninhabitable, and the rights of tenants and the obligations of landlords. A professor at Seattle University who teaches a Landlord-Tenant class has also reviewed the application's logic and algorithms and helped to create test data.

Anonymized data about each transaction, and the status of the transaction over time, and source documents are used with machine learning to better train the algorithm and ensure it is working correctly and protecting tenant's rights.

Consumers can report a problem through the application, and a chat interface assists them with most issues. Consumers with complex problems outside the scope of the application will be referred to an attorney who provides legal services to tenants.

6.3.3 How the Non-traditional Legal Service is Cost-effective

The SRSWA application is free to download. Tenants will be charged only all costs associated with their transaction, such as the costs of sending certified mail or other notices.

Washington Tenant Software makes money by selling information about bad rental units, and bad landlords (those continually failing to repair rental units) to companies such as Zillow and Apartments.com who value such data. No tenant data is sold or traded to pay for SRSWA costs.

6.3.4 How the Non-traditional Legal Service is Consumer Accessible

Although a tenant/consumer might figure out how to correctly follow an uninhabitable issue through the legal process correctly, few seem able to do more than report to a county or city code enforcement office which might take timely action.

Most consumers make incorrect assumptions such as they can withhold or stop paying rent, leading to potential eviction (unlawful detainer) actions.

According to the US Census, Washingtonians have a high percentage of computers in their homes (greater than 90%), and most have access to high-speed internet, making the application highly available.

Few attorneys will take on uninhabitability matters for tenants, as few tenants can afford to pay hundreds of dollars per hour for such legal service.

Therefore, the SRSWA application should enable more tenants to exercise their legal rights under the RLTA.

6.3.5 Other Aspects of the Non-traditional Legal Service that Close the ATJ

Gap.

Many tenants live with the problem, and incur additional costs because of damage to their health, loss of wages, or harm from attempting repairs on their own.

The lower the income, the less likely the person can make repairs. Many fear retaliation including eviction or non-renewal of the lease. Others worry about being labeled a problem tenant, making it hard to rent another unit.

Few attorneys practice the tenant side of landlord-tenant law.

6.4 Risk of Harm to Consumers

6.4.1 What Potential Harm Could Befall a Consumer

Consumers may be harmed if they overstate the nature of the problem, fail to take subsequent steps in the process promptly, or stop using the application once they initiate a complaint to the landlord.

To mitigate the harm, the SRSWA application will email the consumer with the status of their matter on an ongoing basis, and clearly detailing the next steps and deadlines.

It may not scale across WA because of each court having different court rules (for example, not all Washington county courts support e-filing). However, it may be possible to modify the application to accommodate different statutes, but that is not part of the current plans.

6.4.2 Which Consumers are at Most Risk of Harm

The SRSWA application will be initially released in English and Spanish. Although every attempt has been made to use non-legal language and terms, uninhabitability and unlawful detainer matters can include complex scenarios and fact patterns, therefore, those with low reading skills or literacy may make mistakes using the application.

Those consumers in poorer communities, where affordable housing is at a premium, are at risk of retaliation from the landlord, but such risk may be less than if the tenant tried to act on their own (without assistance of the application or a legal professional).

6.4.3 When the Risk is Likely to Occur (Present or Future)

The greatest risk of consumer harm occurs when the consumer initially uses the application and lessens over time (uninhabitable issues have a relatively short timeline).

6.4.4 How Any Risk of Harm can be Measured

The application collects anonymized data about usage, including started transactions, unfinished or abandoned transactions, and failed transactions.

Consumers can report and track issues with the application through a portal and an issue id for tracking will be assigned to any complaint entered through the application.

Consumer satisfaction will be measured after each transaction.

6.5 Entity Information

6.5.1 Type of Entity

Washington Tenant Software is a Washington State LLC. The LLC is the developer or the SRSWA application.

6.5.2 Officers

John and Jane Doe are the members of Washington Tenant Software LLC. John Doe is the member manager.

6.5.3 Years of Operation

Washington Tenant Software was incorporated in 2019.

6.5.4 Financial Information

Washington Tenant Software has raised \$2 million dollars from Angel Investors and is not expected to seek any additional funding until it is in the market. SRSWA is the entity's first application.

6.5.5 Business Plan for the Non-traditional Legal Service

As noted above in 6.5.4, WTS has raised capital to fund the initial release of the application. As noted in 6.3.3 Washington Tenant Software makes money selling information about landlords and rental units, not client or tenant data.

6.6 Other Material Information

SRSWA intends to compensate lawyers advising about the RLTA with monetary payments for work performed and does not intend on having any legal professionals on staff or as members of the corporation.

SRSWA is a software development firm and is not a law firm.

7.0 Appendix C: Mockup of Supreme Court Order Sandbox Participation

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE)	
APPLICATION OF WASHINGTON TENANT)	
SOFTWARE – SAFE SPACES WASHINGTON)	ORDER
PARTICIPATION IN THE WASHINGTON)	No 00000-A-000
COURTS LEGAL REGULATORY SANDOX)	

WHEREAS, the Washington State Supreme Court has determined to implement a strategic initiative to evaluate and assess efficacy of non-traditional legal services to provide legal services that lessen the ATJ gap in Washington state while minimizing risk of consumer harm, and to evaluate the correct level of regulation for such non-traditional legal services;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Washington Tenant Software, a Washington State entity, may offer legal services from its Safe Rental Spaces Washington application in Washington State as an entity providing software or internet services provider without legal professional involvement.

Washington Tenant Software shall only offer legal services in Washington State in the Housing—Rental legal services area.

Washington Tenant Software may refer clients with a complex habitability issue, which the Safe Rental Spaces Software cannot process, to a licensed and authorized legal professional in Washington, and to charge a referral fee to such legal professionals.

Washington Tenant Software shall conform to the HIGH risk reporting requirements imposed by the Washington Courts Legal Regulatory Sandbox Board.

Washington Tenant Software shall prominently display disclosure to consumers using the Safe Rental Spaces Washington application it is operating in the Washington Courts Legal Regulatory Sandbox, that it is a non-legal professional ownership company and is not a law firm, and how consumers can report a problem with the application or service.

If Washington Tenant Software desires to change these requirements, it must submit any such change to the Washington Courts Legal Regulatory Sandbox for assessment and a modification to this order.

This authority is granted for 24 months from the date the non-traditional legal service is provided to consumers in Washington State, as reported to the Washington Courts Legal Regulatory Sandbox Board.

This authority and any such extension or permanent authorization is subject to Washington Tenant Software's compliance with the conditions and regulations set forth by the Washington Courts Legal Regulatory Sandbox Board, the Washington Courts Legal Regulatory Sandbox Board's recommendation to the Supreme Court, and verification by the Washington Courts Legal Regulatory Board's verification that Washington Tenant Software has a record of compliance with all requirements, statutes, regulations, and court rules and the non-traditional legal services are not harming consumers.

DATED at Olympia, Washington this <day> day of <month>, <year>.

TO: WSBA Board of Governors
FROM: Executive Director Terra Nevitt
DATE: July 9, 2021
RE: Executive Director's Report

July Licensure Exams

There are currently 687 examinees registered to sit for the bar exam to be held this month. In addition, 38 LLLT candidates and 63 LPO candidates are registered to sit for the July 2021 LLLT and LPO examinations respectively. This marks our second and likely last remote administration of the licensure exams. We are currently planning for a return to in-person exams with February 2022 examinations to be administered in Lynnwood and July 2022 examinations to be administered in Yakima.

Our Lawyer Bar Exam Q&A session took place on June 2 and it was well attended (140 attendees!) and engaging, with over 50 back-to-back questions addressed. Attached is a detailed recap including the top 3 takeaways. Also attached is a recap of the LPO and LLLT exam FAQ session that took place on July 1.

Changes to the LLLT and LPO Exams

Exam content and development is one of the duties and responsibilities of both the Limited Practice Board and the LLLT Board under APR 12(b)(2)(A), APR 28C(2)(b), APR 4(e)(1)(B). Following administration of the first remote exams, the Limited Practice Board and the LLLT Board reviewed the length of time applicants took to complete each session of the LPO and LLLT exams and how many applicants passed or failed, if known, for those applicants who used the full session time. In addition, the boards reviewed the results and comments of post-exam surveys completed by the applicants. Based on the analysis, the Limited Practice Board and LLLT Board have both increased the time for the performance test session and the LLLT Board has increased the time for each essay question. Overall, the LLLT Exam has expanded to two a day exam; with the written sessions on day one and the multiple choice sessions (one for family law and one for professional responsibility) on day two.

Approved Amendments to APR 11 Re Mandatory Continuing Legal Education

On June 4, 2021, the Washington Supreme Court approved an amendment to APR 11 to require that one of the required six ethics credits per reporting period for lawyers, LPOs, and LLLTs must be in the category of equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law. This amendment was proposed by the Mandatory Continuing Legal Education Board and supported by the Board of Governors. On July 1, 2021, the Court issued an amended order to clarify that the amendment has an effective date of September 1, 2022, which will allow WSBA to update its systems and notify licensed legal professionals and CLE sponsors of the new requirement. For more details, see attached Amended Order No. 25700-A-1349.

Approved Amendment to RPC 1.4 Re Disclosure of Malpractice Insurance Status

On June 4, 2021, the Court also approved the Board of Governor's proposed amendment to RPC 1.4-Communication to require disclosure of a lawyer's malpractice insurance status to clients and prospective clients if the lawyer's insurance does not meet minimum levels. See attached Order No. 25700-A-1351. The amendment will become effective September 1, 2021. WSBA is planning education and outreach to make sure members are aware of the change. Note that the Court also rejected a proposed amendment to APR 26 put forth by Equal Justice Washington that would've required lawyers to carry professional liability insurance with some exceptions.

Other Supreme Court Rulemaking Activity

Amendments to Comment 4 to RPC 1.16 and Comment 16 to RPC 1.13 Approved. Attached is Supreme Court Order No. 25700-A-1346 adopting the amendments proposed by the Board of Governors. These amendments were proposed by the Committee on Professional Ethics and approved by the Board of Governors at the June 26-17, 2020 meeting. The purpose of the amendments is to alert lawyers to the holding in the Karstetter v. King County Corrections Guild relating to the discharge of in-house counsel and lawyers with comparable employment relationships. The amendments take effect September 1, 2021.

Amendments to Indigent Defense Appellate Performance Guidelines and CrR 3.1, CrRLJ 3.1, JuCR 9.2 and MPR 2.1 Approved. On June 4, 2021 the Supreme Court adopted the above described amendments with an effective date of September 1, 2021. These amendments were proposed by the Council on Public Defense and approved by the Board of Governors at the November 23, 2019 meeting. The amendments incorporate uniform guidance for appointed counsel in indigent appeals into the *Standards for Indigent Defense*. For more information, see attached Order No. 25700-A-1348.

Practice of Law Board Proposes a Regulatory Sandbox

The Practice of Law Board met with the Washington Supreme Court on July 1, 2021 to present its proposal to create a legal regulatory sandbox in Washington State. If approved, the sandbox would allow for a non-traditional legal service provider to offer a non-traditional legal service with the goal of helping address the access to justice gap, while protecting consumers from harm and helping to determine the appropriate regulation required to authorize non-traditional legal service providers to provide non-traditional legal services in Washington State. Practice of Law Board Chair Michael Cherry presented the proposal to the Board of Governors for input at its May 20-21, 2021 meeting. The meeting with the Court was broadcast on TVW and is currently available [here](#).

The Practice of Law Board was established by the Washington Supreme Court with the adoption of General Rule 25, effective September 1, 2002. The rule outlines the responsibilities of the Board, which include recommending to the Court "new avenues for persons not currently authorized to practice law to provide legal and law-related services that might otherwise constitute the practice of law as defined in GR 24." The rule also charges WSBA with funding, administering and staffing the Practice of Law Board consistent with GR 12. More information about the Practice of Law Board and its work is available on the [WSBA website](#).

Reopening the WSBA Office

It has been sixteen months after we first sent WSBA employees home due to the COVID-19 pandemic. As the state lifts its restrictions, we are working towards reopening the WSBA office on August 1, 2021. At that time, we will resume holding meetings and events at the WSBA office. We are currently determining if masks will be required in the office and will follow public health guidance and make appropriate adjustments to our own safety protocols. To prepare for the reopen, we are modifying our meeting rooms to better support the hybrid meetings that we have become accustomed to during the pandemic and that we anticipate are here to stay. We are also planning the addition of glass doors to our main entrance on the sixth floor at 1325 4th Avenue to improve our ability to create a healthy and safe environment for employees, members, and everyone visiting the WSBA office. Over the years we have had a number of serious safety incidents and current and future requirements for health screenings are also impacting how we conduct operations on the 6th floor. We will be seeking Board authorization to fund this project from WSBA's facilities reserve fund.

2021 WSBA Listening Tour

The WSBA Listening Tour is an annual opportunity for the WSBA President and Executive Director, joined by local and At-Large Governors, to travel across the state to listen and engage with WSBA members. There was no Listening Tour last year due to the pandemic, but with things opening up, we are looking forward to visiting as many counties as we can this summer and fall. We have planned our first stops to follow the July Board meeting in Kitsap, Snohomish, Island and Skagit Counties and are looking to schedule additional stops throughout August and September. Stay tuned for more stops and for our reports from the road.

Register Now for the 2021 Access to Justice Conference

Registration is now open for the 2021 Access to Justice Conference on August 11-13. The conference theme is *Crisis and Reckoning: A Call to Dismantle Unjust Systems*. This year will be the first ever entirely virtual Access to Justice Conference. The Planning Committee chose to move forward with a virtual conference as a way to improve accessibility and ensure the health and safety of conference attendees and presenters. Registration is free and there will be a \$100 fee for those seeking CLE credit. For more information, visit the [conference website](#).

Judicial Information Systems Committee Update

In his final report, WSBA Representative on the Judicial Information Systems Committee, Bob Taylor, reports that the budget forecast looks good and funding requests for 2021-23 have been approved. He noted that the JISC Bylaws were amended to conform to the actual scope of the Steering Committee's current responsibilities, to add two members from court administration at the Superior and CLJ levels, and to standardize how each member is appointed. The Committee received an update on the status of the CLJ Case Management system. The Administrative Office of the Courts has received lots of input from the various stakeholders about the EFile segment known as Odyssey File and Serve (OFS) and has postponed the pilot launch from June 9th to July 22nd.

Having served on the Committee as the WSBA Representative since 2015, Bob will complete his distinguished service at the June 25, 2021 meeting. Outreach for this position is underway. Information is posted online [here](#) with a deadline extended to July 16. The Board Nominations Committee will nominate a member to be appointed by the Court for a three-year term.

2021-2022 WSBA Treasurer

The WSBA Board of Governors Treasurer for the 2021-2022 will be nominated and selected at the August 20-21 Board meeting. Members of the Board of Governors interested in serving as Treasurer are welcome and encouraged to submit a letter of interest to Volunteer Engagement Advisor, Paris Eriksen at parise@wsba.org no later than 5:00 p.m. on August 4. Those interested in being nominated to serve as Treasurer are not required to submit a letter of interest and nominations may be called 'from the floor' at the August BOG Meeting. The selection of Treasurer will be done through secret electronic ballot.

Attachments

Lawyer Bar Exam Q&A Recap

LLLT & LPO Bar Exam Q&A Recap

Washington Supreme Court Amended Order No. 25700-A-1349

Washington Supreme Court Order No. 25700-A-1351

Washington Supreme Court Order No. 25700-A-1346

Washington Supreme Court Order No. 25700-A-1348

Litigation Update

WSBA Demographics Report

WASHINGTON STATE BAR ASSOCIATION

Bar Exam FAQ Session (in preparation for Summer 2021 online lawyer exam) June 2, 2021

140 attendees via Zoom

Reminder: We are an email away at admissions@wsba.org.

TOP THREE TAKEAWAYS (presented by Chief Regulatory Counsel Renata Garcia)

1. Receiving a “flag” on your online exam is not an indication or accusation of misconduct. It is simply the software signaling that something—a motion, sound, etc.—needs to be reviewed by a proctor. Flags are not issued during the exam, only after your exam and exam video have been uploaded. You will not even be aware if your online exam video has received any flags. WSBA staff will review and make all decisions regarding flags. In the vast majority of cases, flags will be cleared. WSBA staff will reach out to you about a flag only if there is a question.
2. Be sure your device and any accessories—such as a Bluetooth keyboard—meet the minimum system requirements. Technical issues are rare, but the most important thing you can do to ensure there are no issues on the day of the exam is to make sure your computer meets the ExamSoft Minimum System Requirements (MSR) and take the two required mock exams.
3. Take advantage of the mock exam! Use the opportunity to fully test all of your technology (camera angle, monitor set up ...) and to familiarize yourself with the exam format and interface. The mock test allows you to avoid surprises during the real test!

QUESTIONS AND ANSWERS

- Q. What should I do if there is a technical issue during the exam, such as my computer freezing?
- A. If you experience a technical issue during the exam, *do not exit the exam program!* If you exit the exam, you will not be allowed to reenter. The best approach is to reboot your computer (again, without exiting the exam window; rebooting will not kick you out of the exam software) by holding down your power key until your computer shuts down then waiting 5 to 10 seconds to turn it back on. The software saves data every 59 seconds, so when your computer powers back on you will come back into the testing environment with mostly everything saved. If that does not work, immediately call ExamSoft Support at 1-866-429-8889 using your cell phone.
- Q. If I have a technical issue, will I receive extra time to make up for time lost fixing the technical issue?

A. Generally, no. That being said, we will address all technical issues on a case by case basis, as necessary. Follow the steps to try to fix the issue (reboot and call ExamSoft Support at 1-866-429-8889, if needed). If you have further questions, contact the Admissions team at admissions@wsba.org or 206-727-8209.

Q. Is there a timer provided as part of the software or can we use our own?

A. Yes. Examsoft does have a countdown timer you will see throughout the exam as well as a 5-minute warning. Applicants should not use any other clock or watch, whether analog or digital, during the exam.

Q. Do I need a stable Internet connection during the entire exam?

A. No. In fact, your Internet will be automatically disabled during the exam period. You will need a stable Internet connection to start the process and to upload the exam at the end (although you do not have to upload right away).

Q. I have anxiety that my Internet will become unstable when I need to upload. What will happen if I can't upload right away?

A. No worries. The uploading deadline is at the end of the week—not immediately following the exam—so you have time to find a stable connection.

Q. Can I drink water during the exam?

A. Yes. The water should be in a clear container with no labels or printing (and, please, place it far from your computer equipment to avoid spills!).

Q. Can I use the bathroom during the exam?

A. No, unless it is an emergency. You should plan to use the bathroom between each exam session. However, if you have an emergency, announce clearly to the camera that you are taking a restroom break before you leave.

Q. Will I be penalized if there is background noise?

A. In general, no. We realize you do not have control over outside sounds like construction, dogs barking, car, etc. Our concern is that you have proper working audio on your computer so we can monitor sounds in your testing room.

Q. Can I confirm: I can use an external keyboard instead of the one built in on my laptop? Does this include wired and Bluetooth keyboards?

A. Yes. External devices like cameras or keyboards should be set up during the mock exams; and you can make sure they are functioning correctly. If it's a Bluetooth device, make sure it is paired before logging into the exam software. (Note: Only one monitor will be allowed to be used during the exam.)

Q. Is it OK to have an external monitor?

A. You can only use ONE monitor, and it is OK if that monitor is external. Your other monitors (e.g., your laptop monitor) will be disabled if you use an external monitor. The monitor you

are using must have a webcam positioned at top center. Please make sure to test all external devices during the mock exam.

Q. Will an air-conditioning unit cause too much noise in the background?

A. Probably not. Fans and air conditioners should be fine.

Q. Can I read the questions out loud?

A. No. Try to avoid reading the questions out loud. We do recognize that a word or two may slip out as you process questions during the exam, but we ask that you do not read questions out loud.

Q. Can we mouth the exam questions silently to ourselves?

A. Talking is prohibited. If you are moving your lips/mouth/face but are being silent, you will probably be flagged but we will likely clear the flag. The best practice is just not to do it. Again, inadvertent sounds like coughs and sniffs will be cleared.

Q. Do we see flags occurring in real time as we take the test or are we notified afterward? What are the stats from the last online bar exam in terms of the number of flags issued?

A. The flagging happens after you submit your exam files, so you will have no interruptions. You will only hear from us about a flag if we have a question. By and large, the flagging process will be a non-factor for exam takers. We cannot disclose the number of flags from the last test because of the Court's Admission and Practice Rules, which keep certain information about the exam confidential, whether it occurs online or in person.

Q. Can we use touchscreen capabilities?

A. No, touchscreen functions are not compatible with the software.

Q. Am I required to have a second camera in case the first one fails?

A. No. But please test the camera you have during the mock exam to make sure it is functional, and make sure the lens area is clean and clear of obstructions.

Q. What if we have Internet issues when we start or end the exam process?

A. We recommend taking the exam at a site with a reliable Internet connection. We are offering location assistance for anyone who needs an environment with reliable Internet or a suitable place to take the exam.

Q. When will I know if I have been granted location assistance? And are there more spaces available than just in Tacoma?

A. If you make your location-assistance request through the online portal, we will send information in the next week or two that includes an agreement for location assistance. We have not yet identified any other locations in addition to the hotel in Tacoma, but if we do receive requests from applicants in eastern Washington, we may be able to work with them on a case by case basis for location assistance in Spokane.

Q. Is location assistance free?

A. Yes. If the location is at a hotel, WSBA will cover room and tax only.

Q. Does the remote proctoring software run during the mock exam?

A. No, the mock exam does not have remote proctoring capabilities. It will, however, offer you an identical exam environment as the real test. You will get a sense of how your camera and other equipment is functioning.

Q. Is there a checklist somewhere for all the room requirements?

A. There is not a checklist per se, but our [Remote UBE FAQs](#) specify what makes for an ideal remote test environment.

Q. Will I be required to show my room to the camera before taking the exam?

A. No. Showing your testing environment is not a requirement.

Q. Are earplugs OK? What about noise-cancelling headphones?

A. Small, foam earplugs are the *only* noise-cancelling equipment allowed. Earphones are prohibited.

Q. What about silicone earplugs, if they are small? Do I have to show them to the camera before putting them in my ears?

A. If the silicone earplugs are similar to the foam ones—small, squishy, and covering just the inner ear—they should be fine. Please do show them to the camera and say you are using them. It's a good practice to show/explain any item like earplugs to the camera.

Q. What is the guidance on scratch paper?

A. Examinees may use scratch paper during the MPT, but not during any other section; and they must shred the scratch paper afterward. If you are using scratch paper for the MPT, show your blank pieces of paper and the pens/pencils to the camera before beginning the exam. For other sections, such as the MEE and MBE, digital scratch paper will be available as part of the testing software, and no physical scratch paper is allowed.

Q. If we use scratch paper during the MPT, do we have to submit it afterward?

A. No, you must shred or destroy the scratch paper.

Q. Can I petition to use scratch paper during the MBE? Especially for the diagramming questions, I have been trained to use scratch paper.

A. Because this is a national exam and the National Conference of Bar Examiners creates, owns, and holds the copyright to the materials, we are not allowed to make any exceptions. The security of the test materials is top priority. If you have a disability that prevents you from using a computer or the digital notepad in Examplify, you must submit a reasonable accommodations request with supporting documentation.

Q. Can I drink and/or chew gum?

A. Yes. Again, make sure your drink is in a clear container with no writing or labels. We do encourage you to use a cap on your drink and place it far away from your computer to avoid accidents.

Q. Is it OK if I am using a second keyboard and you can't see my hands because the keyboard is off camera?

A. That should be fine. The most important thing is for the camera to show your face.

Q. Will an unusual background or wallpaper in my room trigger a flag?

A. No, that should be fine.

Q. What about if I have a bookcase in my room? Should I remove all the books?

A. No, a bookcase with books should be fine. We do recommend you remove anything in the background with identifiable information such as diplomas.

Q. I have completed my application using the online admissions portal. When can I expect my status to go from "submitted" to approved before the exam?

A. There are several steps we have to take before you are approved to sit for the exam (verifying your application through the character and fitness process, confirming your law degree ...). You can expect the status of your application to change and to receive permission notices to sit for the exam anywhere from mid-June until 18 days prior to the exam.

Q. I took the February 2021 exam, and I had technical issues on the first day. The window would not open all the way for me to input my essay. I had to type in a very small space. Can you tell me what the dimensions are for the essay-section window or provide a screenshot of what it should look like?

A. We are not aware of any technical issue like this, with a smaller-than-normal area for typing. ExamSoft does provide FAQs with its software that include screenshots of what your screen will look like during the testing process.

Q. How do we get access to the mock exam?

A. You will get access once you register with ExamSoft and purchase the software. The mock exam will be available from June 17 through July 1.

Q. I submitted my examinee agreement via the "other forms" option in the online application portal. Was that correct?

A. Yes.

Q. For applicants outside of Washington state, is it typical to take the Washington Law Component before or after the bar exam?

A. Most applicants take the Washington Law Component after they receive successful bar exam results; that is because if you take the Washington Law Component and you are not successful on the bar exam, you will have to retake the Washington Law Component after the next bar exam anyway.

Q. Should we have already received the bar exam agreement in the mail? Should we be concerned if ours does not match the exam we are sitting for (for example, I received an agreement that says Limited Practice Officer/Limited License Legal Practitioner exam)?

A. We just started sending these agreements; if you have been approved to sit for the exam, you will receive the form in an email notification ([here is an example](#)). If your application is pending, you will not have received this form yet. You can expect the status of your application to change and to receive permission notices to sit for the exam anywhere from mid-June until 18 days prior to the exam. Also, your agreement should state the correct exam category. If you have any questions, please email admissions@wsba.org.

Q. Do we need to send you an official transcript once we graduate from law school?

A. No, we do not require transcripts. We reach out to your law school to obtain a law certificate for verification.

Q. Is it OK if the angle of our camera shifts during the exam?

A. yes. Just make sure you are visible throughout the whole exam. To get a idea of what the camera is recording, click on the red "Monitoring" icon during the exam.

Q. When will we get our results?

A. Results will be sent via the online admissions portal on Sept. 10, 2021.

Q. If I already have the ExamSoft software on computer, do I need to purchase a separate license?

A. Yes.

Q. Can I adjust the temperature of my air conditioner during the test?

A. We recommend doing all that type of adjustment and movement during breaks. If you have to make an adjustment during the exam, announce what you are doing to the camera. It will be flagged and we will review it.

Q. Would scratch paper be allowed for all sections if the exam were administered in person? If so, will grading for the online exam be adjusted to reflect inconsistencies in physical scratch paper accessibility?

A. In person, scratch paper is allowed on the MEE and MPT only. There is no difference in grading because of that aspect of the remote exam. The grading is done anonymously, and we must follow the grading standards from the NCBE.

Q. Do you expect to administer in-person exams again when it is safe to do so?

A. Yes. We expect the February 2022 exam will be in person, if health conditions are safe .

Q. For my character and fitness review, will I be penalized if former employers do not fill out the forms?

A. No, and we will reach out to an applicant if we have questions about or need more information from previous employers.

Q. If my laptop breaks after mock exam, can I re-download the software on a new machine?

A. Examsoft will allow an applicant to re-downlad or re-license a second computer. If this occurs, please contact ExamSoft Support directly. ExamSoft charges a \$50 fee for a second download.

Q. How much is the ExamSoft remote exam fee?

A. The ExamSoft license is \$130; the usual in-person fee has been \$135. The fee is paid directly to ExamSoft during the registration period.

Q. If I am not allowed to speak during the exam, how should I announce if I have to go to the bathroom? Will that be a double penalty?

A. Please do go ahead and announce orally if you have to use the restroom. It will be an exception to the no-talking rule. State to the camera the reason you are getting up.

Q. What is the last date I can receive the exam agreement and still be able to sit for the exam?

A. We issue notices for approval to sit for the exam usually between mid-June and 18 days prior to the exam. All decisions will be made on/before 18 days prior to the exam.

Q. Is it less expensive for the WSBA to put on a remote exam than an in-person exam?

A. The purpose of collecting the fee is *not* to bring revenue to the bar, but to cover the cost of administering the exam. For the online exam, we do not have certain costs (rental of the testing space, for example) but we do have other costs (such as location assistance). The fees are set at this point, consistent with administering an online exam.

Q. For the MPT, will I be able to see the question, library, and my answer all at once?

A. Yes.

Q. If I am in a different time zone taking the test, will I need to do anything to the settings on my local machine to make it consistent with Pacific Standard Time?

N. No, the exam software will convert your time to Pacific Standard Time, no matter where you are.

Q. Does WSBA host an FAQ session like this one for new admittees after the bar exam?

A. We have not, but we could certainly consider doing so.

Q. If we cannot sit for the exam, do we get our ExamSoft fee reimbursed?

A. The ExamSoft fee is not refundable or transferable once purchased. We recommend you wait to receive your approval to sit for the exam before purchasing through ExamSoft. If you miss the ExamSoft deadline and you have not heard whether you have approval to sit for the exam, we have the capability of working with ExamSoft to extend the timeframe. The main

issue is being able to take the mock exam prior to the real exam. Again, if you have questions about the timing of your application, email admissions@wsba.org.

Q. Does ExamSoft have many issues on Mac platforms?

A. There should be no problem as long as you make sure your Mac meets all the minimum system requirements. Again, please take the mock test to make sure everything goes as expected.

Q. If we already have ExamSoft on our computer, should we delete that before downloading the new license?

A. The recommendation is to delete any old versions of ExamSoft.

Q. Will there be another FAQ session like this before the exam?

A. We are holding an FAQ session for LPO and LLLT candidates on June 25.

Q. Why are the statistics about flagging confidential?

A. [APR 1\(d\)\(2\)](#) prohibits us from disclosing examination information, including score keys and data, unless expressly authorized by the Washington Supreme Court. Also, we do not retain that data; we destroy the videos and the flagging information contained within them when we are done reviewing.

Q. Do we pay a laptop fee in addition to the ExamSoft fee? There's something listed about a laptop fee on the WSBA admissions website.

A. Apologies! That is likely a holdover from information about the in-person exam. (The website has been updated since the Q&A.)

Q. Do we get lunch breaks?

A. Yes! [See the exam schedule here on page 2 of the FAQs for July Remote Uniform Remote Examination.](#)

Q. Do you recommend uploading each exam immediately or waiting for all the sessions to be over and uploading each section together?

A. We recommend uploading after each session. It does not take long to upload. At the end of each session, you will get a reminder and instructions to upload — just click the button to submit, it's easy to do. If you prefer to wait, however, you have until the Friday after the exam to complete all your uploads.

Q. Can I hang a sheet or use a room divider to cut down on distractions in my environment?

A. You can but you are not required to do so. Either way, make sure you are alone in the room during the exam. Nobody can be behind the sheet/divider.

Q. Why did the Court lower the pass score for this exam?

A. We don't generally speculate on decisions of the Court, and reasoning can be different even between Justices. However, we think it's fair to say it's been abnormal year for everyone

which warrants some unique exam considerations. This is the third time during the pandemic that the Court has lowered the pass score.

Q. Did the WSBA make a recommendation or weigh in on the decision to cut the pass score?

A. No.

Q. I live on a farm and my animals make a lot of noise. What types of noises are flagged?

A. All noises are flagged, and that is just fine as long as the noises are benign. We are not concerned about cows mooing or sirens in the background or traffic—those types of noises you can't control.

Q. Is this FAQ session being recorded?

A. No. We are documenting all of the questions and answers in writing.

Good luck to all the summer 2021 exam takers!

WASHINGTON STATE BAR ASSOCIATION

LLLT/LPO Bar Exam FAQ Session

July 1, 2021

38 attendees via Zoom

Reminder: We are an email away at admissions@wsba.org.

TOP THREE TAKEAWAYS *(presented by Associate Director for Regulatory Services Bobby Henry)*

1. Receiving a “flag” on your online exam is not an indication or accusation of misconduct. It is simply the software signaling that something—a motion, sound, etc.—needs to be reviewed by a proctor. Flags are not issued during the exam, only after your exam and exam video have been uploaded. You will not even be aware if your online exam video has received any flags. WSBA staff will review and make all decisions regarding flags. In the vast majority of cases, flags will be cleared. WSBA staff will reach out to you about a flag only if there is a question.
2. Be sure your device and any accessories—such as a Bluetooth keyboard—meet the minimum system requirements. Technical issues are rare, but the most important thing you can do to ensure there are no issues on the day of the exam is to make sure your computer meets the ExamSoft Minimum System Requirements (MSR) and take the required mock exams.
3. Take advantage of the mock exam! Use the opportunity to fully test all of your technology (camera angle, monitor set up ...) and to familiarize yourself with the exam format and interface. The mock test allows you to avoid surprises during the real test!

QUESTIONS AND ANSWERS

- Q. What should an applicant do if they have not been able to get an exam application requirement completed on time?
- A. For any personal and specific questions, please contact admissions@wsba.org. In general, the Washington Supreme Court has issued an order that allows exam applicants who might not be prepared—for any reason—to transfer their exam application and fee for the summer exam to the coming 2022 winter exam. Applicants have until July 9 to make that request.
- Q. How do I request to have my summer exam application and fee transferred to the winter 2022 exam?
- A. You can do so through your WSBA online admissions account or by emailing admissions@wsba.org. Again, the deadline for making that request is July 9.

Q. Can I read the questions out loud?

A. No. Try to avoid reading the questions out loud. We do recognize that a word or two may slip out as you process questions during the exam, but we ask that you do not read questions out loud.

Q. Will I be penalized if there is background noise, such as a dog barking?

A. In general, no. We realize you do not have control over outside sounds like construction, dogs barking, car, etc. Our concern is that you have proper working audio on your computer so we can monitor sounds in your testing room.

Q. Can I take the mock/practice exam more than once?

A. You have three mock exams available upon registration for the summer exam. Once you have completed and uploaded each one of those mock exams, you are not able to access it.

Q. Where are the mock exams located?

A. WSBA's mock exams are part of the support package you get through registration with ExamSoft. [They are located online.](#) Other mock exams may be available via [Fred Phillips](#) or the [Rockwell Institute](#).

Q. Is it OK to have an external monitor?

A. You can only use *one* monitor for the tests in the secure ExamSoft environment, and it is OK if that monitor is external. Your other monitors (e.g., your laptop monitor) will be disabled if you use an external monitor. The monitor you are using must have a webcam positioned at top center. Please make sure to test all external devices during the mock exam. You may use two monitors—and, in fact, many find it useful to have two monitors—during the performance test.

Q. Do you recommend two monitors for the performance test?

A. It's a personal preference, but many have found it useful to have two screens or one big screen to look at reference materials and the exam space at the same time.

Q. How long do we have for the performance test?

A. LPO: 100 minutes; LLLT: 2 hours.

Q. For the performance exam, what documents do I need to download beforehand?

A. For both the LPO and LLLT exams, applicants must download forms for the performance test ahead of time. Those forms will be [available online here](#) the Friday before the exam. Note: these documents are to be *downloaded* to your local computer, not printed. You will be able to access them on your computer during the performance exam.

Q. Can we have scratch paper and pens?

A. Blank paper and writing instruments are allowed only during the performance test. For other exam sessions, digital scratch paper will be provided via the ExamSoft software.

Q. Is there anything I need to print?

A. For the *LPO performance test only*: You will be able to print the reference documents at the beginning of the performance exam. When you go to print the documents, announce to the camera what you are doing, and show the camera the printed documents when you return. You will be able to look down and refer to the printed reference documents throughout the performance exam.

Q. If I do not pass this summer exam, will I be able to retake the exam in the winter?

A. Yes. The next LLLT exam will be in January 2022. The next LPO exam will be in February 2022.

Q. During the mock exam, I had an issue with the software switching my main monitor to one that I did not want to use (it did not have a camera). How can I fix that?

A. Your best option is to contact ExamSoft support directly. Make sure this is resolved and tested via a mock exam before the real exam. Our understanding is that you need to program your computer or laptop to indicate which monitor is primary, and that is what the software will use.

Q. Can we have a pen, paper, or water?

A. Scratch paper is allowed for the performance test session only. There is no scratch paper allowed for the essay or multiple choice exam sessions—but there is virtual scratch paper provided via the software. Water or any other beverage is fine as long as it is in a clear container and there is no writing on the container.

Q. I am used to deleting extra lines in LPO documents. Is that a no?

A. We suggest filling in the blanks on the test forms and leaving the formatting the way it is.

Q. Will we get full names of parties for the forms? What about case numbers? If not, should we make them up?

A. Take the mock exam to get a good sense of what the exam will be like and what information will be used. In general, use the names, case numbers, and other information as given to you in the materials.

Q. What were some of the problems during first remote exam?

A. Overall, the remote exam went well. Some test takers expressed concerns about the limited screen space for filling out the exam while referencing other documents, which is why we have allowed the use of two monitors for the performance test as well as the ability to print out the reference documents for LPO performance exam. We also increased time for the performance test session.

Q. On the Examinee Certification Form, what is my Applicant Web ID number? Is it my Exemplify ID number?

A. Yes, use your Exemplify ID number.

- Q. For the mock exams, should we actually submit the completed documents to WSBA as part of the practice?
- A. Yes, please do submit the completed documents to get a sense of the real experience. You upload/submit those documents by emailing them to the WSBA, as indicated.
- Q. Can we have our email program open during the exam to be ready to submit our documents?
- A. You can have your email program open, but do not receive or read emails during the exam. And think about whether you want the distraction of noticing emails pinging in your inbox. Also be aware that you will have a reasonable amount of time after the exam to send your documents to the WSBA.
- Q. Do you want the exam documents emailed in Word or PDF format?
- A. Either format is fine.
- Q. I need to submit my picture but I am not finding that option during the mock exam. What should I do?
- A. You should be able to submit your picture as part of the login process to access both the mock and real exam. At the time you start the session, it should ask for a picture. Contact ExamSoft for technical support if not.
- Q. I am not required to submit a photo to the WSBA, correct?
- A. That is correct.
- Q. My computer sometimes adds an extra space as I type. Is that an issue?
- A. It shouldn't be an issue because there is no character limit. Just make sure the extra space does not impact the content.
- Q. Do we need Microsoft Word to complete the performance test?
- A. The documents are in Word, so you do need access to Word or a Word-compatible program.
- Q. Is the remote format for licensing exams here to stay?
- A. It's likely we will go back to in-person exams simply because of equity issues. The lawyer bar exam will return to in person for these reasons, and we believe it will be the same for our other licensing exams.

Good luck to all the summer 2021 exam takers! If you have more questions, please refer to [FAQ FOR JULY 2021 REMOTE LPO & LLLT EXAMINATIONS IN WASHINGTON](#) or email admissions@wsba.org.

Page 2
AMENDED ORDER
IN THE MATTER OF THE SUGGESTED AMENDMENT TO APR 11—MANDATORY
CONTINUING LEGAL EDUCATION

DATED at Olympia, Washington this 1st day of July, 2021.



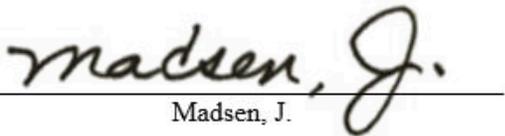
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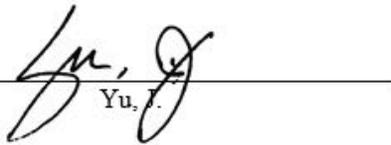
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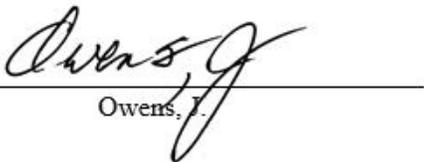
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Madsen, J.



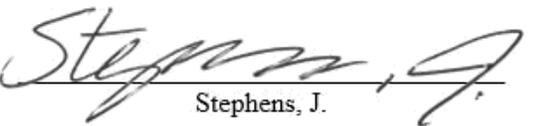
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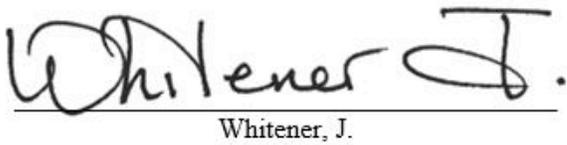
Owens, J.



Montoya-Lewis, J.



Stephens, J.



Whitener, J.

APR 11
MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

(a)–(b) [Unchanged.]

(c) Education Requirements.

(1) *Minimum Requirement.* Each lawyer must complete 45 credits and each LLLT and LPO must complete 30 credits of approved continuing legal education by December 31 of the last year of the reporting period with the following requirements:

(i) [Unchanged.]

(ii) at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

(2)–(7) [Unchanged.]

(d)–(e) [Unchanged.]

(f) Approved Course Subjects. Only the following subjects for courses will be approved:

(1) [Unchanged.]

(2) *Ethics and professional responsibility*, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including ~~diversity and antibias with respect to the practice of law or the legal system~~ equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

(3)–(7) [Unchanged.]

(g)–(k) [Unchanged.]

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED
AMENDMENT TO RPC 1.4—COMMUNICATION

)
)
)
)
)

ORDER

NO. 25700-A-1351

The Washington State Bar Association Board of Governors, having recommended the adoption of the suggested amendment to RPC 1.4—Communication, and the Court having considered the suggested amendment, and having determined that the suggested amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the suggested amendment as attached hereto is adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested amendment will be published in the Washington Reports and will become effective September 1, 2021.

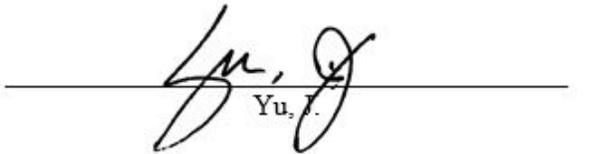
Page 2
ORDER
IN THE MATTER OF THE SUGGESTED AMENDMENT TO RPC 1.4—
COMMUNICATION

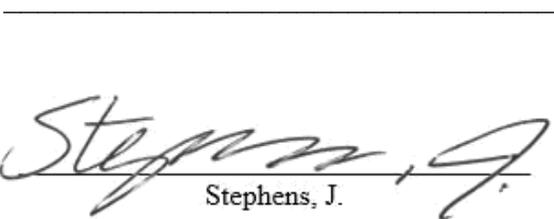
DATED at Olympia, Washington this 4th day of June, 2021.


González, C.J.

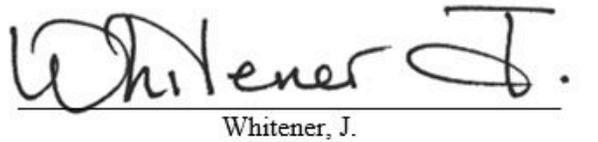

Gordon McCloud, J.


Madsen, J.


Yu, J.


Stephens, J.


Montoya-Lewis, J.


Whitener, J.

GR 9 COVER SHEET
Suggested Amendments to
RULES OF PROFESSIONAL CONDUCT

Rule 1.4

A. Proponent

Washington State Bar Association

B. Spokespersons

Kyle Sciuchetti, President
Washington State Bar Association

Staff Contact: Douglas J. Ende, Chief Disciplinary Counsel
Washington State Bar Association

C. Purpose

The proponent recommends adoption of suggested amendments to Rule 1.4 of the Rules of Professional Conduct (RPC) that would require disclosure of a lawyer's malpractice insurance status to clients and prospective clients if the lawyer's insurance does not meet minimum levels. It would also provide guidance on the application of the rule through the addition of six new comments.

I. OVERVIEW AND HISTORY

Washington lawyers are not required to have professional liability insurance coverage. They are, however, required to report to the Washington State Bar Association (WSBA), on a yearly basis, whether they have such coverage. Adopted by the Court in 2007, Rule 26 of the Admission and Practice Rules (APR) requires this information to be reported annually, which occurs as part of the WSBA's licensing process. All Washington lawyers are required to certify whether they are engaged in the private practice of law and, if so, whether or not they are covered by, and intend to maintain, professional liability insurance. Recent WSBA reporting data shows that 14% of Washington lawyers in private practice consistently report being uninsured.

In September 2017, the WSBA Board of Governors (BOG) approved formation of the WSBA Mandatory Malpractice Insurance Task Force to evaluate the characteristics of uninsured

GR 9 COVER SHEET

lawyers and the consequences for clients when lawyers are uninsured, to examine regulatory systems that require professional liability insurance, and to gather information and comments from WSBA members and others. The Task Force was also charged with determining whether to recommend mandatory malpractice insurance for lawyers in Washington, and, if so, developing a model and a draft rule for consideration by the BOG.

In February 2019, the Task Force issued its final report, recommending mandatory professional liability insurance for lawyers engaged in the private practice of law and proposing an amendment to APR 26 that would establish a “free market” regulatory model.¹ The Task Force cited the regulatory objectives of assuring accessible civil remedies for clients harmed by lawyer mistakes and protection of the public as chief among the reasons for its recommendation.

At its May 17, 2019, meeting, after deliberation about the Task Force report and public discussion, the BOG voted against adoption of the “free market” mandatory malpractice model. The BOG reached its decision after consideration of more than 580 comments from members and others that expressed very real and compelling concerns regarding mandating insurance. Members overwhelmingly opposed mandatory malpractice insurance, expressing concerns regarding cost, the likely adverse impact on pro bono services provided by retiring, retired, and semi-retired members, un-insurability for some high-risk practitioners and practices, the inappropriate delegation of licensing prerogatives to the insurance industry, the risk of increasing insurance premiums for all lawyers through the creation of a captive market, and the financial burden such a mandate would impose upon individual lawyers and the viability of their practices, especially solo and small firm lawyers.²

In the wake of the vote, however, several governors suggested that the BOG consider some other models evaluated by the Task Force that might serve to protect the public against the risk of errors committed by uninsured lawyers. Consequently, on January 21, 2020, WSBA Past-President Rajeev Majumdar convened the Ad Hoc Committee to Investigate Alternatives to Mandatory Malpractice Insurance to gather information and advise the BOG on potential viable alternatives to mandatory malpractice insurance.³ This Committee is chaired by WSBA President Kyle Sciuchetti and composed primarily of select members of the WSBA Committee

¹ The full report and related Task Force materials are available at <https://www.wsba.org/insurance-task-force>.

² The full set of comments received by the Task Force and the BOG is available at <https://www.wsba.org/insurancetask-force>.

³ Just prior to the launch of this Committee, by order dated December 4, 2019, the Supreme Court published for public comment a proposed amendment to APR 26. (The extended deadline for public comment on the proposed amendment is September 30, 2020). The proponent of the proposed amendment is Equal Justice Washington, which is unaffiliated with the WSBA. The proposed amendment is identical to the “free market” model originally proposed by the Task Force. By letter dated January 26, 2020, WSBA expressed its opposition to proposed APR 26, https://www.courts.wa.gov/court_Rules/proposed/2019Dec/APR26/Rajeev%20Majumdar%20-%20APR%2026.pdf.

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on Professional Ethics and the former WSBA Mandatory Malpractice Insurance Task Force, as well as members of the BOG and a public member.

From March to September 2020, the Committee explored approaches to public protection other than mandating malpractice insurance, including enhanced malpractice insurance disclosure requirements and proactive management based regulation. Ultimately, the Committee focused on a rule requiring disclosure of a lawyer's insurance status to clients when the lawyer is uninsured or underinsured. The WSBA proposes this suggested rule as a less burdensome and more practicable regulatory requirement that will responsibly protect the public without having an unreasonable impact on private practitioners.

II. SUGGESTED RULE

The proposed rule amendment includes both a new RPC 1.4(c) and proposed new Comments [8]-[13] to RPC 1.4. The language is drawn from enhanced disclosure rules in several other states, including California, Pennsylvania, New Hampshire, New Mexico, and South Dakota, with New Mexico's RPC 16-104(c) having the most influence.

Substance of the Proposal. Specifically, the suggested new RPC 1.4(c) would require a lawyer, before or at the time of commencing representation of a client, to provide notice to the client in writing if the lawyer is not covered by professional liability insurance at specified minimum levels. The lawyer would have to promptly obtain written informed consent from that client. In addition, a lawyer whose malpractice insurance policy lapses or is terminated must within 30 days either obtain a new policy or obtain written consent from existing clients.

The proposal was structured to address the major concerns underlying the BOG's decision not to require mandatory insurance. The cost to a lawyer of compliance with the proposed notice requirement, as compared to requiring acquisition of insurance, is insubstantial.

As reflected in proposed new Comment [8], a lawyer without a basic level of professional liability insurance might not pay for damages or losses a client incurs due to the lawyer's mistakes or negligence. Consequently, clients should have sufficient information about whether the lawyer maintains a minimum level of lawyer professional liability insurance so the client can intelligently determine whether they wish to engage, or continue to engage, that lawyer.

The new RPC 1.4(c) would require a lawyer to provide disclosure if the lawyer is without a specified level of lawyer professional liability insurance. The lawyer would have to promptly obtain every client's acknowledgement and informed consent to uninsured or underinsured representation. The proposed amendment includes disclosure and consent language which, if used, would serve as a "safe harbor" for compliance with the rule. A lawyer would have to maintain a record of disclosures and consents for at least six years.

GR 9 COVER SHEET

Certain lawyers would be excluded from the insurance disclosure requirements, including judges, arbitrators and mediators, in-house lawyers for a single entity, and employees of governmental agencies.

A proposed comment clarifies that the notice to a client may be delayed in certain emergency situations.

Minimum levels of professional liability insurance. The proposal recommends that for the disclosure requirements under RPC 1.4(c), the minimum level of insurance should be at least \$100,000 per occurrence and \$300,000 in the aggregate (“\$100K/\$300K”), which are the mandatory malpractice insurance levels in Idaho and the lowest levels of insurance offered by ALPS, the WSBA-endorsed professional liability insurance provider. The Mandatory Malpractice Insurance Task Force found (at p. 17 of its report) that nationally 89.1% of malpractice claims are resolved for less than \$100,000 (including claims payments and expenses). According to ALPS, for all Washington claims where payments were made by ALPS, its average loss payment was \$119,856 and average loss expenses were about \$40,454.82. Given these statistics, the proposed minimum level of insurance of \$100K/\$300K is reasonable and sufficient.

Lawyers covered by the rule. The proposal would apply to each “lawyer,” defined as:

- lawyers with an active status with the WSBA;
- emeritus pro bono status lawyers; and
- lawyers permitted to engage in limited practice under APR 3(g), i.e., visiting lawyers.

The disclosure requirement would not apply to:

- judges, arbitrators, and mediators not otherwise engaged in the practice of law;
- in-house counsel for a single entity;
- government lawyers practicing in that capacity; and
- employee lawyers of nonprofit legal services organizations, or volunteer lawyers, where the nonprofit entity provides malpractice insurance coverage at the minimum levels.

D. Hearing:

A hearing is not requested.

E. Expedited Consideration:

Expedited consideration is not requested.

RPC 1.4
COMMUNICATION

~~(a)–(b)~~ [Unchanged.]

(c) A lawyer shall communicate to a client or prospective client a lack of minimum levels of lawyer professional liability insurance as required by the provisions of this Rule.

(1) A lawyer not covered by lawyer professional liability insurance in the amounts specified in paragraph (c)(4) shall, before or at the time of commencing representation of a client, notify the client in writing of the absence of such insurance coverage and promptly obtain the client’s informed consent in writing. A lawyer who knows or reasonably should know that the lawyer’s professional liability insurance policy has either lapsed or been terminated during the representation shall within 30 days either (i) obtain a new policy in the required amounts or (ii) provide notice in writing to the client and promptly obtain the client’s informed consent in writing. If a lawyer does not obtain a new policy in the required amounts or provide notice to the client and obtain the client’s informed consent in writing within 30 days of a lapse or termination, the lawyer shall withdraw from representation of the client

(2)(i) A notice to the client in substantially the following form satisfies the notice requirements of paragraph (c)(1):

Under Rule 1.4(c) of the Washington Rules of Professional Conduct, I must obtain your informed consent to provide legal representation, and ensure that you understand and acknowledge that [I][this Firm] [do not][does not][no longer] maintain[s] [any lawyer professional liability insurance (sometimes called malpractice insurance)] [lawyer professional liability insurance (sometimes called malpractice insurance)] of at least one hundred thousand dollars (\$100,000) per occurrence, and three hundred thousand dollars (\$300,000) for all claims submitted during the policy period (typically 12 months). Because [I][we] do not carry this

insurance coverage, it could be more difficult for you to recover an amount sufficient to compensate you for your loss or damages if [I am][we are] negligent.

Lawyer's Signature

(ii) A client consent and acknowledgment in substantially the following form satisfies the informed consent requirements of paragraph (c)(1):

I acknowledge and supply this written consent, required by Rule 1.4(c) of the Washington Rules of Professional Conduct, that [insert attorney or firm's name] [does not][no longer] maintain[s] [any lawyer professional liability insurance (sometimes called malpractice insurance)][lawyer professional liability insurance (sometimes called malpractice insurance)] with at least maximum coverage of \$100,000 for each claim, and at least \$300,000 for all claims submitted during the policy period (typically 12 months), and I consent to representation by [the lawyer][the firm].

Client's Signature

(3) A lawyer shall maintain a record of notices of disclosure to clients, and the signed consents and acknowledgments received from clients, for at least six (6) years after the representation is terminated.

(4) As used in this paragraph (c), "lawyer" means an active member of the Washington State Bar Association, and any other person authorized by the Washington State Supreme Court to engage in the practice of law, including emeritus pro bono status lawyers and lawyers permitted to engage in the limited practice of law in this state as provided in Admission and Practice Rule (APR) 3(g); however, as used in this paragraph (c), "lawyer" does not include, (i) a judge, arbitrator, or mediator not otherwise engaged in the practice of law; (ii) in-house counsel for a single entity; (iii) an employee of a governmental agency

practicing law in that capacity; (iv) an employee of a nonprofit legal service organization, or a lawyer volunteering with such an organization, where the nonprofit legal service organization provides lawyer professional liability insurance coverage at the minimum levels required by this paragraph to that employee or volunteer pro bono lawyer. “Lawyer professional liability insurance” means a professional liability insurance policy that provides coverage for claims made against the lawyer that arise from an act, error, or omission in the lawyer’s performance of legal services to a client, with limits of liability of at least one hundred thousand dollars (\$100,000) per occurrence, and three hundred thousand dollars (\$300,000) for all claims submitted during the policy period.

Comment

[1]–[7] [Unchanged.]

Additional Washington Comments (8-13)

Insurance Disclosure

[8] A lawyer without a basic level of professional liability insurance might not pay for damages or losses a client incurs that result from the lawyer’s mistakes or negligence. Consequently, prospective clients and clients should have sufficient information about whether the lawyer maintains a minimum level of lawyer professional liability insurance so they can intelligently determine whether they wish to engage, or continue to engage, that lawyer. Paragraph (c) requires a lawyer to provide disclosure if the lawyer is without a level of lawyer professional liability insurance specified in paragraph (c), and to obtain each client’s acknowledgement and informed consent. Client consent should be obtained promptly—ordinarily within 10 days of the lawyer’s providing disclosure. Certain lawyers are excluded from the disclosure requirements of Rule 1.4(c), including full-time judges, arbitrators and mediators, in-house lawyers for a single entity, and employees of governmental agencies. If a lawyer serving as a judge represents clients outside judicial duties, or an in-house lawyer or government employee represents other clients, such a

judge or lawyer is subject to the requirements of Rule 1.4(c) regarding those representations.

[9] As used in paragraph (c), a lawyer who “maintains” or “is covered by” lawyer professional liability insurance is an insured lawyer under a lawyer professional liability insurance policy providing coverage regarding claims relating to legal services provided by that lawyer. The minimum limits of lawyer professional liability insurance specified by paragraph (c)(4) include any deductible or self-insured retention that must be paid by the lawyer or the lawyer’s law firm for claim expenses and damages. Lawyer professional liability insurance, as defined in paragraph (c)(4), does not include an insurance policy with a deductible or self-insured retention that the lawyer knows or has reason to know cannot be paid by the lawyer or the firm if a loss occurs.

[10] Whether the disclosure and notice obligations of paragraph (c) apply to a Washington-licensed lawyer practicing in another jurisdiction is determined by the choice of law provisions of Rule 8.5(b).

[11] In addition to complying with paragraph (c), every active member of the bar must comply with the reporting requirements of Admission and Practice Rule (APR) 26, under which lawyers in the private practice of law are required to annually report their insurance coverage to the Washington State Bar Association.

[12] Withdrawal from a representation under paragraph (c)(1) is a circumstance where withdrawal is obligatory under Rule 1.16(a)(1) because the representation would violate the Rules of Professional Conduct. The withdrawal shall be accomplished in conformity with the requirements of Rule 1.16(c) and (d).

[13] In an emergency where the health, safety, or a financial interest of a person is threatened with imminent and irreparable harm, a lawyer not covered by lawyer professional liability insurance in the amounts specified in paragraph (c)(4) may take legal action on behalf of such a person even though the person cannot receive or evaluate the

notice required by paragraph (c)(1) or there is insufficient time to provide it. A lawyer who represents a person in such an exigent situation shall provide the notice required by paragraph (c)(1) as soon as reasonably practicable.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED
AMENDMENTS TO RPC 1.13—ORGANIZATION
AS CLIENT, CMT. [4] AND RPC 1.16—
DECLINING OR TERMINATING
REPRESENTATION, NEW WASHINGTON CMT.
[16]

ORDER

NO. 25700-A-1346

The Washington State Bar Association Board of Governors, having recommended the adoption of the suggested amendments to RPC 1.13—Organization as Client, cmt. [4] and RPC 1.16—Declining or Terminating Representation, new Washington cmt. [16], and the Court having considered the suggested amendments, and having determined that the suggested amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the suggested amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested amendments will be published in the Washington Reports and will become effective September 1, 2021.

ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO RPC 1.13—
ORGANIZATION AS CLIENT, CMT. [4] AND RPC 1.16—DECLINING OR
TERMINATING REPRESENTATION, NEW WASHINGTON CMT. [16]

DATED at Olympia, Washington this 4th day of June, 2021.


González, C.J.


Johnson, J.

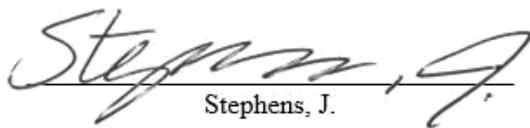

Gordon McCloud, J.

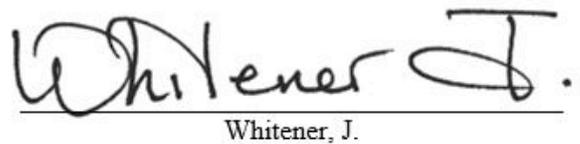

Madsen, J.


Yu, J.


Owens, J.


Montoya-Lewis, J.


Stephens, J.


Whitener, J.

GR 9 COVER SHEET

Suggested Amendments to THE RULES OF PROFESSIONAL CONDUCT (RPC) Rule 1.16, Comment [4] and Rule 1.13 Additional Washington Comment [16] Submitted by the Board of Governors of the Washington State Bar Association

A. **Name of Proponent:** Washington State Bar Association

B. **Spokespersons:**

Rajeev Majumdar, President, Washington State Bar Association

Jeanne Marie Clavere, Professional Responsibility Counsel, Washington State Bar Association

C. **Purpose:**

The purpose of the suggested amendments are to alert lawyers to consult the holding of a recent decision of the Washington State Supreme Court, *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.2d 1185 (2019). RPC 1.16(a)(3) provides that “a lawyer shall not represent a client . . . if . . . the lawyer is discharged.” Current comment [4] to the rule provides that “A client may discharge a lawyer at any time, with or without cause, subject to liability for the lawyer’s services.” On its face, the Rule and comment suggest that any lawyer may be fired by a client without any recourse by the lawyer except for fees already earned.

In *Karstetter*, the Court held that lawyers employed as in-house counsel and lawyers with comparable employment relationships face unique employment expectations. Accordingly, the Court held that such lawyers may retain the ability to bring contract and wrongful discharge actions if those actions can be brought without damaging the integrity of the client-lawyer relationship.

The suggested amendments are intended to alert lawyers consulting the RPCs to this decision in two places. First, RPC 1.16 is directly impacted by the *Karstetter* decision. The suggested amendment adds additional language to Comment [4] pointing lawyers consulting the rule to the *Karstetter* decision. The new language of Comment [4], which would be a Washington revision, would read as follows: “However, the rule may apply

differently with respect to in-house lawyers and lawyers with comparable employment situations. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019).”

Second, RPC 1.13 is focused on the responsibilities of lawyers for entities. As such, it would be appropriate to also add a reference to *Karstetter* in the comments to that rule. The amendment would add an “Additional Washington Comment [16]” at the end of the RPC 1.13 comments, which would read as follows: “In-house lawyers and lawyers with comparable employment situations may face unique employment expectations that impact their rights if discharged by the client. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019); Comment [4] to Rule 1.16.”

RPC 1.13
ORGANIZATION AS CLIENT

(a)–(h) [Unchanged.]

Comment

[1]–[14] [Unchanged.]

Additional Washington Comments [15-16]

[15] Unchanged.

[16] In-house lawyers and lawyers with comparable employment situations may face unique employment expectations that impact their rights if discharged by the client. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d 672, 444 P.3d 1185 (2019); Comment [4] to Rule 1.16.

RPC 1.16
DECLINING OR TERMINATING REPRESENTATION

(a)–(d) [Unchanged.]

Comment

[1]–[3] [Unchanged.]

Discharge

[4] [**Washington revision**] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer’s services. However, the rule may apply differently with respect to in-house lawyers and lawyers with comparable employment situations. See *Karstetter v. King County Corrections Guild*, 193 Wn.2d. 672, 444 P.3d 1185 (2019); Washington Comment [16] to Rule 1.13. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

[5]–[9] [Unchanged.]

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO COUNCIL ON PUBLIC
DEFENSE'S INDIGENT DEFENSE APPELLATE PERFORMANCE GUIDELINES AND
PROPOSED AMENDMENTS TO CrR 3.1 STDS, CrRLJ 3.1 STDS, JuCR 9.2 STDS, MPR 2.1
STDS

DATED at Olympia, Washington this 4th day of June, 2021.


González, C.J.


Johnson, J.

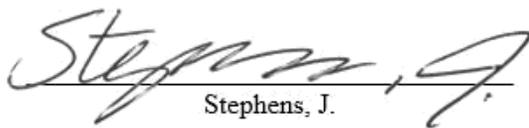

Gordon McCloud, J.

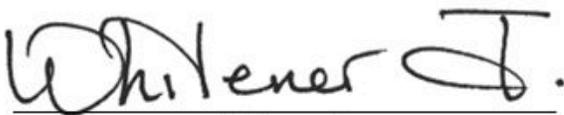

Madsen, J.


Yu, J.


Owens, J.


Montoya-Lewis, J.


Stephens, J.


Whitener, J.

GR 9 Cover Sheet
Suggested Amendment

Adoption of the *Washington State Guidelines for Appointed Counsel in Indigent Appeals* and amendment to the Standards Certification of Compliance for CrR 3.1, CrRLJ 3.1 and JuCR 9.2
Submitted by the Board of Governors of the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association

B. Spokespersons:

Kyle Scuichetti, President, Washington State Bar Association

Travis Stearns, Chair, Council on Public Defense, Washington State Bar Association

Diana Singleton, Access to Justice Manager, Washington State Bar Association

C. Purpose:

The *Standards for Indigent Defense* adopted by the Washington Supreme Court set a caseload limit for appointed counsel representing clients in criminal cases, including those representing persons in their appeals. The *Standards for Indigent Defense* also require appointed counsel in criminal cases to be familiar with the *Performance Guidelines for Criminal Defense Representation* and the *Performance Guidelines for Juvenile Defense Representation* approved by the Washington State Bar Association.

Unlike trial lawyers, before the creation of the *Washington State Guidelines for Appointed Counsel in Indigent Appeals*, no uniform guidance for appellate attorneys existed. These guidelines were created to provide guidance to attorneys who handle appeals for cases where there is a constitutional right to appellate counsel.

These guidelines were originally drafted by an experienced group of appellate attorneys, including the Federal Public Defender, two Washington Appellate Project lawyers, two indigent defense attorneys who worked outside an office structure, and a specialist in Personal Restraint Petitions. The Washington State Office of Public Defense assisted in drafting the guidelines. The drafters of the guidelines modelled them after guidelines adopted in other states and by national organizations, including the American Bar Association and the National Legal Aid and Defender Association.

After the guidelines were drafted, they were sent out to every attorney who represents persons in indigent defense cases. After their feedback was incorporated into the guidelines, the Washington State Office of Public Defense incorporated compliance with them into its contracts. With some minor changes, the guidelines have been used by the Office of Public Defense for several years.

The guidelines were proposed for adoption by the Supreme Court this year. With some amendments, they were approved by a super majority of the Council on Public Defense. They were then sent to the Board of Governors, where it was recommended that the guidelines be sent to the Supreme Court to be added to the *Standards for Indigent Defense*.

The Council on Public Defense recommends adoption of the guidelines and that they be incorporated into the *Standards for Indigent Defense*. The appellate guidelines fill a gap not otherwise addressed in the current guidelines the Supreme Court has. The appellate guidelines also have broad stakeholder support. Their adoption will continue to improve the quality of indigent appellate defense.

[Note: The following standards apply to CrR 3.1 stds., JuCR 9.2 stds., CrRLJ 3.1 stds., and MPR 2.1 stds.]

STANDARDS FOR INDIGENT DEFENSE

Standard 14. Qualifications of Attorneys

Standard 14.1. In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:

A. ~~D.~~ [Unchanged.]

E. Be familiar with the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and

~~E. F.~~ Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and

~~F. G.~~ Be familiar with mental health issues and be able to identify the need to obtain expert services; and

~~G. H.~~ Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

[Adopted effective October 1, 2012; amended effective April 24, 2018.]

Standard 14.2~~*Standard 14.4*~~ [Unchanged.]

WASHINGTON STATE BAR ASSOCIATION

Office of General Counsel

To: The President, President-elect, Immediate Past-President, and Board of Governors
 From: Julie Shankland, General Counsel
 Lisa Amatangel, Associate Director, OGC
 Date: June 29, 2021
 Re: Litigation Update

No.	Name	Brief Description	Status
1.	<i>Pines v. Washington State Bar Association et al</i> , No. 99769-1 (Wash.)	Petitioner seeks intervention in an eviction and discipline of several lawyers and judges.	Petition for writ of mandamus filed 05/10/21. Matter dismissed 5/18/21.
2.	<i>Block v. Scott et al</i> , No. 21-2-01394-31 (Snohomish Sup. Ct.) (" <i>Block IV</i> ").	Alleges civil rights and public records violations.	Complaint filed 03/26/21.
3.	<i>Block v. Scott et al</i> , No. 20-2-07931-1 (Pierce Sup. Ct.) (" <i>Block III</i> ")	Alleges civil rights and public records violations.	Complaint filed 10/07/20. On 05/31/21 Block filed a motion for voluntary dismissal.
4.	<i>Block v. WSBA et al.</i> , No. 18-cv-00907 (W.D. Wash.) (" <i>Block II</i> ")	See <i>Block I</i> (below).	<p>On 03/21/19, the Ninth Circuit stayed <i>Block II</i> pending further action by the district court in <i>Block I</i>. On 12/17/19, Block filed a status report with the Ninth Circuit informing the Court of the <i>Block I</i> Court's reimposition of the vexatious litigant pre-filing order against Block. On 06/18/20, the Ninth Circuit lifted the stay order and ordered the appellees who have not yet filed their answering briefs to do so by 08/17/20 (WSBA filed its answer brief before the stay order was entered). Block's reply was due 10/09/20, then extended to 12/28/20.</p> <p>Block filed a reply brief four months late along with a motion for extension of time. The Ninth Circuit Court denied Block's motion for an extension and declined to accept the reply brief. Block has filed a Motion for Reconsideration of the Order denying her motion for an extension. The Ninth Circuit set this matter for consideration without oral argument on 06/08/21.</p>



			<p>Block filed in the district court a Motion to Issue Indicative ruling and an amended version of the same motion, which was denied. Block filed a second notice of appeal in this matter. Block's opening brief and excerpts of record were due 06/07/21.</p> <p>On 05/05/21, Block filed a motion to consolidate her total of three appeals in <i>Block I</i> and <i>Block II</i>; WSBA filed an opposition to this motion on 05/17/21.</p>
5.	<i>Eugster v. WSBA, et al.</i> , No. 18201561-2, (Spokane Sup. Ct.)	Challenges dismissal of <i>Spokane County 1</i> (case no. 15-2-04614-9).	Dismissal order signed 01/06/20. On 01/16/20, WSBA filed a supplemental brief on fees under CR 11 and RCW 4.84.185. Fee award of \$28,586 granted on 02/14/20; Eugster filed a notice of appeal on 03/02/20. WSBA filed its response brief on 12/14/20. Appeals briefing is complete; fees on appeal requested. On 06/07/21 the Court of Appeals affirmed and awarded fees on appeal for frivolity.
6.	<i>Block v. WSBA, et al.</i> , No. 15-cv-02018-RSM (W.D. Wash.) (" <i>Block I</i> ")	Alleges conspiracy among WSBA and others to deprive plaintiff of law license and retaliate for exercising 1st Amendment rights.	<p>On 02/11/19, 9th Cir. affirmed dismissal of claims against WSBA and individual WSBA defendants; the Court also vacated the pre-filing order and remanded this issue to the District Court. On 12/09/19, the United States Supreme Court denied plaintiff's Petition of Writ of Certiorari.</p> <p>On 12/13/19, the District Court reimposed the vexatious litigant pre-filing order against Block; Block filed a notice of appeal regarding this order on 01/14/20. Block filed an opening brief on 11/06/20; WSBA filed its answering brief on 01/07/21. Block's optional Reply Brief was due on 01/28/21. Block filed a reply brief on 04/26/21 along with a motion for extension. The Ninth</p>

			<p>Circuit set this matter for consideration without oral argument on 06/08/21.</p> <p>On 09/10/20, Block moved to vacate the vexatious litigant order; WSBA opposed the motion and it was denied. In response to the district court's denial of Block's motion to vacate, on 10/01/20, Block filed a motion for an indicative ruling on whether the district court would vacate the vexatious litigant order if the appellate court remanded the case for that purpose. WSBA opposed the motion. Block filed a reply on 10/16/20. This motion is pending.</p> <p>As noted above in <i>Block I</i>, on 05/05/21, Block filed a motion to consolidate her total of three appeals in <i>Block I</i> and <i>Block II</i>; WSBA filed an opposition to this motion on 05/17/21.</p>
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TO: WSBA Board of Governors

FROM: Prof. Lisa Kelly, Bobbe & Jon Bridge Professor of Child Advocacy, UW Law School
Prof. Christine Cimini, Associate Dean of Experiential Learning, UW Law School
Prof. Lisa Brodoff, Director of the Ronald A. Peterson Law Clinic, SU Law School
Prof. Gail Hammer, Coordinating Attorney of Gonzaga Law Clinical Legal Programs
Renata de Carvalho Garcia, Chief Regulatory Counsel
Bobby Henry, Associate Director for Regulatory Services

DATE: June 30, 2021

RE: Suggested Amendments to APR 9 Licensed Legal Interns

ACTION: The University of Washington School of Law, Seattle University School of Law, Gonzaga University School of Law and the Regulatory Services Department present suggested amendments to Rule 9 of the Admission and Practice Rules (APR) for the Board’s approval for WSBA to submit the suggested amendments jointly with the law schools to the Washington Supreme Court for its consideration.

PURPOSE:

The primary purposes of the suggested amendments to APR 9, relating to licensed legal interns, are:

1. To allow law school students who have completed one-third of their studies to be eligible for the rule 9 license if enrolled in a law school clinic;
2. To ensure only licensed legal interns who have completed two-thirds of the legal education are eligible to have supervising lawyers outside of a law school clinic;
3. To allow LLM graduates of ABA approved law schools who qualify to sit for the bar exam in Washington to be eligible for the rule 9 license when the LLM has met the requirements of APR 3(b)(4);
4. To better clarify possible action by the WSBA for licensed legal intern misconduct consistent with other sections of APR 9 and the APR relating to character and fitness; and
5. To update various terms throughout APR 9 to allow for electronic processing and handling of rule 9 documents and procedures.

This memo is intended to serve as a summary of the attached GR 9 cover sheet and suggested amendments to APR 9. For a fuller discussion, including research support, please refer to the underlying documents.

BACKGROUND:

In the Fall of 2020, representatives of the Clinical Law Programs of Washington’s three law schools (“Law Schools”) approached the WSBA’s Regulatory Service Department (RSD) to learn of the process to elicit WSBA support for changes to APR 9. The Law Schools sought to suggest changes that would broaden eligibility to second-year JD students enrolled in clinical law courses. The Chief Regulatory Counsel invited the Associate Director of Regulatory Services to join the discussions.

As these discussions developed, WSBA staff suggested additional amendments to the Rule which serve to modernize APR 9 with respect to the delivery of notice, grant the license to certain LLM graduates, and clarify the disciplinary process for Licensed Legal Interns.

The suggested amendments were on the Board's May meeting agenda for discussion and comment. Some governors expressed a concern about second year law students enrolled in a clinical program then being able to have a supervising lawyer outside the law school clinic prior to completing two-thirds of the legal education. WSBA staff reviewed APR 9 and has made additional suggested amendments that would prevent a licensed legal intern from being able to have a supervising lawyer outside of a law school clinic until completing two-thirds of the legal education. See suggested amendments to APR 9(d)(9) & (10).

In addition, WSBA regulatory staff was asked to look into a suggestion that the legal education requirements for all licensed legal interns in general be reduced to one-third of the course of study. WSBA staff conducted some initial research into the suggestion and found that there are many issues, concerns and challenges to overcome before reducing the legal education requirements for a rule 9 license beyond the law school clinics. Therefore, should the Board of Governors wish to pursue licensing all rule 9 interns after one-third of the legal education, WSBA staff recommends in-depth research and analysis along with broader stakeholder input before making such a proposal.

Below is a summary of the suggested amendments that are being jointly submitted by the Law Schools and WSBA's Regulatory Services Department.

LAW SCHOOLS' SUGGESTED AMENDMENT

The Clinical Law Programs of Washington's three law schools, with the support of RSD, suggest amending APR 9 to expand eligibility for Licensed Legal Intern status to those law students who have completed one-third of their law school curriculum and are enrolled in a clinical law course. The proposed amendment would maintain the current two-thirds requirement for those law students who are in externships or employment arrangements. The proponents believe that this proposal will support the creation of a more logical and cohesive experiential law school curriculum that will better prepare students for the practice of law. This proposal is consistent with national norms in that the majority of states do not restrict student practice to students in their 3L year.

THE BENEFITS OF THE LAW SCHOOLS' SUGGESTED AMENDMENT

- The new rule incentivizes the optimal sequencing of experiential learning—putting state-court-practice clinics first, where students can practice law in slow motion with close supervision, explore ethical issues in detail, and learn how to learn from practice; and APR 9-required externships second, where students can hone these foundational skills further in the context of the busy law office.
- Externship field supervisors will have better prepared law students who can contribute more fully to the life of the law office, thereby enriching the experience for the students, the placements, and ultimately the clients.
- Employers who hire rising 3Ls for summer employment will also benefit from better prepared law students.

- The demand for clinical courses among 2Ls is high and currently can only be met through clinical experiences that do not involve state court practice. This leads to distortions in clinical programming and fewer opportunities to prepare students for state court practice through clinical learning.
- The fact that 2Ls currently do perform well in clinics involving practice in administrative tribunals and in tribal and federal courts that permit 2L practice demonstrates their capacity to appear in state court under careful clinical supervision.
- A full range of clinical opportunities in the 2L year is an important retention tool for all students, but particularly for students of color who report that they lack a sense of belonging in law school and would benefit from more curricular opportunities that are centered in discussions of social justice.
- Students who participate in state court practice clinics and then go onto perform externships in agencies providing legal services in state court are well-prepared and inspired to seek employment in or perform pro bono service for those agencies.
- The community will benefit from the increased access to justice provided by law students engaged in clinical law practice.
- As access to justice increases, the number of pro se litigants decrease, thereby increasing judicial efficiency and yielding more just outcomes.

REGULATORY SERVICE DEPARTMENT SUGGESTED AMENDMENTS

There are five purposes to the amendments proposed by RSD and supported by the Law Schools. Each is discussed below.

Preventing Second Year Law Students from Having Supervising Lawyers Outside a Law School Clinic – Proposed APR 9(d)(9)&(10)

APR 9 currently allows licensed legal interns, who must have completed two-thirds of their law school program to get licensed, to add supervising lawyers at any time during the term of the limited license. Under the suggested amendments the law school clinic interns would be licensed after completing only one-third of the legal education. Therefore, the suggested amendments to this section would prohibit having a supervising lawyer outside the law school clinic until the licensed legal intern has completed at least two-thirds of the legal education.

Inclusion of LLM Graduates – Proposed APR 9(b)(5)

The most substantive proposal is to include a provision that would allow certain LLM graduates of ABA approved law schools to qualify for the rule 9 license. Currently, under APR 3(b)(4), J.D. graduates of non-ABA law schools and graduates of foreign law schools can qualify for the bar exam if they earn an LLM from an ABA approved law school, but they are not eligible for a rule 9 license. This amendment is intended to address this discrepancy and increase equitability of the rule 9 license. In the past few years, the WSBA has received inquiries from some LLM graduates who would like to have rule 9 license while they are in the exam and admission process. These LLM graduates who are intending to practice law in Washington and who qualify for the bar exam in Washington should be afforded the same opportunity to gain practical experience prior to entering the profession just as J.D. graduates would.

Legal Intern Misconduct – Proposed Amendments to APR 9(d)(8)

Another substantive proposal is related to misconduct by a licensed legal intern. The proposed amendments would clarify and broaden the conduct that could result in the Bar taking action on the rule 9 license. In addition, it removes the language about forfeiture of the privilege to take the bar exam, as that privilege can only be denied by the Supreme Court.

Completion of Law Clerk Program – Proposed APR 9(b)(4)

Law students and law clerks are eligible for rule 9 licensure upon partial completion of their course of study. Law students, in addition to being eligible to apply while attending law school, are also eligible to apply within nine months of graduation. This flexibility is not afforded to law clerks who are currently only eligible to apply while in the program and not upon completion. The proposed amendment is intended to address this discrepancy by allowing individuals who have completed the APR 6 law clerk program to qualify for the rule 9 license. Generally, most law clerks are licensed under APR 9 during the course of the law clerk program. However, if a clerk does not for some reason, the clerk should have the same opportunity to apply after completing the program as would a J.D. graduate from a law school.

Modernization of APR 9 Procedural Rules

Several places within APR 9 refer to physical documents or mailing of items. These procedural rules have been updated with generic terms or procedures to allow for electronic delivery and handling of the administration of the application and licensing processes under APR 9.

Attachments:

1. Suggested Amendments to APR 9 (blackline)
2. Suggested Amendments to APR 9 (clean copy)
3. Draft GR 9 Cover Sheet re Suggested Amendment to APR 9

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 **RULE 9. LICENSED LEGAL INTERNS**

2 (a) Unchanged.

3 (b) **Eligibility.** To be eligible to apply to be a Licensed Legal Intern, an applicant must
4 have arranged to be supervised by a qualifying lawyer and:

5 (1) Be a student duly enrolled and in good academic standing in a J.D. program at an
6 approved law school who has:

7 (A) successfully completed not less than one two-thirds of a prescribed ~~3-year~~ law
8 school course of study if enrolled in a law school clinic in compliance with this rule or
9 ~~five-eighths~~ two-thirds of a prescribed ~~4-year~~ law school course of study if not enrolled
10 in a law school clinic; and

11 (B) obtained the written approval of the law school's dean or a person designated by
12 such dean and a certification by the dean or designee that the applicant has met the
13 educational requirements; or

14 (2) Be an enrolled law clerk who:

15 (A) is certified by Bar staff to be in compliance with the provisions of APR 6 and to
16 have successfully completed not less than five-eighths of the prescribed 4-year course of
17 study, and

18 (B) has the written approval of the primary tutor; or

19 (3) Be a J.D. graduate of an approved law school who has not been admitted to the
20 practice of law in any state or territory of the United States or the District of Columbia,
21 provided that the application is made within nine months of graduation; or

22 (4) Have completed the APR 6 law clerk program and not been admitted to the practice
23 of law in any state or territory of the United States or the District of Columbia, provided that
24 the application is made within nine months of completion of the APR 6 law clerk program; or

25 (5) Be a graduate of an approved law school with an LL.M. that meets the requirements
26 in APR 3(b)(4) and who qualifies under APR 3(b)(4) to take the Washington lawyer bar

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 examination and who has not been admitted to the practice of law in any state or territory of
2 the United States or the District of Columbia, provided that the application is made within nine
3 months of graduation.

4 (c) Unchanged.

5 (d) **Application.** The applicant must submit an application ~~on~~ in a form provided and
6 manner as prescribed by the Bar and signed by both the applicant and the supervising lawyer.

7 (1) The applicant and the supervising lawyer must fully and accurately complete the
8 application, and they have a continuing duty to correct and update the information on the
9 application while it is pending and during the term of the limited license. Every applicant and
10 supervising lawyer must cooperate in good faith with any investigation by promptly furnishing
11 written or oral explanations, documents, releases, authorizations, or other information
12 reasonably required by the Bar. Failure to cooperate fully or to appear as directed or to furnish
13 additional information as required shall be sufficient reason for the Bar to recommend denial
14 or termination of the license.

15 (2) The application must include:

16 (A) all requested information about the applicant and the Supervising Lawyer;

17 (B) the required certification from the law school (or confirmation from the Bar, for APR
18 6 Law Clerks) that the applicant has the required educational qualifications; and

19 (C) certifications in writing under oath by the applicant and the supervising lawyer(s)
20 that they have read, are familiar with, and will abide by this rule and the Rules of Professional
21 Conduct.

22 (3) Full payment of any required fees must be submitted with the application. The fees
23 shall be set by the Board of Governors subject to review by the Supreme Court.

24 (4) Bar staff shall review all applications to determine whether the applicant and the
25 supervising lawyer have the necessary qualifications, and whether the applicant possesses the
26 requisite good moral character and fitness to engage in the limited practice of law provided for

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 in this rule. Bar staff may investigate any information contained in or issues raised by the
2 application that reflect on the factors contained in APR 21(a)-24, and any application that
3 reflects one or more of the factors set forth in APR 21(a) shall be referred to Bar Counsel for
4 review.

5 (5) Bar Counsel may conduct such further investigation as appears necessary, and may
6 refer to the Character and Fitness Board for hearing any applicant about whom there is a
7 substantial question whether the applicant possesses the requisite good moral character and
8 fitness to practice law as defined in APR 20. Such hearing shall be conducted as provided in
9 APR 20-24.3. Bar Counsel may require any disclosures and conditions of the applicant and
10 supervising lawyer that appear reasonably necessary to safeguard against unethical conduct by
11 the applicant during the term of the limited license. No decision regarding the good moral
12 character and fitness to practice of an applicant made in connection with an application for
13 licensing pursuant to this rule is binding on the Bar or Character and Fitness Board at the time
14 an applicant applies for admission to practice law and membership in the Bar, and such issues
15 may be reinvestigated and reconsidered by Bar staff, Bar Counsel, and the Character and
16 Fitness Board.

17 (6) The Supreme Court shall issue or refuse the issuance of a limited license for a
18 Licensed Legal Intern. The Supreme Court's decision shall be forwarded to the Bar, which
19 shall inform the applicant of the decision.

20 (7) Upon Supreme Court approval of an applicant, the Bar shall ~~send to the applicant, in~~
21 ~~care of the supervising lawyer's mailing address on record with the Bar, deliver to the~~
22 supervising lawyer, with a copy to the applicant, a letter confirming confirmation of approval
23 by the Supreme Court and a Licensed Legal Intern identification card. An applicant must not
24 perform the duties of a Licensed Legal Intern before receiving the ~~confirming letter~~
25 confirmation and identification card.

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 (8) Once an application is accepted and approved and a license is issued, a Licensed
2 Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of
3 Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this
4 state, and is personally responsible for all services performed as a Licensed Legal Intern. Any
5 ~~offense~~ conduct by a Licensed Legal Intern that would subject a lawyer admitted to practice
6 law in this state to suspension or disbarment may be punished discipline may result in the Bar
7 taking action on the Licensed Legal Intern's license, including by termination of the Licensed
8 Legal Intern's license; or requiring disclosures by or condition on the Licensed Legal Intern
9 and supervising lawyer that appear reasonably necessary to safeguard against unethical
10 conduct by the Licensed Legal Intern during the term of the limited license. suspension or
11 forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and
12 being admitted to practice law in this state.

13 (9) A Licensed Legal Intern who has completed less than two-thirds of a prescribed law
14 school course of study cannot have supervising lawyers outside of a law school clinic.

15 (910) A Licensed Legal Intern who has completed at least two-thirds of a prescribed law
16 school course of study or five-eighths of the APR 6 law clerk program may have up to two
17 supervising attorneys lawyers in different offices at one time. A Licensed Legal Intern who
18 qualifies under this section may submit an application for approval to add a supervising
19 attorney in another office or to change supervising attorneys any time within the term of the
20 limited license. A Licensed Legal Intern who was licensed prior to completing at least two-
21 thirds of a prescribed law school course must pay the application fee if the new supervisor will
22 not be at a law school clinic and submit written approval of the law school's dean or a person
23 designated by such dean and a certification by the dean or designee that the applicant has met
24 the educational requirements. When a Licensed Legal Intern applies to add a concurrent
25 supervising attorney in another office, the Intern must notify both the current supervising
26 attorney and the proposed new supervising attorney in writing about the application, and both

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 the current and the new supervising attorney must approve the addition and certify that such
2 concurrent supervision will not create a conflict of interest for the Licensed- Legal Intern. The
3 qualifications of the new supervising attorney will be reviewed by Bar staff who may approve
4 or deny the supervisor. The Licensed Legal Intern will be notified of approval or denial of the
5 new supervising attorney as described above and must not perform the duties of a licensed
6 legal intern before receiving a new ~~confirming letter~~ confirmation containing notification of
7 approval and a new identification card.

8 (e) – (f)(6) Unchanged.

9 (7) must meet with ~~any~~ the Licensed Legal Intern ~~he/she is supervising,~~ in person or by
10 telephone, a minimum of one time per week, to review cases being handled and to provide
11 feedback on performance, additional guidance and instruction, and to answer questions or
12 issues raised by the Licensed Legal Intern;

13 (f)(8) – (g) Unchanged.

14 (h) **Term of Limited License.** A limited license issued pursuant to this rule shall be
15 valid, unless it is revoked or supervision is terminated, for a period of not more than ~~30~~ 42
16 consecutive months, and in no case will it be valid if it has been more than 18 months since
17 the Licensed Legal Intern graduated from law school or completed the APR 6 Law Clerk
18 program.

19 (1) The approval given to a law student by the law school dean or the dean's designee or
20 to a law clerk by the tutor may be withdrawn at any time by ~~mailing~~ delivering notice to that
21 effect to the Bar, and must be withdrawn if the student ceases to be duly enrolled as a student
22 prior to graduation, takes a leave of absence from the law school or from the clinical program
23 for which the limited license was issued, or ceases to be in good academic standing, or if the
24 APR 6 law clerk ceases to comply with APR 6. When the approval is withdrawn, the Licensed
25 Legal Intern's license must be terminated promptly.

26 (2) – (3) Unchanged.

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

RULE 9. LICENSED LEGAL INTERNS

(a) Unchanged.

(b) **Eligibility.** To be eligible to apply to be a Licensed Legal Intern, an applicant must have arranged to be supervised by a qualifying lawyer and:

(1) Be a student duly enrolled and in good academic standing in a J.D. program at an approved law school who has:

(A) successfully completed not less than one -third of a prescribed law school course of study if enrolled in a law school clinic in compliance with this rule or two-thirds of a prescribed law school course of study if not enrolled in a law school clinic; and

(B) obtained the written approval of the law school's dean or a person designated by such dean and a certification by the dean or designee that the applicant has met the educational requirements; or

(2) Be an enrolled law clerk who:

(A) is certified by Bar staff to be in compliance with the provisions of APR 6 and to have successfully completed not less than five-eighths of the prescribed 4-year course of study, and

(B) has the written approval of the primary tutor; or

(3) Be a J.D. graduate of an approved law school who has not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of graduation; or

(4) Have completed the APR 6 law clerk program and not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of completion of the APR 6 law clerk program; or

(5) Be a graduate of an approved law school with an LL.M. that meets the requirements in APR 3(b)(4) and who qualifies under APR 3(b)(4) to take the Washington lawyer bar examination and who has not been admitted to the practice of law in any state or territory of

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 the United States or the District of Columbia, provided that the application is made within nine
2 months of graduation.

3 (c) Unchanged.

4 (d) **Application.** The applicant must submit an application in a form and manner as
5 prescribed by the Bar.

6 (1) The applicant and the supervising lawyer must fully and accurately complete the
7 application, and they have a continuing duty to correct and update the information on the
8 application while it is pending and during the term of the limited license. Every applicant and
9 supervising lawyer must cooperate in good faith with any investigation by promptly furnishing
10 written or oral explanations, documents, releases, authorizations, or other information
11 reasonably required by the Bar. Failure to cooperate fully or to appear as directed or to furnish
12 additional information as required shall be sufficient reason for the Bar to recommend denial
13 or termination of the license.

14 (2) The application must include:

15 (A) all requested information about the applicant and the Supervising Lawyer;

16 (B) the required certification from the law school (or confirmation from the Bar, for APR
17 Law Clerks) that the applicant has the required educational qualifications; and

18 (C) certifications in writing under oath by the applicant and the supervising lawyer(s)
19 that they have read, are familiar with, and will abide by this rule and the Rules of Professional
20 Conduct.

21 (3) Full payment of any required fees must be submitted with the application. The fees
22 shall be set by the Board of Governors subject to review by the Supreme Court.

23 (4) Bar staff shall review all applications to determine whether the applicant and the
24 supervising lawyer have the necessary qualifications, and whether the applicant possesses the
25 requisite good moral character and fitness to engage in the limited practice of law provided for
26 in this rule. Bar staff may investigate any information contained in or issues raised by the

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 application that reflect on the factors contained in APR 21(a), and any application that reflects
2 one or more of the factors set forth in APR 21(a) shall be referred to Bar Counsel for review.

3 (5) Bar Counsel may conduct such further investigation as appears necessary, and may
4 refer to the Character and Fitness Board for hearing any applicant about whom there is a
5 substantial question whether the applicant possesses the requisite good moral character and
6 fitness to practice law as defined in APR 20. Such hearing shall be conducted as provided in
7 APR 20-24.3. Bar Counsel may require any disclosures and conditions of the applicant and
8 supervising lawyer that appear reasonably necessary to safeguard against unethical conduct by
9 the applicant during the term of the limited license. No decision regarding the good moral
10 character and fitness to practice of an applicant made in connection with an application for
11 licensing pursuant to this rule is binding on the Bar or Character and Fitness Board at the time
12 an applicant applies for admission to practice law and membership in the Bar, and such issues
13 may be reinvestigated and reconsidered by Bar staff, Bar Counsel, and the Character and
14 Fitness Board.

15 (6) The Supreme Court shall issue or refuse the issuance of a limited license for a
16 Licensed Legal Intern. The Supreme Court's decision shall be forwarded to the Bar, which
17 shall inform the applicant of the decision.

18 (7) Upon Supreme Court approval of an applicant, the Bar shall deliver to the supervising
19 lawyer, with a copy to the applicant, a confirmation of approval by the Supreme Court and a
20 Licensed Legal Intern identification card. An applicant must not perform the duties of a
21 Licensed Legal Intern before receiving the confirmation and identification card.

22 (8) Once an application is accepted and approved and a license is issued, a Licensed
23 Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of
24 Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this
25 state, and is personally responsible for all services performed as a Licensed Legal Intern. Any
26 conduct by a Licensed Legal Intern that would subject a lawyer admitted to practice law in this

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 state to discipline may result in the Bar taking action on the Licensed Legal Intern's license,
2 including termination of the Licensed Legal Intern's license; or requiring disclosures by or
3 condition on the Licensed Legal Intern and supervising lawyer that appear reasonably
4 necessary to safeguard against unethical conduct by the Licensed Legal Intern during the term
5 of the limited license.

6 (9) A Licensed Legal Intern who has completed less than two-thirds of a prescribed law
7 school course of study cannot have supervising lawyers outside of a law school clinic.

8 (910) A Licensed Legal Intern who has completed at least two-thirds of a prescribed law
9 school course of study or five-eighths of the APR 6 law clerk program may have up to two
10 supervising lawyers in different offices at one time. A Licensed Legal Intern who qualifies
11 under this section may submit an application for approval to add a supervising attorney in
12 another office or to change supervising attorneys any time within the term of the limited
13 license. A Licensed Legal Intern who was licensed prior to completing at least two-thirds of a
14 prescribed law school course must pay the application fee if the new supervisor will not be at
15 a law school clinic and submit written approval of the law school's dean or a person designated
16 by such dean and a certification by the dean or designee that the applicant has met the
17 educational requirements. When a Licensed Legal Intern applies to add a concurrent
18 supervising attorney in another office, the Intern must notify both the current supervising
19 attorney and the proposed new supervising attorney in writing about the application, and both
20 the current and the new supervising attorney must approve the addition and certify that such
21 concurrent supervision will not create a conflict of interest for the Licensed- Legal Intern. The
22 qualifications of the new supervising attorney will be reviewed by Bar staff who may approve
23 or deny the supervisor. The Licensed Legal Intern will be notified of approval or denial of the
24 new supervising attorney as described above and must not perform the duties of a licensed
25 legal intern before receiving a new confirmation containing notification of approval and a new
26 identification card.

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 9 – LICENSED LEGAL INTERNS

1 (e) – (f)(6) Unchanged.

2 (7) must meet with the Licensed Legal Intern in person or by telephone, a minimum of
3 one time per week, to review cases being handled and to provide feedback on performance,
4 additional guidance and instruction, and to answer questions or issues raised by the Licensed
5 Legal Intern;

6 (f)(8) – (g) Unchanged.

7 (h) **Term of Limited License.** A limited license issued pursuant to this rule shall be
8 valid, unless it is revoked or supervision is terminated, for a period of not more than 42
9 consecutive months, and in no case will it be valid if it has been more than 18 months since
10 the Licensed Legal Intern graduated from law school or completed the APR 6 Law Clerk
11 program.

12 (1) The approval given to a law student by the law school dean or the dean's designee or
13 to a law clerk by the tutor may be withdrawn at any time by delivering notice to that effect to
14 the Bar, and must be withdrawn if the student ceases to be duly enrolled as a student prior to
15 graduation, takes a leave of absence from the law school or from the clinical program for which
16 the limited license was issued, or ceases to be in good academic standing, or if the APR 6 law
17 clerk ceases to comply with APR 6. When the approval is withdrawn, the Licensed Legal
18 Intern's license must be terminated promptly.

19 (2) – (3) Unchanged.

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GR 9 COVER SHEET

SUGGESTED CHANGE TO ADMISSION TO PRACTICE RULE 9

PROPOSED BY:

University of Washington School of Law, Clinical Law Program
Seattle University School of Law, Clinical Law Program
Gonzaga University School of Law, Clinical Legal Program

SPOKESPERSON:

Lisa Kelly, Bobbe and Jon Bridge Professor of Child Advocacy
University of Washington School of Law
Email: Lisak2@uw.edu
Cell phone: 206-679-3434

PURPOSE OF SUGGESTED CHANGE:

The proponents propose a change to APR 9, Washington's Student Practice Rule, to permit law students in good academic standing who have completed one-third of the prescribed law school curriculum to be certified as legal interns so long as they are under the supervision of a clinical law teacher. The purpose of this suggested change is to bring Washington in line with national student practice norms as well as current trends in legal education which support more practical training experience.

HEARING:

The proponents do not believe that a public hearing is necessary.

EXPEDITED CONSIDERATION:

The proponents do not believe that exceptional circumstances exist to justify an expedited consideration of the proposed change.

I. Introduction

The Clinical Law Programs of Washington State's three law schools urge amending APR 9 to expand eligibility for Licensed Legal Intern status to those law students who have completed one-third of their law school curriculum and are enrolled in a clinical law course. The current rule confers eligibility only on those law students who have completed two-thirds of the curriculum. The proposed amendment maintains the two-thirds requirement for those law students who are in externships or employment arrangements. It also does not touch upon the current eligibility requirements for those in the law clerk program. This proposal will support the creation of a more logical and cohesive experiential law school curriculum that will better prepare students for the practice of law, align Washington State with national norms, help with the recruitment and retention of more diverse students, expand access to justice, assist in the administration of justice, and provide benefit to the bar and clients through more prepared graduates.

This amendment is supported by the Deans of all three law schools and their Externship Program Directors. This suggested amendment was presented to the WSBA Board of Governors on May ____, 2021.

II. Rationale in Support of Suggested Amendment

A. The Suggested Amendment is Consistent with Trends in Legal Education

Legal education has been on a slow but steady path of change in response to pressures from a wide range of constituencies including students, the bench, the bar, and broader society. Calls to recognize the profession's exclusivity and the law's effects on social justice, both for good and ill, have re-emerged and grown increasingly urgent. Law schools are called to admit, retain, and prepare a more diverse student body to enter an increasingly complex and demanding legal profession. In this context, it is critical that law students have a curriculum deliberately designed

to ensure their success and readiness to enter the profession. APR 9, commonly known among educators as the Student Practice Rule, is a key element in that curriculum design.

The pressure on law schools to develop new pedagogies with clear learning objectives relevant to the practice of law has been building for a considerable amount of time. At least three influential reports in the past three decades have asked legal education to re-imagine itself. In 1992, the ABA's Task Force on Law Schools and the Profession issued what is commonly referred to as the *MacCrate Report*, which enumerated and called upon law schools to address the fundamental professional skills and professional values necessary for competent, ethical representation.¹ The *MacCrate Report* emphasized the importance of clinical and other experiential learning opportunities.² In 2007, *The Carnegie Report* was published, exhorting law schools to rethink their curricula to be more in line with other professional schools providing students with opportunities to develop not only an intellectual understanding of the discipline at hand but also a professional identity attained through opportunities to practice.³ Also in 2007, a group of law faculty issued *Best Practices*,⁴ which sought to operationalize the concerns of both the *MacCrate Report* and the *Carnegie Report* by recommending a curriculum that would better prepare students for practice upon graduation.

The integration of experiential learning into the law school curriculum expanded in 2017 when the American Bar Association (ABA) amended its accreditation standards, requiring each

¹ ROBERT MACCRATE ET AL., LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, 1992 A.B.A. Sec. Legal Educ. Admissions B. [hereinafter MACCRATE REPORT].

² *Id.*

³ WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUC. LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT]

⁴ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP (2007) [hereinafter BEST PRACTICES].

student to take one or more experiential courses totaling at least 6 credit hours.⁵ The pace of curriculum reform in legal education may be slow, but today’s law schools do provide more opportunities to learn lawyering skills than law schools of the pre-*MacCrate Report* era. All three of Washington’s law schools have well-established and robust clinical law programs. At the University of Washington, students can choose from among eleven different clinical offerings, staffed by 16 faculty.⁶ Seattle University offers thirteen different clinical courses taught by 11 faculty.⁷ Gonzaga law students have nine clinics from which to choose with 11 faculty at the helm.⁸

Not only do these clinics provide students with opportunities to practice under faculty supervision, but they also address a wide variety of unmet legal needs. Clinic clients are unable to afford private counsel and are often clients of color. The needs that arise give students the opportunity to engage with some of the most urgent issues of our time—the school-to-prison-pipeline, housing justice, immigration, civil rights, LGBTQ+ rights, and workers’ rights, to name just a few of the current offerings.

Clinical law programs offer students a balanced blend of substantive knowledge, practice opportunities, and reflection on both their individual performance and the law’s capacity to effectuate social justice. While clinical learning goals vary based upon the unique clinical

⁵ AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2017–2018, Standards 303(a) (stating, “A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following . . . one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, law clinic, or a field placement.”).

⁶ See, UW School of Law, Clinics, <https://www.law.uw.edu/academics/experiential-learning/clinics> [<https://perma.cc/SXZ6-NJVK>].

⁷ See, Seattle University, Clinic Courses, <https://law.seattleu.edu/academics/programs/law-clinic/clinic-courses> [<https://perma.cc/GTC5-5QHC>].

⁸ See, Gonzaga University School of Law, Clinical Legal Program, <https://www.gonzaga.edu/school-of-law/clinic-centers/law-clinic> [<https://perma.cc/7BRM-VCWZ>].

offering, the typical clinic pedagogy—prepare, perform, and reflect—allows clinic students to practice law in slow motion. The critical role of reflection teaches students the critical skill of how to learn from practice, a skill that is essential and transferable to all practice settings,

Clinic pedagogy has three distinct components—the classroom, the supervision session, and the work performed outside of the law school building. The classroom component allows students the space to come together to learn the skills and substantive knowledge necessary to work on their cases. Typical classroom exercises include roleplays of interviews, client counseling sessions, and mock hearings involving the real-life cases assigned. As the academic semester of quarter progresses, case rounds become a critical part of most clinic classrooms in which strategic and ethical issues are raised and solutions are brainstormed.

Supervision meetings are a critical part of clinical teaching. In most clinics, students work in teams of at least two, which also enables them to learn the important professional skills of collaboration and joint problem-solving. The professor meets with each clinical team on a weekly basis, sometimes more often when case needs demand it. Every step in a case is analyzed and prepared for—from the client interview to research of possible strategies, to the drafting of pleadings, through participation in any court proceedings.

Another salient tenet of clinical pedagogy is the commitment to student “case ownership.” This means that students are the main point of contact with clients and execute all of the work required in any case for which they are responsible. Student case ownership is of course subject to meticulous faculty supervision. This means, for example, that the clinical professor will require a student to write multiple drafts of pleadings, briefs, even important emails, before permitting the correspondence or pleadings to leave the clinic office.

Clinics are not the only experiential educational offering that students have available to them. Externship programs also engage students in real-life practice while earning law school credit. Each of Washington's three law schools have well-developed Externship programs which are managed by an Externship Director who helps facilitate students' matching with an appropriate field placement. Externships generally have a seminar component staffed by law school faculty as well. Externship seminars address basic skills and professionalism, but the actual supervision of the student work is left to the attorneys in the field, who are carrying their own cases as well.

At the University of Washington, Seattle University, and Gonzaga, data bases containing hundreds of externship opportunities are maintained. While the type of placements involved vary tremendously, externships historically have fallen into one of the following categories: judicial; criminal prosecution; criminal defense; and a wide variety of nonprofits and government offices.

Externship placements may occur during the academic year or the summer. Students earn externship credits in either part-time or full-time externships; the latter allowing them the opportunity to become immersed in the professional life of the office to which they are assigned.

APR 9 determines when law students will begin to exercise their lawyering skills in the real world of state-court practice under the supervision of a qualified supervising lawyer. It allows the licensed legal intern to engage in most critical lawyering functions either with or without the presence of the supervising lawyer. The rule itself details the functions that can be performed and in what context, but in general the licensed legal intern can engage in interviewing, counseling, and negotiation without the presence of the supervising attorney, can draft pleadings and correspondence if also signed by the supervising attorney, and can appear without the attorney

for the presentation of agreed and *ex parte* orders.⁹ After “a reasonable period of in-court supervision” or supervised appearances in administrative hearings, a licensed intern can also appear without supervision for misdemeanor matters, for hearings before courts of limited jurisdiction, and can appear in administrative proceedings in which a nonlawyer representative is not permitted.¹⁰ However, licensed legal interns may not conduct depositions or appear in superior court or the Washington Court of Appeals without the presence of a supervising lawyer.¹¹

Washington’s current student practice rule only allows those law students who have completed the equivalent of the second year of law school to be recognized as licensed legal interns.¹² Given that most clinics are only offered during the academic year, this means that students who wish to gain experience in state court must wait until their third year of law school to work under the close supervision of a faculty member.

The suggested amendment would allow law students who have completed one-third of the law school curriculum *and* are enrolled in a clinical law course to be eligible to serve as licensed legal interns. This earlier, more heavily supervised practice experience is consistent with the overall trend in legal education to integrate practice with classroom learning after the doctrinal rigors of the first year.

The suggested amendment also makes for a more rational sequencing of experiential courses. As described above, clinics allow students the opportunity to practice law in slow

⁹ WA APR 9(e), http://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&ruleId=gaapr09&pdf=1 [<https://perma.cc/E92R-G46A>].

¹⁰ *Id.*

¹¹ *Id.*

¹² WA APR 9(b), http://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&ruleId=gaapr09&pdf=1 [<https://perma.cc/E92R-G46A>].

motion with a focus on skill development and professional identity. By contrast, externships introduce law students to the often fast-paced real world of law practice where they often engaged in high volume case work. Very few externship field supervisors who have their own caseloads have the time for role plays, mock hearings, or multiple drafts of documents characteristic of clinical practice. Research shows that externships provide fewer opportunities for students to discuss ethical issues than clinics do.¹³ This discrepancy is likely due to the constraints of client confidentiality that inhibit discussions of specific case work in the externship seminar as well as the difference in role of the externship law office supervisor and a faculty member with clear teaching goals. These same confidentiality concerns also restrict the ability of students to engage in reflection on what they are learning from their cases in the externship seminar. Therefore, the foundational skill of learning from practice is not as easily developed in the externship seminar as it can be in the clinic seminar where students freely exchange the details of their cases with one another.

By allowing second-year students to engage in skill development and careful consideration of ethical issues under the close supervision of a clinical faculty member whose primary responsibility is teaching, students are provided a solid foundation as they move into the externship setting. There they will be able to take the lessons of the clinic and apply them to a larger volume of cases and without the step-by-step instruction provided in the clinical professor.

In short, clinics and externships are both integral pieces of preparing students for practice. Maximizing the benefit to be gained from each requires a more deliberate sequencing that will be

¹³ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, LESSONS FROM LAW STUDENTS ON LEGAL EDUCATION: 2012 ANNUAL SURVEY RESULTS 14–15 (2012), [hereinafter LSSSE LESSONS FROM LAW STUDENTS]https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE_2012_AnnualReport.pdf [<https://perma.cc/55JG-BV89>].

supported by the suggested amendment allowing second-year clinic students admission to practice under APR 9.

B. The Suggested Amendment is Consistent with National Norms

If Washington were to amend APR 9 as suggested here, it would join the majority of states with student practice rules that allow law students a limited license prior to their third year of law school.¹⁴

States allowing students to practice during the second year vary in the specifics of their rules. A large number take the moderate approach suggested here and allow clinic students to practice sooner than non-clinical students who must wait until the third year.¹⁵ Even more states

¹⁴ Sixty-two percent of all states allow students to practice as licensed legal interns prior to their third year of law school. Another 5% (Louisiana, North Carolina and North Dakota) vest sole discretion in the law school to determine when students are prepared to practice. Louisiana Sup. Ct. R. XX, https://www.lasc.org/Supreme_Court_Rules?p=RuleXX [<https://perma.cc/JJK6-SFJX>]; N.C. State Bar R., Ch. 1 Subch. C, R. .0203 – Eligibility, <https://www.ncbar.gov/for-lawyers/governing-rules-of-the-state-bar/0203-eligibility/> [<https://perma.cc/U2HC-TW2R>]; N.D. Sup. Ct. Rule on Limited Practice of Law Students, III – Eligibility Requirements, <https://www.ndcourts.gov/legal-resources/rules/rldtpracticeoflawbylawstudents/3> [<https://perma.cc/K387-LCKZ>].

¹⁵ Kan. Admin. R. 719 – Legal Intern Permit (Attorney Admission), [https://www.kscourts.org/Rules-Orders/Rules/Legal-Intern-Permit#:~:text=\(1\)%20With%20the%20supervising%20attorney's,presence%20of%20the%20supervising%20attorney.&text=\(B\)%20approve%20any%20other%20legal,the%20client's%20rights%20or%20interests.](https://www.kscourts.org/Rules-Orders/Rules/Legal-Intern-Permit#:~:text=(1)%20With%20the%20supervising%20attorney's,presence%20of%20the%20supervising%20attorney.&text=(B)%20approve%20any%20other%20legal,the%20client's%20rights%20or%20interests.) [<https://perma.cc/5PXE-CFWD>]; Mass. Sup. Jud. Ct. Rule 3:03 – Legal Assistance to the Commonwealth and to Indigent Criminal Defendants and to Indigent Parties in Civil Proceedings, <https://www.mass.gov/doc/massachusetts-supreme-judicial-court-rules-and-orders/download> [<https://perma.cc/9DDY-HTCR>]; Miss. Code Ann. 73-3-205 – Definitions; Qualifications, https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=2c010bbe-e7a9-44c4-b47e-5bb875c4e3b6&nodeid=ABMAADAADAAD&nodepath=%2fROOT%2fABM%2fABMAAD%2fABMAADAAD%2fABMAADAADAAD&level=4&haschildren=&populated=false&title=%c2%a7+73-3-205.+Definitions%3b+qualifications.&config=00JABhZDIzMTViZS04NjcxLTQ1MDItOTIiO3MDg0ZTQxYzU4ZTQKAFBvZENhdGFsb2f8inKxYiqNVSihJeNKRIUp&pddocfullpath=%2fshared%2fdocument%2fstatures-legislation%2furn%3acontentItem%3a8P6B-8682-D6RV-H2N5-00008-00&ecom=L38_kkk&prid=351c49fa-f7f5-44a7-93e8-fe2855f94269 [<https://perma.cc/P9H8-T22T>]; N.H. Sup. Ct. Rule 36 – Appearances in Courts by Eligible Law Students and Graduates, <https://www.courts.state.nh.us/rules/scr/scr-36.htm> [<https://perma.cc/6SY5-LGL3>]; Tex. Temp. Trial Card Req. – Rules and Regulations Governing the Participation of Qualified Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas, https://www.texasbar.com/AM/Template.cfm?Section=Law_Student_Info1&Template=/CM/ContentDisplay.cfm&ContentID=30272 [<https://perma.cc/NR9P-Y9SX>].

allow all second-year students to practice, without reference to clinic enrollment.¹⁶ Another large group of states use the halfway mark as the dividing line, allowing all students to practice in the

¹⁶ Cal. R. of Court, R 9.42 – Certified Law Students, https://www.courts.ca.gov/cms/rules/index.cfm?title=nine&linkid=rule9_42 [<https://perma.cc/8M9A-TUFL>]; Conn. P.B. 2014 §§ 3-14 through 3-21 – Application for Appearance of Legal Intern, <https://www.jud.ct.gov/webforms/forms/es096.pdf> [<https://perma.cc/6JBV-P7KA>]; Ga. S. Ct. R 92 Activities Permitted by a Registered Law Student, 93 — Requirements for Registration, and 94 — Procedure for Registration, <https://www.gasupreme.us/rules/rules-of-the-supreme-court-of-georgia/#XV8-15-15> [<https://perma.cc/X2KC-M6XC>]; Haw. R. Sup. Ct. 7.1 – Supervised Student-Practice of Law. Definitions, https://www.courts.state.hi.us/docs/court_rules/rules/rsch.pdf [<https://perma.cc/UFD2-K473>]; Mich. R. MCR 8.120 – Law Students and Recent Graduates; Participation in Legal Aid Clinics, Defender Offices, and Legal Training Programs, <https://michigancourtrules.org/mcr/chapter-8-administrative-rules-of-court/rule-8-120-law-students-and-recent-graduates-participation-in-legal-aid-clinics-defender-offices-and-legal-training-programs/> [<https://perma.cc/M987-S39Z>]; Minn. Ct. R. 2– Professional Rules-Student Practice Rules, https://www.revisor.mn.gov/court_rules/pr/subtype/stud/id/2/ [<https://perma.cc/R57E-TUDS>]; N.Y. Admissions Rule 805.5 – Activities of Eligible Law Students and Law School Graduates Authorized by Sections 478 and 484 of the Judiciary Law, http://www.courts.state.ny.us/ad3/admissions/805.5_ActivitiesOfEligibleLawSTudents.pdf [<https://perma.cc/EC4B-3JUB>]; Utah R. 14-1807 – Law School Student and Law School Graduate Legal Assistance, <http://www.utcourts.gov/resources/rules/ucja/ch14/08%20Special%20Practice/USB14-807.html> [<https://perma.cc/XHJ7-ZD97>]; Wyo. R. 9 – Limited Practice by Law School Clinic Supervising Attorneys and Law Students, <https://www.courts.state.wy.us/wp-content/uploads/2017/05/RULES-GOVERNING-THE-WYOMING-STATE-BAR-AND-THE-AUTHORIZED-PRACTICE-OF-LAW-March-2020.pdf> [<https://perma.cc/AH2D-2AHS>].

middle of their second year.¹⁷ A handful restrict all student practice to the clinical context, regardless of whether the student is a 2L or 3L student.¹⁸

The proponents of this suggested amendment advise against using the halfway point as the demarcating line here in Washington State. Many of the clinics offered in our law schools' Clinical Programs are yearlong. Some clinics centered in state court practice have students enrolled for the entire academic year in order to provide them with the most satisfying and

¹⁷ Alaska Bar R. 44 – Legal Interns and Supervised Practitioners, <https://admissions.alaskabar.org/rule-44> [<https://perma.cc/GXG7-38CB>]; Ariz. R. Sup. Ct. 38 – Certifications and Limited Admissions to Practice Law, <https://casetext.com/rule/arizona-court-rules/arizona-rules-of-the-supreme-court/regulation-of-the-practice-of-law/admission-to-practice-of-law/rule-38-certifications-and-limited-admissions-to-practice-law> [<https://perma.cc/3AJD-XN5X>]; Ill. S.Ct. R. 711 – Representation by Supervised Law Students or Graduates, http://www.illinoiscourts.gov/SupremeCourt/Rules/Art_VII/artVII.htm#711 [<https://perma.cc/XQL8-4AFK>]; Ind. St. R. 2.1 – Admission and Disciplinary Rules, Legal Interns, https://www.in.gov/courts/rules/ad_dis/index.html#_Toc65593947 [<https://perma.cc/2QUV-XVQM>]; Iowa C.A. 31.15 – Permitted Practice by Law Students and Recent Graduates, <https://www.legis.iowa.gov/docs/ACO/CourtRulesChapter/02-12-2016.31.pdf> [<https://perma.cc/26H3-HML6>]; Me. R. Civ. Pro 90 – Legal Assistance by Law Students, <https://casetext.com/rule/maine-court-rules/maine-rules-of-civil-procedure/general-provisions/rule-90-legal-assistance-by-law-students> [<https://perma.cc/Ry35-64G3>]; Mo. S. Ct. R. 13.02 – Rules Governing the Missouri Bar and the Judiciary - Legal Assistance by Law Students, Requirements and Limitations, <https://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/27774ebc9fb534b686256db700740f17?OpenDocument> [<https://perma.cc/K87C-FF4N>]; Okla. T. 5, Ch.1 App. 6, Rule 1.1 – Purpose of the Licensed Legal Internship Rules, <https://www.okbar.org/wp-content/uploads/2018/05/Feb-2018-OSC-LI-Rules.pdf> [<https://perma.cc/7JMY-AKGA>]; Pa. Bd. Law Exam'rs, R. 321 – Requirements for Formal Participation in Legal Matters by Law Students and Law School Graduates, https://www.pabarexam.org/bar_admission_rules/321.htm [<https://perma.cc/5LQL-C2WM>]; R.I. Sup. Ct. R., Art. II, R. 9 – Admission of Attorneys and Others to Practice Law, <https://www.courts.ri.gov/AttorneyResources/baradmission/PDF/AdmissionBar-ArticleII.pdf> [<https://perma.cc/F7FV-GBAA>]; S.C. R. 401 – Student Practice Rule, <https://www.sccourts.org/courtreg/displayRule.cfm?ruleID=401.0&subRuleID=&ruleType=APP> [<https://perma.cc/HD24-M5XK>]; Tenn. Sup. Ct. R., 10.02 – Licensing of Attorneys, <https://www.tncourts.gov/rules/supreme-court/7> [<https://perma.cc/GG8G-YLMN>]; Vt. Pt. VI. Legal Interns, R. 21 – Eligibility Requirements, <https://casetext.com/rule/vermont-court-rules/vermont-rules-of-admission-to-the-bar-of-the-vermont-supreme-court/part-vi-legal-interns/rule-21-eligibility-requirements> [<https://perma.cc/3KXW-MRWA>]; Wis. SCR Ch. 50.03 – Practical Training of Law Students, <https://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=1097> [<https://perma.cc/Q658-MWA9>].

¹⁸ D.C. C.A. R. 48 – Legal Assistance by Law Students, <https://www.dccourts.gov/sites/default/files/2017-07/DCCA%20Rule%2048%20Legal%20Assistance%20by%20Law%20Students.pdf> [<https://perma.cc/Y8HX-4GXC>]; Md. R. Governing Admission to the Bar, Rule 16 – Legal Assistance by Law Students, http://www.teachinglegalethics.org/sites/default/files/lawyer_regulation/maryland%20student%20practice%20rule.pdf [<https://perma.cc/8J43-5GZF>]; N.M. R. Civ. P. Dist. Ct., Rule 1-094-1 – Clinical Education; University of New Mexico School of Law, <https://casetext.com/rule/new-mexico-court-rules/new-mexico-rules-of-civil-procedure-for-the-district-courts/article-10-general-provisions/rule-1-094-clinical-education-university-of-new-mexico-school-of-law> [<https://perma.cc/3XBM-WHXP>].

educationally beneficial clinical experience of seeing a case through from beginning to end. Therefore, making students Rule 9 eligible at the beginning of the year means the student will be able to see the case through from beginning to end. Clients also benefit from the continuity of representation when a student is able to remain on board throughout the life of the case. Making clinic students wait until they are halfway through their second year would thwart the underlying pedagogical purpose of this suggested change. In addition, the halfway mark would be particularly punitive for students at the University of Washington which operates on a quarter system. Requiring students to wait until they have met or exceeded the halfway point would result in the UW clinic students only being able to appear in cases for one eight-week period at the end of their second academic year.

The amendment suggested here strikes an appropriate balance among the approaches offered nationally. It is tailored to the particular needs of our state's law schools and their students while also ensuring that clients receive quality legal representation from law students at all stages of their education.

C. The Suggested Amendment Yields Significant Ancillary Benefits

In addition to achieving the primary goal of better preparing law students for the practice of law, the suggested amendment will also result in several significant ancillary benefits. These benefits include: 1) providing law offices and clients with better prepared law students and law graduates; 2) increasing capacity to retain a truly diverse student body through early and strong clinical programming; 3) increasing access to justice in the state courts for the people of Washington state; and 4) improving the administration of justice by reducing the number of *pro se* litigants in Washington's courts.

1. The Suggested Amendment Benefits the Bar and Clients by Better Preparing Graduates to Practice

The changing economics of a twenty-first century law practice has been among the strongest drivers for change in legal education.¹⁹ Whether it is Big Law responding to client demand for more efficient and transparent service provision, small and solo practice firms needing to make their services more affordable, or public interest organizations responding to ever-increasing demand for their services, the practice of law feels the pressure to make every billable or trackable hour count.²⁰ Gone are the days of lengthy mentoring periods for new lawyers.

These pressures have led to calls for practice-ready law graduates.²¹ Given that the practice of law is increasingly specialized and always changing, it is unrealistic to demand that each law graduate be fully practice-ready for all of the possible types of opportunities that exist.²²

¹⁹ David E. Van Zandt, *Client-Ready Law Graduates*, 36 ABA Litig. Mag. 11–16 (Fall 2009), https://www.jstor.org/stable/29760745?seq=1#metadata_info_tab_contents [<https://perma.cc/4KWE-VNKA>].

²⁰ *Id.* at 11–12.

²¹ *Id.*

²² *Id.* at 13.

However, allowing students to begin building their skills in the second year will provide the graduating law student with a better developed set of foundational lawyering skills and a stronger sense of professional identity.

The benefits of this expanded access rule would also extend to summer employment between the second and third year of law school. Those students with clinical experiences in state court practice in their 2L year will be that much more prepared to be effective contributors to the law offices that hire them. Ultimately, these benefits to future employers redound to the benefit of clients who will not only have more efficient junior counsel working on their matters but also will have more experienced, competent services rendered.

2. Addressing Retention of a Diverse Student Body through Early Student Engagement in Strong Clinical Programs

In the wake of the uprisings of 2020, the call for diversity, equity, and inclusion within legal institutions has grown increasingly louder. Washington General Rule 12.2 charges the Washington State Bar Association (WSBA) with the mission to “promote diversity and equality in the courts and in the legal profession.”²³ In furtherance of this goal, the WSBA has joined the Washington Race Equity & Justice Initiative,²⁴ which acknowledges that “[t]he effects of bias and structural racialization are especially damaging to the social fabric of our democracy when they are woven into the law, legal profession and justice system, where they can weaken the ability of these systems to safeguard equity and justice under the rule of law.”²⁵ The WSBA is committed to “change structures, policies, processes, and practices in the law, legal profession,

²³ Wash. Gen. R. 12.2(a)(6) – Washington State Bar Association: Purposes, Authorized Activities, and Prohibited Activities, https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr12.2 [<https://perma.cc/6JQP-UPDZ>].

²⁴ WSBA, Diversity & Inclusion (Jan. 19, 2021) <https://www.wsba.org/about-wsba/equity-and-inclusion> [<https://perma.cc/8MP8-9NZ7>].

²⁵ *Id.*

and justice system that allow harm and disparate outcomes for Black, Indigenous, and communities of color to continue unabated.”²⁶

Among the racialized harms and disparate outcomes that land right on the doorstep of law schools is the ongoing structural racism that excludes people of color from the profession itself. Structural racism embedded in legal education deters people of color from applying.²⁷ It keeps law schools from admitting people of color when they apply.²⁸ And it subsequently drives people of color out of the institution once they are admitted.²⁹ While the suggested amendment to APR 9 cannot address the problems surrounding admissions criteria and its impact on recruiting students of color is not well-studied, an amended APR 9 would contribute to creating learning environments early in the curriculum that support the retention of students of color.

Law students of color report that they lack of a sense of belonging in law school.³⁰ These feelings of alienation and isolation are likely among the drivers for the high attrition rates experienced by Black, Indigenous, and Latinx law students. Certainly, achieving a critical mass

²⁶ *Id.*

²⁷ Recent data from the Law School Admissions Council (LSAC) show that while 12.4% of the US population is Black, only 11.7% of those applying to law school are Black. An even deeper rate of disproportionality can be found when examining the statistics for American Indian and Alaskan Native communities, which make up only .7% of the US population but .4% of those applying. Similarly, even though the Latinx community comprises 18.4% of the US population, it comprises only 10.3% of law school applicants. LSAC, DIVERSITY IN THE US POPULATION & THE PIPELINE TO LEGAL CAREERS (2020).

²⁸ LSAC data show that even though Black candidates account for 11.7% of all applicants to law school and 12.4% of the US population, they only comprise 7.7% of those matriculated. American Indian and Native Alaskan applicants make up only .4% of all applicants and .7% of the population, while accounting for only .3% of those matriculated. Latinx applicants comprise only 10.3% of law school applicants and 18.4% of the population, but a mere 8.4% of matriculated law students. *Id.*

²⁹ A study of ABA-reported data looking at the attrition rates for law students leaving after the 1L year found that students of color are over-represented in this population of students. The report found that white students made up 62% of 1L enrollment and 49% of 1L non-transfer attrition. “In contrast, minority students made up 30 percent of 1L enrollment but accounted for 44% of 1L non-transfer attrition.” If one digs deeper into the nuances of this overrepresentation, one finds that this disproportionality is largely driven by departing Hispanic and Black law students. These findings held true across all categories of schools. *See*, ACCESSLEX INSTITUTE, ABA DATA REVEALS MINORITY STUDENTS ARE DISPROPORTIONATELY REPRESENTED IN ATTRITION FIGURES (Sept. 18, 2018) <https://www.accesslex.org/xblog/aba-data-reveals-minority-students-are-disproportionately-represented-in-attrition-figures> [<https://perma.cc/LGY4-5JE6>].

³⁰ MEERA E. DEO & CHAD CHRISTENSEN, LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2020 DIVERSITY & EXCLUSION 9 (Sept. 2020) <https://lssse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf> [<https://perma.cc/KLZ2-XHSJ>].

of students of color through better recruitment and admission practices will go a long way towards creating learning environments that embrace all students. However, curriculum also matters in retaining students once they are admitted. Expanding Rule 9 clinical offerings to the second year has a significant impact on the law school curriculum.

A recent national survey of law students of color indicated that curricular offerings that acknowledge privilege and equity concerns can make a difference in the well-being and sense of belonging that students of color experience. Students of color reported a dearth of learning opportunities that allow them to “reflect on their own backgrounds, connecting these with ongoing racial tensions, gender equity, and broader social justice goals.”³¹ There are many ways that law schools can address this need for change in every aspect of their curriculum. However, clinics are already meaningfully engaging in the type of teaching and learning that answers these needs. The small, collaborative environment of clinics is an ideal place for community building, critical thinking about privilege and equity, and learning through the dynamic teachable moments that practice provides.

Prior research has established the critical role that clinics play in student engagement and academic success.³² Students who may have felt intimidated in the larger doctrinal classrooms often regain their confidence and sense of achievement in clinics.³³ Furthermore, students who participate in clinics are more likely than non-clinical students to receive feedback that nurtures

³¹ *Id* at 15.

³² LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, STUDENT ENGAGEMENT IN LAW SCHOOL: KNOWING OUR STUDENTS 8 (2007), https://lssse.indiana.edu/wp-content/uploads/2016/01/EMBARGOED_LSSSE_2007_Annual_Report.pdf [<https://perma.cc/KJ8C-SFL4>].

³³ LSSSE LESSONS FROM LAW STUDENTS, *supra* note 13, at 14 .

their ongoing interest in the practice of law.³⁴ Allowing students access to clinics with Rule 9 practice opportunities sooner rather than later will support the well-being and academic success of all students.

3. The Suggested Amendment Will Expand Access to Justice

There is no shortage of unmet legal need in Washington.³⁵ The demand for legal assistance continues to expand and diversify. The longstanding vacuum in legal services for family law matters is well known, but more recently, unmet legal needs surrounding housing, health care, consumer credit, employment, and the collateral consequences of the criminal legal system are being recognized.³⁶ The Washington Supreme Court Task Force on Civil Legal Needs' most recent report found that “[m]ore than three-quarters (76%) of those who have a legal problem do not get the help they need.” Most low-income people, particularly those who are the survivors of domestic violence or sexual assault, face not just one legal problem, but a complex web of legal challenges.³⁷ Clinical law programs provide representation to clients whose legal needs would otherwise not be met. Allowing 2Ls to practice in the state courts of Washington will augment the resources available to address this staggering need.

The exclusion of 2Ls from the student practice rule has shaped the clinical offerings that are available to students, which in turn has artificially constrained law schools' full participation in educational programming that could help to improve access to justice. Due to the inability to

³⁴ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, STUDENT ENGAGEMENT IN LAW SCHOOL: ENHANCING STUDENT LEARNING 11 (2009), https://lssse.indiana.edu/wp-content/uploads/2015/12/2009_LSSSE_Annual_Survey_Results.pdf [<https://perma.cc/7B6N-RX2A>].

³⁵ WASHINGTON STATE SUPREME COURT, CIVIL LEGAL NEEDS STUDY UPDATE (Oct. 2015), https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf [<https://perma.cc/N75H-6CRG>].

³⁶ *Id.* at 3.

³⁷ *Id.*

involve 2Ls in state-court practice and the demand among 2Ls for clinical opportunities, the three law schools have looked to other types of clinical offerings that would allow 2L participation outside of state court proceedings. To the extent that state-court practice clinics are offered, they often are undersubscribed because students have opted for a 2L clinic experience and 3L externship. With the opening of the student practice rule to 2Ls, the ability to satisfy unmet legal needs in state courts will expand as clinical programs are freer to design a broader range of clinics to meet the 2L demand that will arise for them.

While it is true that clinic student caseloads are deliberately small, the typical approach with each client is very thorough, which often leads to uncovering and addressing the multiple legal needs that the client faces. In this way, clinics are ideally situated to provide holistic and effective representation for those most in need.

Research has shown that students who participate in clinics are oriented towards valuing public service in their future legal careers.³⁸ Therefore, clinics also contribute by familiarizing the state's future bar with the importance of meaningful pro bono representation, thereby expanding access to justice for low-income people into the years to come.

Expanding clinical opportunities to include second-year students creates an access to justice multiplier effect that goes far beyond the services provided by individual students in current clinics. By amending APR 9 as suggested here, new clinics addressing unmet legal needs in state court can be envisioned and, in turn, those students who participate will be prepared and incentivized to assist in pro bono work as they enter into the profession.

4. The Suggested Amendment Will Assist in the Administration of Justice

³⁸ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, STUDENT ENGAGEMENT IN LAW SCHOOL: IN CLASS AND BEYOND 8 (2010), https://lssse.indiana.edu/wp-content/uploads/2016/01/2010_LSSSE_Annual_Survey_Results.pdf [<https://perma.cc/RLY7-X95X>].

To the extent that access to justice is improved, the administration of justice is improved as well. As acknowledged by the policies underlying the Superior Court Statistical Reporting Manual, “[p]ro se litigants ... place an additional workload on judicial and clerical resources because of their limited familiarity with legal issues and the court environment.”³⁹

These sentiments are consistent with an ABA Coalition for Justice survey of judges on the impact of *pro se* litigants in the courts.⁴⁰ Not surprisingly, 86% of the respondents felt that courts would be more efficient if all parties were represented.⁴¹ The impact on the administration of justice goes beyond merely slowing down processes as *pro se* litigants struggle to find their way through a foreign system. Having unrepresented parties affects the quality of justice itself. Judges also expressed concerns that *pro se* litigation decreased the likelihood of a fair representation of the facts and compromised the impartiality of the court as it sought to aid *pro se* litigants in the interests of avoiding injustice.⁴²

Amending APR 9 to expand clinical law student access to the state courts is an important step towards decreasing the overall rate of *pro se* appearances, which will benefit not only the litigants themselves but the courts as well.

D. Rationale for Specific Language in the Suggested Amendment

The current APR 9 provision requires the law student to have “successfully completed not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed 4-

³⁹ WASHINGTON COURTS, SUPERIOR COURT STATISTICAL REPORTING MANUAL 2. Cases with *Pro Se* Litigants, https://www.courts.wa.gov/jislink/index.cfm?fa=jislink.codeview&dir=stats_manual&file=ct1prose [<https://perma.cc/N844-8ZDH>].

⁴⁰ ABA COALITION FOR JUSTICE, REPORT ON THE SURVEY OF JUDGES ON THE IMPACT OF THE ECONOMIC DOWNTURN ON REPRESENTATION IN THE COURTS (PRELIMINARY) (July 12, 2010), <https://legalaidresearchnlada.files.wordpress.com/2020/02/aba-coalition-justice-survey-judges-2010.pdf> [<https://perma.cc/2BGN-VA9S>].

⁴¹ *Id.* at 14.

⁴² *Id.* at 4

year course of study.” The proponents of this suggested change believe that the reference to a 4-year course of study was intended to reference Seattle University’s part-time law school program, which itself has evolved over time.

The proponents have simplified the reference to the law school curriculum by eliminating the three-year versus four-year distinction, instead referencing only that the student must have completed one-third of the prescribed law school curriculum if enrolled in a clinic or two-thirds if not. This choice was made in order to be inclusive of all of the varieties of law school curriculum that have arisen or may arise in the future. For example, since this rule was established Gonzaga University has both a part-time program and the “3+3 Program,” which prescribes specific pathways for students to earn their undergraduate and law degrees in six years instead of seven.”⁴³ Given the possibility for these and other unanticipated innovations in legal education in the future, the proponents believe that the suggested amendment will allow for maximum flexibility while maintaining the structure that adheres closely to the more common 3-year full-time student trajectory.

III. Letters in Support

⁴³ See Gonzaga University School of Law, 3 + 3 Programs, <https://www.gonzaga.edu/school-of-law/admission/3-plus-3-programs> [<https://perma.cc/83VW-3258>].

WASHINGTON STATE BAR ASSOCIATION

To: WSBA Board of Governors
From: Benjamin Phillabaum, Chair, Law Clerk Board
Bobby Henry, Associate Director of Regulatory Services
Date: June 30, 2021
Subject: Suggested Amendments to APR 6 and Law Clerk Program Regulations.

ACTION: The Law Clerk Board (Board) is submitting these suggested amendments to APR 6 and the Law Clerk Program Regulations for approval by the Board of Governors to forward to the Washington Supreme Court for its consideration.

The Law Clerk Board (Board) previously submitted these suggested amendments to the Board of Governors for first reading and discussion on April 17, 2021. The Law Clerk Board approved additional changes including regulations to clarify character and fitness review for investigation (Regulation 3-1(C)) and removed unnecessary titles in Regulation 3-1 A(3)(a)-(d).

The suggested amendments to APR 6 and the law clerk program regulations are intended to clarify and expand the program requirements, provide for increased accessibility to the program and to make the program more efficient to administer by the Board and WSBA staff.

The law clerk program has been successful in providing the opportunity for a legal education for those who recognize the value of an apprenticeship model of legal education, cannot afford law school, or have other barriers to attending law school. The program's practical, employment-based apprenticeship structure has been sought by an increasing number of applicants in recent years. New circumstances and atypical requests are more frequently presented to the Board with the increasing number of participants and applicants. In an effort to provide more guidance and less ambiguity, the Board seeks to better define the key elements of the program such as the employment structure, educational requirements for advanced standing, and the duties of tutors and clerks.

The Board began discussing possible rule amendments in 2020 in response to questions and concerns from potential applicants and current participants in the program. The Board designated a committee to review and make suggested amendments to the rules and regulations. The following suggested amendments were developed through extensive review and discussion by the committee, and after consideration by the Board during this process.

Suggested amendments to APR 6 and Related Regulations

Broadly speaking, the primary purpose of the suggested amendments is to expand and clarify definitions and program processes. Below are some of the amendments being presented today and the discussions around specific topics.

Out of State Applicants and Employers

The Law Clerk Program has always been available to Washington State residents only, however, this has been challenged by many applicants and brought to the Board's attention in recent years. The Board is suggesting a new provision in APR 6(b)(8) to allow for a law clerk to have an out of state employer when certain criteria are met. The proposed new provision would include the following main requirements for an applicant with an out of state employer, as outlined in proposed Regulation 3-1(A)(3):

- The primary tutor must be an active member of the Washington State Bar Association.
- The primary tutor must certify that the tutor's, or tutor's workplace, has a case load with at least 51 percent of caseload involving Washington law.
- The tutor must agree to maintain a caseload that has substantial contact with Washington State. Substantial contact means having a caseload where at least 51 percent of the cases on average in a given year involve Washington law. The tutor will be required to submit an annual certification regarding WA caseload to remain eligible.
- Law clerks and tutors are required to attend evaluations, regardless of distance.

Employment Waiver Policy

There is currently a policy (previously approved by the Board of Governors) in place to allow for a tutor who is not employed by the law clerk's employer when certain conditions are met. The Board is proposing to incorporate these policies, referred to as the employment waiver policies, into the regulations. See Regulation 3-1A(2). There are no substantive changes to the existing policy. The goal is to have the policy as part of the regulations so that applicants and participants are able to find the information in one place rather than a separate policy document to refer to.

Law Clerk Program Reciprocity

California, Vermont, and Virginia have alternative legal education models, and several other states allow a hybrid model of law school with alternative legal education. Some clerks who have completed Washington's program have had success with petitioning for admission to practice law in other states on a case by case basis. Oregon is working on developing an alternative legal education program very similar to Washington's program, but it has been put on hold during the pandemic. The Board reviewed the idea of reciprocity between other states in order to make it more attainable for a former law clerk to practice law outside of Washington State. However, there are currently no programs comparable enough to Washington's that would warrant reciprocity. The Board determined it is more appropriate for reciprocity to be considered and reviewed by WSBA admissions staff if and when Oregon adopts its program.

Additional Changes Proposed

Many of the proposed amendments are meant to address issues that tend to come up frequently and need greater clarity so that the Board can provide consistency in its decision making and approval processes. The Board is seeking to resolve the issues that tend to cause the most confusion for participants and Board members.

These changes include:

- Allowing the Bar Association staff to direct how applications, petitions or requests should be submitted as technology and procedures change over time. Regulation 2-4.
- Filing materials via alternative methods rather than at the physical office location. Regulation 3-1(A).
- Clarifying that an applicant who was previously enrolled in the program may seek advanced standing for courses completed in the prior enrollment (but only those completed in the last five years from the date of application). Regulation 3-2(A)(2).
- Allowing applicants to choose when to enroll in the program. The new provision will allow the applicant to amend the enrollment date if it changes. Regulation 3-4 and 3-5.
- Amending the deadline for submission of exams to 10 days rather than 10 business days so the due date is consistent rather than changing month to month. Regulation 5-3(E).
- Permitting the Board to determine the intervals at which a law clerk and tutor must appear for an evaluation. The clarification allows the Board to decide when a law clerk and tutor need to appear in person. Regulation 5-4.

Many of the other proposed amendments seek to unify the grammar and style of APR 6 without creating substantive changes to the rules and regulations. Other proposed amendments seek to clarify information and definitions, but in other respects is left unaltered.

Attachments

1. Suggested amendments to APR 6
2. Suggested amendments to Law Clerk Program Regulations
3. Clean copy – Proposed APR 6
4. Clean Copy – Proposed Law Clerk Program Regulations

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 6 – Law Clerk Program

RULE 6. Law Clerk Program

(a) **Purpose.** The Law Clerk Program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, experiential, and clinical components. Successful completion of the Law Clerk Program provides a way to meet the education requirement to apply for the lawyer bar examination in Washington; it is not a special admission or limited license to practice law.

(b) **Application.** Every applicant for enrollment in the law clerk program shall:

(1) – (7) Unchanged.

(8) Where the Bar is satisfied that the applicant has employment with a tutor whose practice has substantial contacts with Washington state, the requirement that the full-time employment be in Washington state may be waived.

(c) **Tutors.** To be eligible to act as a tutor in the law clerk program, a lawyer, or ~~judge~~ judicial member as defined in the WSBA Bylaws, shall:

(1) Unchanged.

(2) Be an active member in good standing of the Bar, or be a judicial member ~~who is currently elected or appointed to an elected position~~ of the Bar, who has not received a disciplinary sanction in the last 5 years, provided that if there is discipline pending or a disciplinary sanction has been imposed upon the member more than 5 years preceding the law clerk's application for enrollment, the Bar shall have the discretion to accept or reject the member as tutor;

(3) – (5) Unchanged.

(d) Unchanged.

(e) **Course of Study.** The subjects to be studied, the sequence in which they are to be studied, and any other requirement to successfully complete the program shall be prescribed in

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 6 – Law Clerk Program

1 the Law Clerk Program Regulations. Progress toward completion of the program shall
2 be evaluated by submission of examinations, certificates, reports and evaluations as
3 follows:

4 (1) Unchanged.

5 (2) **Certificates.** Within 10 days following the month of study, tThe tutor shall submit
6 the examination, including the grade given for the examination and comments to the law
7 clerk, and a monthly certificate, stating the law clerk’s hours engaged in employment,
8 study, and the tutor’s personal supervision ~~within 10 business days following the month~~
9 ~~of study.~~ If an examination is not given, the monthly certificate shall be submitted stating
10 the reason.

11 (3) Unchanged.

12 (4) **Evaluations.** ~~Annually, or At other~~ intervals deemed necessary by the Bar, the law
13 clerk shall participate with the tutor in an evaluation of the law clerk’s progress.

14 (f) Unchanged.

15 **(g) Termination.** The Bar may direct a law clerk to change tutors if approval of a tutor is
16 withdrawn. The Bar may terminate a law clerk’s enrollment in the program for:

17 (1) Unchanged.

18 (2) Failure of the tutor to timely submit the monthly examinations and ~~certificates at the~~
19 ~~end of each month in which they are due;~~

20 (3) – (4) Unchanged.

21 (h) Unchanged.

22 **(i) Confidentiality.** Unless expressly authorized by the Supreme Court, the program
23 applicant, or by a current or former law clerk, enrollment and related records, documents,
24 and proceedings are confidential and shall be privileged against disclosure, ~~except that~~
25 ~~the fact of successful completion of the program shall be subject to disclosure.~~

Suggested Amendments to APR 6 Law Clerk Program Regulations

APR 6 LAW CLERK ~~BOARD~~ PROGRAM REGULATIONS

1-1 Authority

Regulation 1. GENERAL

- A. The law clerk program established in Rule 6 of the Admission and Practice Rules (APR-6) and implemented in these regulations is conducted by the Washington State Bar Association at the direction of the Supreme Court. It is administered by the Law Clerk Board under the direction of the Board of Governors.
- B. The good moral character and fitness of an applicant is determined ~~by the Character and Fitness Board pursuant to Admission and Practice Rules APR 7 and 20 through 24.34(a).~~
- C. To facilitate prompt administration of APR 6 and these regulations, designated staff of the Washington State Bar Association may act on behalf of the Law Clerk Board under APR 6 and these regulations.
- D. The Law Clerk Board, with the approval of the Board of Governors, may amend these regulations as necessary. Revisions of these regulations shall not apply retroactively to an enrolled law clerk. These changes shall apply to applications, petitions and requests made after the effective date of the revisions.

1-2 Purpose and Expectations.

- A. The law clerk program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, scholastic and clinical components. Successful completion of the law clerk program qualifies a person to apply for the Washington State bar exam. Participation in the law clerk program is not a special admission or limited license to practice law.
- B. The program relies on the good faith and integrity of the participants. The Board cannot administer and supervise the clerkship on a daily basis. The Board assumes the tutor and the law clerk will adhere to the letter and spirit of the program.
- C. The law clerk program is an alternative legal education. The program issues a certificate of completion; it is not approved by the American Bar Association and it does not confer a Juris Doctor degree or other degree.
- D. The Board will not assist an applicant for the law clerk program to find employment or to evaluate in advance the qualifications of a potential tutor.

1-3 Definitions.

For the purpose of these regulations, the following terms are defined:

- A. "Approved accreditation" means accredited by an accrediting agency recognized by the US

Department of Education.

- B. "Assistant Tutor" means a qualifying lawyer or judge who has been approved to teach specific courses.
- C. "Bar Association" means the Washington State Bar Association.
- D. "Board of Governors" means the Board of Governors of the Washington State Bar Association.
- E. "Board" means the Law Clerk Board as authorized by APR 2.
- F. "Board Liaison" means an individual member of the Law Clerk Board in his or her role as liaison between the law clerk and the Board.
- G. "Employment waiver" means a relationship in which the primary tutor is not the law clerk's direct employer but has received Board approval of an alternative relationship under APR 6(b)(7) and Regulation 3-1A(2).
- H. "Employment location waiver" means an employment arrangement in which the law clerk is not employed in Washington state but has received Board approval for an out-of-state employer under APR 6(b)(8) and Regulation 3-1A(3).
- ~~I.~~ H. "Law clerk" means a person whose application for enrollment in the law clerk program has been accepted by the Board. It refers to applicants to the program in that applicants must have employment as a law clerk, legal assistant, or equivalent to qualify for enrollment. Law clerks are not authorized or licensed to engage in the practice of law by virtue of APR 6.
- ~~J.~~ I. "Program" means the law clerk program established by APR 6 and implemented in these regulations.
- ~~K.~~ J. "Regular, full-time employment" means that the law clerk is hired by the tutor or the tutor's employer in a (i) law office, (ii) legal department, or (iii) a court ~~of general, limited, or appellate jurisdiction located~~ in Washington State, for an average of 32 hours per week for at least 48 weeks each calendar year.
- ~~L.~~ K. "Tutor" means a qualifying lawyer or judicial member judge who has agreed to teach the law clerk and be responsible for all aspects of compliance with the program.

Regulation 2. LAW CLERK BOARD

2-1 Responsibilities.

The Board will make decisions regarding:

- A. Approval or rejection of an application for enrollment in the program.
- B. Approval or rejection of a lawyer or a judge to act as a tutor.
- C. A petition for advanced standing.
- D. A direction to the law clerk to change tutors.
- E. A recommendation to the Board of Governors for the termination of a law clerk's enrollment in the program.
- F. A petition for readmission.
- G. Changes in course contents, course descriptions, or program completion requirements.
- H. Applicability of the effect of prior decisions regarding other law clerks and tutors.
- I. Recommendations to the Board of Governors regarding amendments to these regulations.

J. Any other matter related to the program or referred to the Board by the Board of Governors.

2-2 Board Liaisons.

A. A law clerk will be assigned to a Board member who shall act as a liaison between the law clerk and the Board.

B. A Board liaison will make decisions regarding:

- (1) Recommendations to the Board regarding the acceptance or rejection of an applicant.
- (2) An annual evaluation of the law clerk's second and third years.
- (3) Recommendations regarding any other matter related to the program or referred to the Board.

2-3 Staff Administration.

A. The Board may delegate duties to staff to facilitate prompt administration of the program.

B. The duties may regularly include but are not limited to:

- (1) Review of applications to the program, recommendation regarding their qualifications for the program, and assignment of a Board Liaison;
- (2) Approval of assistant tutors to teach specific courses;
- (3) Approval of leaves of absence of less than 12 months;
- (4) Approval of petitions by law clerks to take courses or electives out of order;
- (5) Approval of the 4th year courses; and
- (6) Notices of involuntary withdrawal.

2-4 Filing, general.

All applications, petitions or requests shall be submitted in writing and shall be directed to the Board in a form and manner as directed by ~~at the Bar Association office.~~

2-5 Review Procedure.

A. Review of Right. An applicant, law clerk or tutor, has a right to have the Board of Governors review the following decisions of the Board:

- (1) Rejection of an application for enrollment in the program;
- (2) Termination of a law clerk's enrollment in the program; or
- (3) Requiring a law clerk to change tutors.

B. Discretionary. An applicant, law clerk or tutor may ask the Board of Governors to review any decision made by the Board.

C. Filing. A petition requesting either review of right or discretionary review shall be:

- (1) in writing,
- (2) directed to the Board of Governors;
- (3) filed with ~~at~~ the Bar Association office; and
- (4) filed within 30 days of the date the law clerk or applicant received notice of the decision.

Regulation 3. APPLICATION PROCEDURE

3-1 Applicants. Every applicant for enrollment in the program shall:

A. Be engaged in regular, full-time employment as defined in Regulation 1-3 unless requesting an

employment waiver or employment location waiver as defined in Reg. 1-3.

- (1) Under no circumstances may the tutor assess a fee or require any other form of compensation in return for instructing or employing the law clerk. The law clerk shall receive monetary compensation in compliance with federal and state law governing employment. The Board may require proof of employment as deemed necessary.
- (2) Approval of any relationship requiring an employment waiver is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the alternative relationship, show how the purpose of the program will be maintained, and describe how client confidentiality and conflicts of interest will be resolved. Applications or requests for reinstatement that include a petition to waive the requirement that the primary tutor or primary tutor's employer be the law clerk's employer, may be approved under the following conditions:
 - (a) The Board receives applications for the law clerk, primary tutor and the *employing lawyer*. The employing lawyer must establish that the clerk's employment includes tasks and duties that contribute to the practical aspects of engaging in the practice of law required by APR 6(b)(3).
 - (b) The employing lawyer must at least meet the requirements of an assistant tutor (whether or not they teach a course). Regulation 4-2A defines the assistant tutor's qualifications as meeting all the qualifications of a tutor except that only five years of active practice is required.
 - (c) The minimum three hours a week of personal supervision between the law clerk and the tutor required by APR 6(d)(2) must occur in person. Because the pair do not otherwise work together, a minimum amount of personal contact is required.
 - (d) The law clerk, employing lawyer and primary tutor must have regular contact. It is anticipated that the lawyers develop a relationship to discuss the progress of the clerk and guide work and course assignments as required of the tutor in Regulation 4-1 D(7).
 - (e) The employing lawyer must agree to contribute to the monthly certificate. The certificate will include prompts for what the employing lawyer should include in their report.
 - (f) All three participants must agree to meet with the liaison for their initial interview and at any other meeting the Law Clerk Board requests. The employing lawyer, as the provider of the practical and experiential component of the program, may not be a passive participant.
 - (g) A law clerk with an employment waiver may not work or learn in a primarily virtual/remote office situation.
- (3) Approval of employment with an out-of-state employer is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the out-of-state location, its proximity to Washington, the type and amount of interaction with the laws and courts of Washington state, and how the purpose of the program will be maintained. Applications or requests for reinstatement that include a petition to waive the requirement that the law clerk be employed in Washington state may be approved under the following conditions:

- (a) The primary tutor must be an active member of the Bar Association and intend to remain so throughout the law clerk's course of study.
- (b) The primary tutor must certify that the tutor's, or the tutor's workplace, has a case load with at least 51 percent of the cases involving Washington law or being subject to the jurisdiction of the Washington state courts, and that the law clerk will spend some work time on these cases.
- (c) The tutor must agree to maintain a caseload that has substantial contact with Washington State. Substantial contact means having a caseload where at least 51 percent of the cases on average in a given year involve Washington law or are subject to the jurisdiction of Washington State courts. The tutor must annually certify that the caseload meets the substantial contact definition and must notify the Board if the caseload fails to meet the substantial contact definition.

B. Submit the following with the application fee by the deadlines established by the Board:

- (1) A completed program application and all required supplemental information;
- (2) Official transcripts from all undergraduate and graduate institutions attended, which show the grades received, the date a bachelor's degree was awarded by a school with approved accreditation, and the subject in which it was granted;
- (3) Two letters attesting to the applicant's good moral character and appraising the applicant's ability to undertake and successfully complete the program; and
- (4) The tutor's application establishing the applicant's and the tutor's eligibility and certifying to compliance with APR 6 and these regulations.

C. Appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board, ~~the Character & Fitness Board, or~~ the Board of Governors, or pursuant to APR 20-24.3. No decision regarding the good moral character of an applicant made in connection with a program pursuant to APR 6 is binding on the Bar Association or Character and Fitness Board at the time an applicant applies for admission to practice law and membership in the Bar Association, and such issues may be reinvestigated and reconsidered by Bar staff, Bar Counsel, and the Character and Fitness Board. The Bar Association may require any disclosures and conditions of applicant and tutor that appear reasonably necessary to safeguard against unethical conduct by the applicant during for enrollment in the program.

3-2 Advanced Standing. A petition to request consideration for advanced standing for law school courses completed or previous enrollment in the law clerk program must be submitted with an application for enrollment.

A. Petition for Advanced Standing. All law clerks must pass the prescribed courses established in these regulations. No courses may be waived. Applicants seeking advanced standing must establish, to the satisfaction of the Board, that the courses for which they seek credit are equivalent to specified prescribed courses in these regulations. The petition shall include:

- (1) A list of courses in the law clerk program for which advanced standing is sought. No advanced standing may be sought for Basic Legal Skills;
- (2) A list of law clerk program courses completed during a prior enrollment in the program to be used to

satisfy the request for advanced standing. Law clerk program courses completed more than five years prior to the application date will not be considered for advanced standing;

~~(3)~~ (2) A list of the law school courses and course descriptions from the law school course catalogue with an explanation of how each course is equivalent to the law clerk program courses;

~~(4)~~ (3) Official transcripts for the law school courses. Courses in which the applicant earned a grade less than a B- or 2.7 and/or completed more than five years prior to the Law Clerk Program application date will not be considered. For applicants admitted to the practice of law in a foreign jurisdiction, grades older than five years may be considered in combination with proof of current good standing and active practice of law for three out of the last five years; and

~~(5)~~ (4) Any additional information the applicant believes will be helpful or which the Board has requested.

B. Determination. In granting advanced standing, the Board will specify:

(1) Any prescribed courses or portions thereof that the law clerk applicant has been deemed to have completed;

(2) Any prescribed courses or portions thereof that the law clerk applicant will be required to pass; and

(3) Any law school courses that the law clerk applicant will be allowed to use to satisfy the fourth-year curriculum.

3-3 Additional and Remedial Courses. In its discretion, the Board may also require the law clerk applicant to take and pass certain subjects which appear necessary to prepare the applicant to practice law in this state, regardless of whether or not those courses are prescribed courses or approved elective courses. The Board may require the law clerk applicant to take remedial or other legal or nonlegal instruction.

3-4 Notification. The Board will notify an applicant of acceptance or rejection of the application for enrollment. If accepted, the notification will specify the month the law clerk is authorized to begin the program. ~~All programs shall begin the first day of the month specified in the notice.~~ If rejected, the notification will provide the basis for the rejection.

3-5 Acknowledgement of Enrollment

A. Before beginning the program the law clerk must acknowledge enrollment, pay the annual fee, and agree to ~~inform~~ disclose in writing to the Bar Association in writing of any incident that occurs ~~new conduct or information relevant to the questions in the program application while enrolled in the law clerk program~~ is enrolled that might call the law clerk's moral character or fitness into question.

B. The Bar Association may require the law clerk to disclose to the tutor any new conduct or information disclosed by the law clerk during enrollment.

C. All programs shall begin the first day of the month specified by the law clerk in the acknowledgement of enrollment; this will be the enrollment date. The enrollment date must not be more than six months after the date of approval by the Board. Any changes to the enrollment date must be amended with a new acknowledgment of enrollment form.

Regulation 4. TUTORS

4-1 Tutor's Responsibilities.

- A. The tutor is responsible for supervising and guiding the law clerk's education, and for setting an example of the highest ethical and professional conduct. The tutor has an obligation not only to instruct the law clerk, but to ensure only fully competent law clerks are deemed to be qualified to sit for the bar examination.
- B. In addition to any other requirements, a potential tutor shall appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board.
- C. The tutor is required to continue to meet the qualifications for a tutor established in APR 6 and remain in good standing throughout the period of the clerkship.
- D. In addition to the "personal supervision" required by APR 6, defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments, the tutor's responsibilities include:
 - (1) Guiding and assisting the law clerk's study of each subject, using the course descriptions as a basic outline of course content and emphasizing pertinent state law;
 - (2) Choosing textbooks, casebooks, and other written, legal materials, selected from those in use at any of the law schools in the state, to guide the law clerk through the subject matter of each course;
 - (3) Assisting the law clerk in planning the sequence and timing of each prescribed course and of the fourth-year curriculum;
 - (4) Evaluating the law clerk's progress;
 - (5) Developing, administering, and grading the monthly examinations;
 - (6) Submitting the graded monthly examination with written comments and the required certificate to the Board within 10 working days of the end of the month in which it was administered;
 - (7) Assigning the law clerk tasks and duties which are intended to contribute to the law clerk's understanding of the practical aspects of engaging in the practice of law; and
 - (8) Providing the law clerk with an adequate work station and with reasonable access to an adequate law library.

4-2 Assistant Tutors. When an assistant tutor is proposed to teach a course instead of the primary tutor, the Board may approve the application(s) of one or more assistant tutors for up to 6 months of each year of study. The assistant tutor may teach only the course(s) for which ~~he/she~~ the assistant tutor was approved by the Board. Informal assistance to a lesser degree, by other lawyers, judges or staff is generally acceptable without specific approval.

- A. **Qualification.** The assistant tutor shall meet all the qualifications and continuing qualifications established for the tutor in APR 6 and these regulations, except the assistant tutor shall have been actively and continuously engaged in the practice of law or have held the required judicial position for at least five years immediately preceding the commencement of the assistant tutorship.
- B. **Scope of Delegation.**
 - (1) The assistant tutor may undertake the following duties for the course(s) for which the assistant tutor is approved:

- i. Choosing textbooks, casebooks, and resource materials for the course.
- ii. Guiding and assisting the law clerk’s study of the subject, using the course description as a basic outline of course content and emphasizing pertinent state law.
- iii. Developing, administering, and grading the monthly examination.

(2) The primary tutor shall:

- i. In consultation with the assistant tutor, determine if the law clerk passed or failed the course;
- ii. Remain ultimately responsible for the conduct of the clerkship;
- iii. Complete all monthly and other certificates; and
- iv. Appear with the law clerk at all oral evaluations with the Board, although the assistant tutor may also be in attendance where appropriate.

Regulation 5. COURSE OF STUDY

5-1 Structure.

- A. The program is designed to be a four year course of study in combination with employment. Each year consists of 12 months during which the law clerk is required to study 6 subjects, pass 12 exams and submit 3 book reports.
- B. The program is structured so the law clerk studies only one subject at a time and passes it before beginning the next subject. All courses in a given year, including jurisprudence reading, must be completed before the law clerk may study courses in a subsequent year. A law clerk may not take more course work in any calendar year than is prescribed by these regulations without prior Board approval. The length of time to be devoted to each subject is prescribed by regulation.
- C. A law clerk may take leave or vacation in increments of one month upon written notice to the Board. A law clerk may take leave of longer than one month only upon advance written request and approval by the Board. Exceptions for emergency medical situations may be considered. A law clerk may not request leave of more than 12 consecutive months.

5-2 Subjects.

- A. Jurisprudence Reading. Every law clerk is required to take the Jurisprudence course, which is a four year reading program, intended to familiarize the law clerk with legal history, philosophy, theory and biography.
- B. First Year. To complete the first year of the program, the law clerk shall pass the following prescribed courses. The course entitled “Basic Legal Skills” shall be studied and passed first. Thereafter, the courses may be studied in any order.

Course	Months
Basic Legal Skills	2
Civil Procedure	2
Torts	2
Contracts	2
Agency & Partnerships	2

Property 2

C. Second Year. To complete the second year of the program, the law clerk shall pass the following prescribed courses, in any order:

Course	Months
Community Property	1
Criminal Law	2
Constitutional Law I	2
Corporations	2
Evidence	2
Uniform Commercial Code	3

D. Third Year. To complete the third year of the program, the law clerk shall pass the following prescribed courses, in any order:

Course	Months
Constitutional Law II	2
Professional Responsibility	1
Domestic Relations	2
Wills, Estates, Trusts, Probate	3
Conflict of Laws	2
Criminal Procedure	2

E. Fourth Year. The fourth year of the program is devoted to elective subjects. The law clerk, in consultation with the tutor, shall develop a fourth year curriculum of six electives. The law clerk shall then make a written petition to the Board, at least six months prior to the commencement of the fourth year, for approval of the proposed fourth year course of study.

(1) Under no circumstances will approval or recognition be given to courses directed to fulfillment of a continuing legal or other professional education requirement, or intended to provide a preparation for a bar examination, or taught through correspondence or any equivalent.

(2) Recommended Electives. The following electives are recommended because they will broaden the law clerk's legal background, perspective, and skills. A law clerk may petition the Board for approval of alternative areas of study by including a detailed course description for each proposed course.

Course	Months
Administrative Law	2
Personal Federal Income Tax	2
Land Use	2
Labor Law	2
Remedies	2
Antitrust	2
Creditor-Debtor Relations	2
Securities Regulation	2
Legal Accounting	2
International Law	2
Insurance	2
Consumer Protection	2
Environmental Law	2
Real Property Security	2
American Indian Law	2
Trial Practicum	2
Elder and Disability Law	2

5-3 Monthly Examinations. The tutor is responsible for the content and administration of all monthly examinations.

- A. Content. Although no specific substantive content is prescribed by the Board, it is anticipated such an examination will test the law clerk’s comprehension of the current subject matter, and the law clerk’s understanding of the ethical, professional and practical aspects of practicing law.
- B. Course Descriptions. The course descriptions in Regulation 7 state the minimum level of knowledge the Board expects a law clerk to obtain in each subject, and provide guidance to the tutor in formulating monthly examinations.
- C. Timing. The tutor shall administer an examination covering that month’s subjects to the law clerk on or before the last business day of each month.
- D. Grading. All courses in the program are to be graded as pass/fail only. “Pass” means that the law clerk has exhibited reasonable comprehension of the theory and practice of any given subject to the satisfaction of the tutor and the Board. If a law clerk earns a “Fail” grade the law clerk he or she shall continue to study the subject for an additional month.
- E. Certificates. Within 10 days following the month of study, The tutor shall submit the exam, including the grade given for the examination and written comments to the law clerk, and a monthly certificate, stating the law clerk’s hours engaged in employment, study and the tutor’s personal supervision, ~~within 10 business days following the month of study.~~
 - (1) If an exam is not given, the monthly certificate shall be submitted stating the reason.
 - (2) The date of receipt will be recorded. A pattern of late certificates may be cause for remedial action or termination from the program.

5-4 Board Evaluations. ~~Annually, or at such other intervals as may be established by the Board, the Board shall conduct an evaluation at which the law clerk and the tutor shall be personally present. The Board may at any other time, in its discretion, conduct an evaluation at which the law clerk and the tutor shall be personally present~~ when if required by the Board to do so.

A. The Board will not normally test the law clerk's substantive knowledge, but may do so to evaluate whether or not the law clerk is progressing satisfactorily in the program.

B. Materials. In making its evaluation, the Board may consider:

- (1) The substantive contents of all monthly examinations;
- (2) The tutor's monthly certificates and timeliness of receipt;
- (3) Any written course work; and
- (4) Any other written or oral materials deemed to be pertinent by the Board.

C. Decision. At the conclusion of the evaluation, the Board may:

- (1) Determine the law clerk has successfully mastered the preceding year's course work and is eligible and authorized to begin the next year of the program;
- (2) Determine the law clerk has satisfactorily completed the program and is qualified to sit for the bar examination, subject to any other requirements for sitting for the bar examination as set forth in the Admission and Practice Rules;
- (3) Advise the tutor regarding the quality, timeliness, or appropriateness of coursework, exams, and certificates;
- (4) Direct the law clerk to repeat designated prescribed or elective courses, devote more time to each course, take remedial legal or nonlegal instruction, appear before the Board at more frequent intervals for an examination which may be written or oral;
- (5) Require the law clerk to change tutors;
- (6) Advise the law clerk that the law clerk's enrollment in the program is terminated.

D. At the conclusion of any evaluation, the Board will provide a brief written summary of its decision to the law clerk and to the tutor.

Regulation 6. WITHDRAWAL AND TERMINATION OF ENROLLMENT

6-1 Withdrawal by Law Clerk.

A. Voluntary. A law clerk who wishes to withdraw from the program shall notify the Board in writing, filed as required by Regulation 2-4.

B. Involuntary. A law clerk will be deemed to have withdrawn from the program if:

- (1) The law clerk is absent from the program for more than one month in any calendar year without the Board's prior approval of a petition for a leave of absence. Failure to submit exams and tutor's certificates shall be interpreted as absence from the program;
- (2) The law clerk takes a leave of absence from the program for more than 12 consecutive months; or
- (3) The annual fee is not paid by the established deadline.

6-2 Withdrawal by Tutor.

A. Voluntary. A tutor who wishes to withdraw from that position shall notify the Board and the law

clerk in writing, filed as required by Regulation 2-4.

- B. Involuntary. If a disciplinary sanction is imposed upon a tutor, the tutor will be deemed to have withdrawn from that position. The Board may determine that the imposition of a sanction does not necessitate automatic withdrawal.
- C. The Board may direct a law clerk to change tutors if approval of a tutor is withdrawn.

6-3 Termination of Enrollment by the Board. ~~The Board may terminate a law clerk's participation in the program for:~~

A. The Board must terminate a law clerk's participation in the program for:

(1) Failure to complete the prescribed course of study within 6 years from the date of enrollment;
or

(2) A determination by the ~~Character and Fitness Board~~ that the ~~applicant-clerk~~ does not meet the character or fitness requirement for continued enrollment in the program.

B. The Board may terminate a law clerk's participation in the program for t~~The law clerk's failure to otherwise comply with the requirements of the program or a decision or order of the Board,~~ or

~~C. A determination by the Character and Fitness Board that the applicant does not meet the character or fitness requirement for enrollment in the program.~~

Regulation 7. COURSE DESCRIPTIONS

7-1 Jurisprudence Reading. A four-year course of reading consisting of three (3) books each year, to be selected from a list approved by the Board. The Board has discretion to select and require specific books which must be read to meet this requirement.

- A. Upon completion of each book, the law clerk shall prepare and submit to the Board a short book report. Reports ~~shall~~ should be submitted every 4 months.
- B. A year's coursework shall not be deemed completed unless the book reports are submitted. A law clerk may not begin the next year's course work until the current year's book reports are completed and submitted to the Board.

7-2 First Year Clerkship.

- A. Basic Legal Skills. Introduction to basic legal reference materials (including judicial, legislative and administrative primary and secondary sources) and their use; techniques of legal reasoning, analysis and synthesis; legal writing styles. Familiarization with the structure of the federal and state court systems; the concept of case law in a common law jurisdiction; fundamental principles of stare decisis and precedent; the legislative process; principles of statutory construction and interpretation. Law Clerk should be assigned projects of increasing difficulty such as: case abstracts; analysis of a trial record to identify issues; short quizzes to demonstrate ability to locate primary and secondary sources; office memoranda or a trial oriented memorandum of authorities to demonstrate ability to find the law applicable to a factual situation and to differentiate unfavorable authority; an appellate level brief.
- B. Civil Procedure. Fundamentals of pleading and procedure in civil litigation, as structured by the Federal Rules of Civil Procedure and the Washington Superior Court Civil Rules. Study shall include: jurisdiction over the person and subject matter; venue; time limits; commencement of actions;

pleadings; parties; impleader; interpleader; motions; class actions and intervention; res judicata and collateral estoppel; discovery and other pretrial devices; joinder; summary judgment; judgments; post-trial motions. Law Clerk should be required to draft summons; pleadings; motions; findings of fact and conclusions of law; judgment; interrogatories; requests for admission.

- C. Contracts. Study of legal principles related to the formation, operation and termination of the legal relation called contract. General topics include: offer and acceptance; consideration; issues of interpretation; conditions; performance; breach; damages or other remedies; discharge; the parol-evidence rule; the statute of frauds; illegality; assignments; beneficiaries.
- D. Property. Study of the ownership, use, and transfer of real property in both historical and modern times. Topics include: estates and interests in land; concurrent ownership; easements; equitable servitudes; conveyances; real estate contracts; nuisance; adverse possession; land use controls; landlord-tenant; the recording system; title insurance.
- E. Torts. Study of the historical development, principles, concepts and purposes of the law relating to redress of private injuries. Topics include: conversion; trespass; nuisance; intentional tort; negligence; strict liability; products liability; concepts of duty, causation, and damage; limitations on liability such as proximate cause, contributory negligence, assumption of the risk, immunity; comparative negligence.
- F. Agency and Partnership. Legal principles of agency law including definition of the agency relationship, authority and power of agents, notice and knowledge, rights and duties between participants in the relationship, termination of agency relationship, master-servant relationship. Partnership law using the Revised Uniform Partnership Act as a model code. Topics include: formation, partners' rights and duties between themselves, powers, unauthorized acts, notice and knowledge, incoming partner liability, indemnification, contribution, partner's two-fold ownership interest, co-ownership interests and liabilities, creditor's claims and remedies, dissolution events, winding up, distribution of asset rules. Study of the Uniform Limited Partnership Act and joint venture law.

7-3 Second Year Clerkship.

- A. Community Property. Relationship necessary for creation of community property, classification of property as community or separate, management and control of community assets, rights of creditors, disposition of community property upon dissolution of the community, problems of conflict of laws encountered in transactions with common-law jurisdictions.
- B. Criminal Law. Study of substantive criminal law including concepts such as elements of criminal responsibility; principles of justification and excuse; parties; attempts, conspiracy; specific crimes; statutory interpretation; some introduction to sentencing philosophies and to juvenile offender law.
- C. Constitutional Law I. Course covers basic constitutional document, excluding the Bill of Rights. Topics include: taxing clause, commerce clause, contract clause, war power and treaty power. Allocation and distribution of power within the federal system, and between federal and state systems, including economic regulatory power and police power; limitations on powers of state and national governments; constitutional role of the courts.

- D. Corporations. Business corporations for profit using the Model Business Corporations Act and state law provisions. Topics include: promotion, formation and organization; theories of corporations; corporate purposes and powers; disregard of corporateness; common law and statutory duties and liabilities of shareholders, directors, and officers; allocation of control, profit and risk; rights of shareholders; derivative suits and class action suits by shareholders; mergers and consolidations, sale of assets, and other fundamental changes in corporate structure; corporate dissolution; SEC proxy rules and Rule 10(b)(5).
- E. Evidence. Rules of proof applicable to judicial trials. Topics include: admission and exclusion of evidence, relevancy, hearsay rule and its exceptions, authentication of writings, the best evidence rule, examination and competency of witnesses, privileges, opinion and expert testimony, demonstrative evidence, presumptions, burden of proof, judicial notice.
- F. Uniform Commercial Code. Course covers Articles I, II, III, IV, VI, VII, and X of the Uniform Commercial Code. Course first examines problems in the sale of goods as governed by Article II (with a brief survey of its antecedents) including: warranty, risk of loss, acceptance and rejection, tender of delivery, revocation, remedies for breach of contract. Some discussion of other laws relating to warranties, Article VI on Bulk Sales, and Article VII on documents of title and bills of lading. Course next examines commercial paper, bank deposits and collections under UCC Articles III and IV, including: formation and use of negotiable instruments with an emphasis on checks, rights and liability of parties to negotiable instruments, defenses to liability, study of bank collection process and bank's relationship with its customers. Course finally examines secured transactions under UCC Article IX, including: types of security interests, perfection of such interests, priority of claims, rights to proceeds of collateral, multi-state transactions, rights of parties after debtor's default.

7-4 Third Year Clerkship.

- A. Constitutional Law II. Course examines the Bill of Rights. Topics include: free speech, prior restraint, obscenity, libel, fair trial and free press, loyalty oaths, compulsory disclosure laws, sedition and national security, picketing, symbolic conduct, protest, subversive advocacy; due process; equal protection development and analysis; fundamental rights and entitlements; religious clause; jury trial right in civil actions; constitutional protection and interpretation under state as contrasted to federal constitutional documents.
- B. Professional Responsibility. Study of legal ethics and a lawyer's roles in society, including lawyer-client relations, lawyer-public relations, and a lawyer's responsibility to the courts and the profession. Topics also include: organization of an integrated bar, Supreme Court's supervisory powers, professional service corporations, pre-paid legal services arrangements, malpractice, the Admission to Practice Rules, the Rules for the Enforcement of Lawyer Conduct, the Rules of Professional Conduct and the ABA Model Rules of Professional Conduct.
- C. Domestic Relations. Study of the substantive and procedural law affecting the formation, disintegration and dissolution of family relations, including those of husband and wife, parent and child, and non-marital. Topics include: jurisdiction, procedure, costs, maintenance, child support, property division, custody, modification and enforcement of orders, some discussion of conflict of laws, taxation, URESA and UPA.

- D. Wills, Estates, Trusts, Probate. Study of the voluntary transmission of assets in contemplation of and at death. Topics include: disposition by will, creation of and disposition by a trust, effectiveness of the disposition in the creation of present and future interests in property, intestate succession, construction problems, powers of appointment, restrictions on perpetuities and accumulations, alternative methods of wealth transmission, some introduction to the basic tax framework important in formulating plans of disposition, and fiduciary administration and management of decedent's estates and trusts.
- E. Conflict of Laws. Study of that part of the law that determines by which state's law a legal problem will be solved. Topics include: choice-of-law problems in torts, contracts, property, domestic relations, administration of estates, and business associations.
- F. Criminal Procedure. Constitutional doctrines governing criminal procedure. Topics include: Fourth, Fifth, Sixth and Eighth Amendments, pertinent due process provisions of Fourteenth Amendment; search and seizure, confessions, identification procedures, right to counsel, arrest, jury trial, double jeopardy, and pertinent provisions of the state constitution. The Superior Court Criminal Rules are examined as they relate to the procedural aspects of raising the constitutional issues.

7-5 Fourth Year Clerkship; Electives.

- A. Administrative Law. Study of the administrative process and its role in the legal system. Subjects include: powers and procedures of administrative agencies, relationship of administrative agencies to executive, judicial and legislative departments of government.
- B. Personal Federal Income Tax. Examination of federal income tax law as it applies to individuals, but not in their role as partners, shareholders, or beneficiaries of trusts or estates. Topics include: concepts of income, gross income, net income, when income should be taxed, to whom it should be taxed and its character as unearned, earned or capital gain income. Deductions are also examined in detail.
- C. Land Use. Study of legal principles and constitutional limitations affecting systems for public regulation of the use of private land. Topics include: planning, zoning, variances, special use permits, subdivision controls, environmental legislation, nuisance, eminent domain, powers of public agencies, "taking" without just compensation, due process, administrative procedures and judicial review, exclusionary zoning and growth control.
- D. Labor Law. Study of the organizational rights of employees and unions and the governance of the use of economic force by employers and unions. Other topics include the duty to bargain collectively, the manner in which collective bargaining is conducted, subjects to which it extends, administration and enforcement of collective bargaining agreements, and relations between a union and its members.
- E. Remedies. Historical development and use of judicial remedies that provide relief for past or potential injuries to interests in real or personal property. Topics include: history of equity, power of equity courts, restitution, specific performance, injunctions, equitable defenses, compensatory and punitive damages, unjust enrichment, constructive trusts, equitable liens, tracing and subrogation.
- F. Antitrust. An examination of the antitrust laws including the Sherman Act, Clayton Act, Robinson-Patman Act, Federal Trade Commission Act; and topics such as monopolies, restraint of trade,

mergers, price fixing, boycotts, market allocation, tying arrangements, exclusive dealing and state antitrust law.

- G. Creditor-Debtor Relations. Rights and remedies of creditors and debtors under the Federal Bankruptcy Code, particularly in straight bankruptcy cases and under state laws relating to judgments, judgment liens, executions, attachments, garnishments, fraudulent conveyances, compositions, assignments for the benefit of creditors, and debtor's exemptions.
- H. Securities Regulation. Study of legal control over the issuance and distribution of corporate securities. Topics include: registration and distribution of securities under the Federal Securities Act of 1933, including the definition of a security; basic structure, applicability, and prohibitions of the Act; underwriting; preparation, processing and use of registration statement and prospectuses; exemptions from registration under the Act, including Regulation A, private offerings, and business reorganizations and recapitalizations; secondary distributions; brokers transactions; and civil liability for violation of the Act. Registration, distribution and regulation of securities under state "blue sky" laws, including the State of Washington Securities Act. Regulation of franchise arrangements under the Federal Securities Act of 1933 and the State of Washington Franchise Investment Protection Act. Regulation of national securities exchanges and broker-dealers; registration and listing of securities on national securities exchanges; periodic reporting and public disclosure of information requirements for companies whose securities are traded on national securities exchanges; and civil liability for violation of the Act. Regulation of mutual funds and other types of investment companies under the Federal Investment Company Act of 1940.
- I. Legal Accounting. Bookkeeping, use of journals and ledgers, analysis of financial statements, professional responsibility of a lawyer to a corporate client and relationship to accountants involved in a client's financial affairs. Course also addresses lawyer's accounting and recordkeeping obligations to his or her client under the Rules of Professional Conduct or its successor.
- J. International Law. Legal process by which interests are adjusted and authoritative decisions made on the international level. Topics include: nature and source of international law, law of treaties, jurisdiction, some discussion of international legal organizations, state responsibility and international claims for wrongs to citizens abroad, and application of international law in United States courts.
- K. Insurance. Legal principles governing formal mechanisms for the distribution of risk of loss. Emphasis is on property, casualty, life insurance. Topics include: marketing of insurance, indemnity principle, insurable interest, amount of recovery and subrogation, persons and interests protected, brokers, and identification of risks transferred by insurance.
- L. Consumer Protection. Selected laws for protection of consumers, including federal, state and local laws that prohibit deceptive advertising, mandate disclosure of information, regulate credit practices, license occupations, establish quality standards for products and services, and condemn "unfair" practices. Emphasis on the theoretical justifications for governmental intervention in the marketplace. Attention to problems of consumer justice administration, including informal dispute resolution procedures and representation of consumer interests in administrative and legislative proceedings.

- M. Environmental Law. Survey of citizen, legislative, administrative and judicial action in response to the reality and the threat of man-induced alteration to the natural environment; focuses on National Environmental Policy Act, federal air and water pollution control legislation, state air and water pollution control statutes and shoreline management.
- N. Real Property Security. Methods by which an obligation may be secured by real property of the obligor or of a third person. Covers the common-law principles and statutes that regulate the creation, operation, and extinguishment of the legal relations known as the real property mortgage and deed of trust, considered in the context of financing the purchase or development of land. Some attention must be given to principles governing operation of the lending industry.
- O. American Indian Law. Tribal/state/federal judicial and legislative jurisdiction in Indian country. Criminal and civil jurisdiction. Indian religious freedom. Indian water rights. Special hunting and fishing rights. History of federal laws and policies towards Indians. Current federal law and policy. Judicial trends in Indian cases. The federal trust responsibility toward Indian tribes; tribal powers of self government. Tribal courts. Federal supremacy (preemption) over state law in Indian country.
- P. Trial Practicum. Advanced course in preparing for trial. Resources should include sample cases and text books as well as evidence and civil rules. The clerk will write a fully researched brief, motions in limine, prepare ER 904; prepare objections to opposition motions in limine and ER 904; argue pretrial motions; research and perform voir dire; prepare and give an opening statement; prepare and give a direct exam with introduction of multiple exhibits; prepare and give a cross exam with introduction of exhibits; draft and argue jury instructions; prepare and give a closing statement.
- Then to be assigned an actual case in litigation and add to the above, a mock trial which includes: prepared statement of the “story” of the case; illustrate how each witness fits into the story and what evidence is to be used with each witness; develop direct examination of one witness, cross examination of one witness and at least one exhibit for each witness; prepare and give an opening; conduct voir dire of volunteers; examine a witness; handle objections; and argue sample motions in limine. The clerk is expected to attend court proceedings regularly, and participate to the extent permitted by APR 9, if licensed.
- Q. Elder and Disability Law. An examination and study of the complex legal needs of people who are elderly and people who have a disability. This course examines major issues and substantive laws affecting people who are elderly or who have a disability including income protection, asset preservation and protection, options for financing long-term care and healthcare, planning for incapacity and the use of traditional and nontraditional estate and life care planning devices such as wills, trusts, special needs trusts, powers of attorney, guardianships, adult protection actions and other devices but in the context of the needs of people who are elderly or who have a disability. This course will also address the special ethical challenges and concerns of lawyers who are practicing elder and disability law.

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 6 – Law Clerk Program

RULE 6. Law Clerk Program

(a) Purpose. The Law Clerk Program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, experiential, and clinical components. Successful completion of the Law Clerk Program provides a way to meet the education requirement to apply for the lawyer bar examination in Washington; it is not a special admission or limited license to practice law.

(b) Application. Every applicant for enrollment in the law clerk program shall:

(1) – (7) Unchanged.

(8) Where the Bar is satisfied that the applicant has employment with a tutor whose practice has substantial contacts with Washington state, the requirement that the full-time employment be in Washington state may be waived.

(c) Tutors. To be eligible to act as a tutor in the law clerk program, a lawyer, or judicial member as defined in the WSBA Bylaws, shall:

(1) Unchanged.

(2) Be an active member in good standing of the Bar, or be a judicial member of the Bar, who has not received a-disciplinary sanction in the last 5 years, provided that if there is discipline pending or a-disciplinary sanction has been imposed upon the member more than 5 years preceding the law clerk's application for enrollment, the Bar shall have the discretion to accept or reject the member as tutor;

(3) – (5) Unchanged.

(d) Unchanged.

(e) Course of Study. The subjects to be studied, the sequence in which they are to be studied, and any other requirement to successfully complete the program shall be prescribed in the Law Clerk Program Regulations. Progress toward completion of the program shall

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

RULE 6 – Law Clerk Program

1 be evaluated by submission of examinations, certificates, reports and evaluations as
2 follows:

3 (1) Unchanged.

4 (2) **Certificates.** Within 10 days following the month of study, the tutor shall submit the
5 examination, including the grade given for the examination and comments to the law
6 clerk, and a monthly certificate, stating the law clerk’s hours engaged in employment,
7 study, and the tutor’s personal supervision. If an examination is not given, the monthly
8 certificate shall be submitted stating the reason.

9 (3) Unchanged.

10 (4) **Evaluations.** At intervals deemed necessary by the Bar, the law clerk shall participate
11 with the tutor in an evaluation of the law clerk’s progress.

12 (f) Unchanged.

13 (g) **Termination.** The Bar may direct a law clerk to change tutors if approval of a tutor is
14 withdrawn. The Bar may terminate a law clerk’s enrollment in the program for:

15 (1) Unchanged.

16 (2) Failure of the tutor to timely submit the monthly examinations and;

17 (3) – (4) Unchanged.

18 (h) Unchanged.

19 (i) **Confidentiality.** Unless expressly authorized by the Supreme Court, the program
20 applicant, or by a current or former law clerk, enrollment and related records, documents,
21 and proceedings are confidential and shall be privileged against disclosure.

Suggested Amendments to APR 6 Law Clerk Program Regulations

APR 6 LAW CLERK PROGRAM REGULATIONS

1-1 Authority

Regulation 1. GENERAL

- A. The law clerk program established in Rule 6 of the Admission and Practice Rules (APR) and implemented in these regulations is conducted by the Washington State Bar Association at the direction of the Supreme Court. It is administered by the Law Clerk Board under the direction of the Board of Governors.
- B. The good moral character and fitness of an applicant is determined pursuant to APR 20 through 24.3.
- C. To facilitate prompt administration of APR 6 and these regulations, designated staff of the Washington State Bar Association may act on behalf of the Law Clerk Board under APR 6 and these regulations.
- D. The Law Clerk Board, with the approval of the Board of Governors, may amend these regulations as necessary. Revisions of these regulations shall not apply retroactively to an enrolled law clerk. These changes shall apply to applications, petitions and requests made after the effective date of the revisions.

1-2 Purpose and Expectations.

- A. The law clerk program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, scholastic and clinical components. Successful completion of the law clerk program qualifies a person to apply for the Washington State bar exam. Participation in the law clerk program is not a special admission or limited license to practice law.
- B. The program relies on the good faith and integrity of the participants. The Board cannot administer and supervise the clerkship on a daily basis. The Board assumes the tutor and the law clerk will adhere to the letter and spirit of the program.
- C. The law clerk program is an alternative legal education. The program issues a certificate of completion; it is not approved by the American Bar Association and it does not confer a Juris Doctor degree or other degree.
- D. The Board will not assist an applicant for the law clerk program to find employment or to evaluate in advance the qualifications of a potential tutor.

1-3 Definitions.

For the purpose of these regulations, the following terms are defined:

- A. "Approved accreditation" means accredited by an accrediting agency recognized by the US Department of Education.
- B. "Assistant Tutor" means a qualifying lawyer or judge who has been approved to teach specific courses.
- C. "Bar Association" means the Washington State Bar Association.
- D. "Board of Governors" means the Board of Governors of the Washington State Bar Association.
- E. "Board" means the Law Clerk Board as authorized by APR 2.
- F. "Board Liaison" means an individual member of the Law Clerk Board in his or her role as liaison between the law clerk and the Board.
- G. "Employment waiver" means a relationship in which the primary tutor is not the law clerk's direct employer but has received Board approval of an alternative relationship under APR 6(b)(7) and Regulation 3-1A(2).
- H. "Employment location waiver" means an employment arrangement in which the law clerk is not employed in Washington state but has received Board approval for an out-of-state employer under APR 6(b)(8) and Regulation 3-1A(3).
- I. "Law clerk" means a person whose application for enrollment in the law clerk program has been accepted by the Board. It refers to applicants to the program in that applicants must have employment as a law clerk, legal assistant, or equivalent to qualify for enrollment. Law clerks are not authorized or licensed to engage in the practice of law by virtue of APR 6.
- J. "Program" means the law clerk program established by APR 6 and implemented in these regulations.
- K. "Regular, full-time employment" means that the law clerk is hired by the tutor or the tutor's employer in a (i) law office, (ii) legal department, or (iii) a court in Washington State, for an average of 32 hours per week for at least 48 weeks each calendar year.
- L. "Tutor" means a qualifying lawyer or judicial member who has agreed to teach the law clerk and be responsible for all aspects of compliance with the program.

Regulation 2. LAW CLERK BOARD

2-1 Responsibilities.

The Board will make decisions regarding:

- A. Approval or rejection of an application for enrollment in the program.
- B. Approval or rejection of a lawyer or a judge to act as a tutor.
- C. A petition for advanced standing.
- D. A direction to the law clerk to change tutors.
- E. A recommendation to the Board of Governors for the termination of a law clerk's enrollment in the program.
- F. A petition for readmission.
- G. Changes in course contents, course descriptions, or program completion requirements.
- H. Applicability of the effect of prior decisions regarding other law clerks and tutors.

- I. Recommendations to the Board of Governors regarding amendments to these regulations.
- J. Any other matter related to the program or referred to the Board by the Board of Governors.

2-2 Board Liaisons.

- A. A law clerk will be assigned to a Board member who shall act as a liaison between the law clerk and the Board.
- B. A Board liaison will make decisions regarding:
 - (1) Recommendations to the Board regarding the acceptance or rejection of an applicant.
 - (2) An annual evaluation of the law clerk's second and third years.
 - (3) Recommendations regarding any other matter related to the program or referred to the Board.

2-3 Staff Administration.

- A. The Board may delegate duties to staff to facilitate prompt administration of the program.
- B. The duties may regularly include but are not limited to:
 - (1) Review of applications to the program, recommendation regarding their qualifications for the program, and assignment of a Board Liaison;
 - (2) Approval of assistant tutors to teach specific courses;
 - (3) Approval of leaves of absence of less than 12 months;
 - (4) Approval of petitions by law clerks to take courses or electives out of order;
 - (5) Approval of the 4th year courses; and
 - (6) Notices of involuntary withdrawal.

2-4 Filing, general.

All applications, petitions or requests shall be submitted to the Board in a form and manner as directed by the Bar Association.

2-5 Review Procedure.

- A. Review of Right. An applicant, law clerk or tutor, has a right to have the Board of Governors review the following decisions of the Board:
 - (1) Rejection of an application for enrollment in the program;
 - (2) Termination of a law clerk's enrollment in the program; or
 - (3) Requiring a law clerk to change tutors.
- B. Discretionary. An applicant, law clerk or tutor may ask the Board of Governors to review any decision made by the Board.
- C. Filing. A petition requesting either review of right or discretionary review shall be:
 - (1) in writing,
 - (2) directed to the Board of Governors;
 - (3) filed with the Bar Association; and
 - (4) filed within 30 days of the date the law clerk or applicant received notice of the decision.

Regulation 3. APPLICATION PROCEDURE

3-1 Applicants. Every applicant for enrollment in the program shall:

- A. Be engaged in regular, full-time employment as defined in Regulation 1-3 unless requesting an employment waiver or employment location waiver as defined in Reg. 1-3.
- (1) Under no circumstances may the tutor assess a fee or require any other form of compensation in return for instructing or employing the law clerk. The law clerk shall receive monetary compensation in compliance with federal and state law governing employment. The Board may require proof of employment as deemed necessary.
- (2) Approval of any relationship requiring an employment waiver is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the alternative relationship, show how the purpose of the program will be maintained, and describe how client confidentiality and conflicts of interest will be resolved. Applications or requests for reinstatement that include a petition to waive the requirement that the primary tutor or primary tutor's employer be the law clerk's employer, may be approved under the following conditions:
- (a) The Board receives applications for the law clerk, primary tutor and the *employing lawyer*. The employing lawyer must establish that the clerk's employment includes tasks and duties that contribute to the practical aspects of engaging in the practice of law required by APR 6(b)(3).
 - (b) The employing lawyer must at least meet the requirements of an assistant tutor (whether or not they teach a course). Regulation 4-2A defines the assistant tutor's qualifications as meeting all the qualifications of a tutor except that only five years of active practice is required.
 - (c) The minimum three hours a week of personal supervision between the law clerk and the tutor required by APR 6(d)(2) must occur in person. Because the pair do not otherwise work together, a minimum amount of personal contact is required.
 - (d) The law clerk, employing lawyer and primary tutor must have regular contact. It is anticipated that the lawyers develop a relationship to discuss the progress of the clerk and guide work and course assignments as required of the tutor in Regulation 4-1 D(7).
 - (e) The employing lawyer must agree to contribute to the monthly certificate. The certificate will include prompts for what the employing lawyer should include in their report.
 - (f) All three participants must agree to meet with the liaison for their initial interview and at any other meeting the Law Clerk Board requests. The employing lawyer, as the provider of the practical and experiential component of the program, may not be a passive participant.
 - (g) A law clerk with an employment waiver may not work or learn in a primarily virtual/remote office situation.
- (3) Approval of employment with an out-of-state employer is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the out-of-state location, its proximity to Washington, the type and amount of interaction with the laws and courts of Washington state, and

how the purpose of the program will be maintained. Applications or requests for reinstatement that include a petition to waive the requirement that the law clerk be employed in Washington state may be approved under the following conditions:

- (a) The primary tutor must be an active member of the Bar Association and intend to remain so throughout the law clerk's course of study.
- (b) The primary tutor must certify that the tutor's, or the tutor's workplace, has a case load with at least 51 percent of the cases involving Washington law or being subject to the jurisdiction of the Washington state courts, and that the law clerk will spend some work time on these cases.
- (c) The tutor must agree to maintain a caseload that has substantial contact with Washington State. Substantial contact means having a caseload where at least 51 percent of the cases on average in a given year involve Washington law or are subject to the jurisdiction of Washington State courts. The tutor must annually certify that the caseload meets the substantial contact definition and must notify the Board if the caseload fails to meet the substantial contact definition.

B. Submit the following with the application fee by the deadlines established by the Board:

- (1) A completed program application and all required supplemental information;
- (2) Official transcripts from all undergraduate and graduate institutions attended, which show the grades received, the date a bachelor's degree was awarded by a school with approved accreditation, and the subject in which it was granted;
- (3) Two letters attesting to the applicant's good moral character and appraising the applicant's ability to undertake and successfully complete the program; and
- (4) The tutor's application establishing the applicant's and the tutor's eligibility and certifying to compliance with APR 6 and these regulations.

C. Appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board, the Board of Governors, or pursuant to APR 20-24.3. No decision regarding the good moral character of an applicant made in connection with a program pursuant to APR 6 is binding on the Bar Association or Character and Fitness Board at the time an applicant applies for admission to practice law and membership in the Bar Association, and such issues may be reinvestigated and reconsidered by Bar staff, Bar counsel, and the Character and Fitness Board. The Bar Association may require any disclosure and conditions of applicant and tutor that appear reasonably necessary for enrollment in the program.

3-2 Advanced Standing. A petition to request consideration for advanced standing for law school courses completed or previous enrollment in the law clerk program must be submitted with an application for enrollment.

A. Petition for Advanced Standing. All law clerks must pass the prescribed courses established in these regulations. No courses may be waived. Applicants seeking advanced standing must establish, to the satisfaction of the Board, that the courses for which they seek credit are equivalent to

specified prescribed courses in these regulations. The petition shall include:

- (1) A list of courses in the law clerk program for which advanced standing is sought. No advanced standing may be sought for Basic Legal Skills;
- (2) A list of law clerk program courses completed during a prior enrollment in the program to be used to satisfy the request for advanced standing. Law clerk program courses completed more than five years prior to the application date will not be considered for advanced standing;
- (3) A list of the law school courses and course descriptions from the law school course catalogue with an explanation of how each course is equivalent to the law clerk program courses;
- (4) Official transcripts for the law school courses. Courses in which the applicant earned a grade less than a B- or 2.7 and/or completed more than five years prior to the Law Clerk Program application date will not be considered. For applicants admitted to the practice of law in a foreign jurisdiction, grades older than five years may be considered in combination with proof of current good standing and active practice of law for three out of the last five years; and
- (5) Any additional information the applicant believes will be helpful or which the Board has requested.

B. Determination. In granting advanced standing, the Board will specify:

- (1) Any prescribed courses or portions thereof that the law clerk applicant has been deemed to have completed;
- (2) Any prescribed courses or portions thereof that the law clerk applicant will be required to pass; and
- (3) Any law school courses that the law clerk applicant will be allowed to use to satisfy the fourth-year curriculum.

3-3 Additional and Remedial Courses. In its discretion, the Board may also require the law clerk applicant to take and pass certain subjects which appear necessary to prepare the applicant to practice law in this state, regardless of whether or not those courses are prescribed courses or approved elective courses. The Board may require the law clerk applicant to take remedial or other legal or nonlegal instruction.

3-4 Notification. The Board will notify an applicant of acceptance or rejection of the application for enrollment. If accepted, the notification will specify the month the law clerk is authorized to begin the program. If rejected, the notification will provide the basis for the rejection.

3-5 Acknowledgement of Enrollment.

- A. Before beginning the program the law clerk must acknowledge enrollment, pay the annual fee, and agree to disclose in writing to the Bar Association any new conduct or information relevant to the questions in the program application while enrolled in the law clerk program.
- B. The Bar Association may require the law clerk to disclose to the tutor any new conduct or information disclosed by the law clerk during enrollment.

- C. All programs shall begin the first day of the month specified by the law clerk in the acknowledgement of enrollment; this will be the enrollment date. The enrollment date must not be more than six months after the date of approval by the Board. Any changes to the enrollment date must be amended with a new acknowledgement of enrollment.

Regulation 4. TUTORS

4-1 Tutor's Responsibilities.

- A. The tutor is responsible for supervising and guiding the law clerk's education, and for setting an example of the highest ethical and professional conduct. The tutor has an obligation not only to instruct the law clerk, but to ensure only fully competent law clerks are deemed to be qualified to sit for the bar examination.
- B. In addition to any other requirements, a potential tutor shall appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board.
- C. The tutor is required to continue to meet the qualifications for a tutor established in APR 6 and remain in good standing throughout the period of the clerkship.
- D. In addition to the "personal supervision" required by APR 6, defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments, the tutor's responsibilities include:
- (1) Guiding and assisting the law clerk's study of each subject, using the course descriptions as a basic outline of course content and emphasizing pertinent state law;
 - (2) Choosing textbooks, casebooks, and other written, legal materials, selected from those in use at any of the law schools in the state, to guide the law clerk through the subject matter of each course;
 - (3) Assisting the law clerk in planning the sequence and timing of each prescribed course and of the fourth-year curriculum;
 - (4) Evaluating the law clerk's progress;
 - (5) Developing, administering, and grading the monthly examinations;
 - (6) Submitting the graded monthly examination with written comments and the required certificate to the Board within 10 days of the end of the month in which it was administered;
 - (7) Assigning the law clerk tasks and duties which are intended to contribute to the law clerk's understanding of the practical aspects of engaging in the practice of law; and
 - (8) Providing the law clerk with an adequate work station and with reasonable access to an adequate law library.

4-2 Assistant Tutors. When an assistant tutor is proposed to teach a course instead of the primary tutor, the Board may approve the application(s) of one or more assistant tutors for up to 6 months of each year of study. The assistant tutor may teach only the course(s) for which the assistant tutor was approved by the Board. Informal assistance to a lesser degree, by other lawyers, judges or staff is generally acceptable without specific approval.

A. Qualification. The assistant tutor shall meet all the qualifications and continuing qualifications established for the tutor in APR 6 and these regulations, except the assistant tutor shall have been actively and continuously engaged in the practice of law or have held the required judicial position for at least five years immediately preceding the commencement of the assistant tutorship.

B. Scope of Delegation.

(1) The assistant tutor may undertake the following duties for the course(s) for which the assistant tutor is approved:

- i. Choosing textbooks, casebooks, and resource materials for the course.
- ii. Guiding and assisting the law clerk's study of the subject, using the course description as a basic outline of course content and emphasizing pertinent state law.
- iii. Developing, administering, and grading the monthly examination.

(2) The primary tutor shall:

- i. In consultation with the assistant tutor, determine if the law clerk passed or failed the course;
- ii. Remain ultimately responsible for the conduct of the clerkship;
- iii. Complete all monthly and other certificates; and
- iv. Appear with the law clerk at all oral evaluations with the Board, although the assistant tutor may also be in attendance where appropriate.

Regulation 5. COURSE OF STUDY

5-1 Structure.

A. The program is designed to be a four year course of study in combination with employment.

Each year consists of 12 months during which the law clerk is required to study 6 subjects, pass 12 exams and submit 3 book reports.

B. The program is structured so the law clerk studies only one subject at a time and passes it before beginning the next subject. All courses in a given year, including jurisprudence reading, must be completed before the law clerk may study courses in a subsequent year. A law clerk may not take more course work in any calendar year than is prescribed by these regulations without prior Board approval. The length of time to be devoted to each subject is prescribed by regulation.

C. A law clerk may take leave or vacation in increments of one month upon written notice to the Board. A law clerk may take leave of longer than one month only upon advance written request and approval by the Board. Exceptions for emergency medical situations may be considered. A law clerk may not request leave of more than 12 consecutive months.

5-2 Subjects.

A. Jurisprudence Reading. Every law clerk is required to take the Jurisprudence course, which is a four year reading program, intended to familiarize the law clerk with legal history, philosophy, theory and biography.

B. First Year. To complete the first year of the program, the law clerk shall pass the following prescribed courses. The course entitled "Basic Legal Skills" shall be studied and passed first.

Thereafter, the courses may be studied in any order.

Course	Months
Basic Legal Skills	2
Civil Procedure	2
Torts	2
Contracts	2
Agency & Partnerships	2
Property	2

C. Second Year. To complete the second year of the program, the law clerk shall pass the following prescribed courses, in any order:

Course	Months
Community Property	1
Criminal Law	2
Constitutional Law I	2
Corporations	2
Evidence	2
Uniform Commercial Code	3

D. Third Year. To complete the third year of the program, the law clerk shall pass the following prescribed courses, in any order:

Course	Months
Constitutional Law II	2
Professional Responsibility	1
Domestic Relations	2
Wills, Estates, Trusts, Probate	3
Conflict of Laws	2
Criminal Procedure	3

E. Fourth Year. The fourth year of the program is devoted to elective subjects. The law clerk, in consultation with the tutor, shall develop a fourth year curriculum of six electives. The law clerk shall then make a written petition to the Board, at least six months prior to the commencement of the fourth year, for approval of the proposed fourth year course of study.

(1) Under no circumstances will approval or recognition be given to courses directed to fulfillment of a continuing legal or other professional education requirement, or intended to provide a preparation for a bar examination, or taught through correspondence or any equivalent.

(2) Recommended Electives. The following electives are recommended because they will broaden the law clerk’s legal background, perspective, and skills. A law clerk may petition the Board for approval of alternative areas of study by including a detailed course description for each proposed course.

Course	Months
Administrative Law	2
Personal Federal Income Tax	2
Land Use	2
Labor Law	2
Remedies	2
Antitrust	2
Creditor-Debtor Relations	2
Securities Regulation	2
Legal Accounting	2
International Law	2
Insurance	2
Consumer Protection	2
Environmental Law	2
Real Property Security	2
American Indian Law	2
Trial Practicum	2
Elder and Disability Law	2

5-3 Monthly Examinations. The tutor is responsible for the content and administration of all monthly examinations.

- A. Content. Although no specific substantive content is prescribed by the Board, it is anticipated such an examination will test the law clerk’s comprehension of the current subject matter, and the law clerk’s understanding of the ethical, professional and practical aspects of practicing law.
- B. Course Descriptions. The course descriptions in Regulation 7 state the minimum level of knowledge the Board expects a law clerk to obtain in each subject, and provide guidance to the tutor in formulating monthly examinations.
- C. Timing. The tutor shall administer an examination covering that month’s subjects to the law clerk on or before the last day of each month.
- D. Grading. All courses in the program are to be graded as pass/fail only. “Pass” means that the law clerk has exhibited reasonable comprehension of the theory and practice of any given subject to the satisfaction of the tutor and the Board. If a law clerk earns a “Fail” grade the law clerk shall continue to study the subject for an additional month.
- E. Certificates. Within 10 days following the month of study, the tutor shall submit the exam, including the grade given for the examination and written comments to the law clerk, and a monthly

certificate, stating the law clerk's hours engaged in employment, study and the tutor's personal supervision.

- (1) If an exam is not given, the monthly certificate shall be submitted stating the reason.
- (2) The date of receipt will be recorded. A pattern of late certificates may be cause for remedial action or termination from the program.

5-4 Board Evaluations. At intervals as may be established by the Board, the Board shall conduct an evaluation at which the law clerk and the tutor shall be personally present. The law clerk and the tutor shall be personally present when required by the Board.

A. The Board will not normally test the law clerk's substantive knowledge, but may do so to evaluate whether or not the law clerk is progressing satisfactorily in the program.

B. Materials. In making its evaluation, the Board may consider:

- (1) The substantive contents of all monthly examinations;
- (2) The tutor's monthly certificates and timeliness of receipt;
- (3) Any written course work; and
- (4) Any other written or oral materials deemed to be pertinent by the Board.

C. Decision. At the conclusion of the evaluation, the Board may:

- (1) Determine the law clerk has successfully mastered the preceding year's course work and is eligible and authorized to begin the next year of the program;
- (2) Determine the law clerk has satisfactorily completed the program and is qualified to sit for the bar examination, subject to any other requirements for sitting for the bar examination as set forth in the Admission and Practice Rules;
- (3) Advise the tutor regarding the quality, timeliness, or appropriateness of coursework, exams, and certificates;
- (4) Direct the law clerk to repeat designated prescribed or elective courses, devote more time to each course, take remedial legal or nonlegal instruction, appear before the Board at more frequent intervals for an examination which may be written or oral;
- (5) Require the law clerk to change tutors;
- (6) Advise the law clerk that the law clerk's enrollment in the program is terminated.

D. At the conclusion of any evaluation, the Board will provide a brief written summary of its decision to the law clerk and to the tutor.

Regulation 6. WITHDRAWAL AND TERMINATION OF ENROLLMENT

6-1 Withdrawal by Law Clerk.

A. Voluntary. A law clerk who wishes to withdraw from the program shall notify the Board in writing, filed as required by Regulation 2-4.

B. Involuntary. A law clerk will be deemed to have withdrawn from the program if:

- (1) The law clerk is absent from the program for more than one month in any calendar year without the Board's prior approval of a petition for a leave of absence. Failure to submit exams and tutor's

certificates shall be interpreted as absence from the program;

- (2) The law clerk takes a leave of absence from the program for more than 12 consecutive months; or
- (3) The annual fee is not paid by the established deadline.

6-2 Withdrawal by Tutor.

- A. Voluntary. A tutor who wishes to withdraw from that position shall notify the Board and the law clerk in writing, filed as required by Regulation 2-4.
- B. Involuntary. If a disciplinary sanction is imposed upon a tutor, the tutor will be deemed to have withdrawn from that position. The Board may determine that the imposition of a sanction does not necessitate automatic withdrawal.
- C. The Board may direct a law clerk to change tutors if approval of a tutor is withdrawn.

6-3 Termination of Enrollment by the Board.

- A. The Board must terminate a law clerk's participation in the program for:
 - (1) Failure to complete the prescribed course of study within 6 years from the date of enrollment; or
 - (2) A determination by the Board that the clerk does not meet the character or fitness requirement for continued enrollment in the program.
- B. The Board may terminate a law clerk's participation in the program for the law clerk's failure to otherwise comply with the requirements of the program or a decision or order of the Board.

Regulation 7. COURSE DESCRIPTIONS

7-1 Jurisprudence Reading. A four-year course of reading consisting of three (3) books each year, to be selected from a list approved by the Board. The Board has discretion to select and require specific books which must be read to meet this requirement.

- A. Upon completion of each book, the law clerk shall prepare and submit to the Board a short book report. Reports should be submitted every 4 months.
- B. A year's coursework shall not be deemed completed unless the book reports are submitted. A law clerk may not begin the next year's course work until the current year's book reports are completed and submitted to the Board.

7-2 First Year Clerkship.

- A. Basic Legal Skills. Introduction to basic legal reference materials (including judicial, legislative and administrative primary and secondary sources) and their use; techniques of legal reasoning, analysis and synthesis; legal writing styles. Familiarization with the structure of the federal and state court systems; the concept of case law in a common law jurisdiction; fundamental principles of stare decisis and precedent; the legislative process; principles of statutory construction and interpretation. Law Clerk should be assigned projects of increasing difficulty such as: case abstracts; analysis of a trial record to identify issues; short quizzes to demonstrate ability to locate primary and secondary sources; office memoranda or a trial oriented memorandum of authorities to demonstrate ability to find the law applicable to a factual situation and to differentiate unfavorable authority; an appellate level brief.

- B. Civil Procedure. Fundamentals of pleading and procedure in civil litigation, as structured by the Federal Rules of Civil Procedure and the Washington Superior Court Civil Rules. Study shall include: jurisdiction over the person and subject matter; venue; time limits; commencement of actions; pleadings; parties; impleader; interpleader; motions; class actions and intervention; res judicata and collateral estoppel; discovery and other pretrial devices; joinder; summary judgment; judgments; post-trial motions. Law Clerk should be required to draft summons; pleadings; motions; findings of fact and conclusions of law; judgment; interrogatories; requests for admission.
- C. Contracts. Study of legal principles related to the formation, operation and termination of the legal relation called contract. General topics include: offer and acceptance; consideration; issues of interpretation; conditions; performance; breach; damages or other remedies; discharge; the parol-evidence rule; the statute of frauds; illegality; assignments; beneficiaries.
- D. Property. Study of the ownership, use, and transfer of real property in both historical and modern times. Topics include: estates and interests in land; concurrent ownership; easements; equitable servitudes; conveyances; real estate contracts; nuisance; adverse possession; land use controls; landlord-tenant; the recording system; title insurance.
- E. Torts. Study of the historical development, principles, concepts and purposes of the law relating to redress of private injuries. Topics include: conversion; trespass; nuisance; intentional tort; negligence; strict liability; products liability; concepts of duty, causation, and damage; limitations on liability such as proximate cause, contributory negligence, assumption of the risk, immunity; comparative negligence.
- F. Agency and Partnership. Legal principles of agency law including definition of the agency relationship, authority and power of agents, notice and knowledge, rights and duties between participants in the relationship, termination of agency relationship, master-servant relationship. Partnership law using the Revised Uniform Partnership Act as a model code. Topics include: formation, partners' rights and duties between themselves, powers, unauthorized acts, notice and knowledge, incoming partner liability, indemnification, contribution, partner's two-fold ownership interest, co-ownership interests and liabilities, creditor's claims and remedies, dissolution events, winding up, distribution of asset rules. Study of the Uniform Limited Partnership Act and joint venture law.

7-3 Second Year Clerkship.

- A. Community Property. Relationship necessary for creation of community property, classification of property as community or separate, management and control of community assets, rights of creditors, disposition of community property upon dissolution of the community, problems of conflict of laws encountered in transactions with common-law jurisdictions.
- B. Criminal Law. Study of substantive criminal law including concepts such as elements of criminal responsibility; principles of justification and excuse; parties; attempts, conspiracy; specific crimes; statutory interpretation; some introduction to sentencing philosophies and to juvenile offender law.
- C. Constitutional Law I. Course covers basic constitutional document, excluding the Bill of Rights.

Topics include: taxing clause, commerce clause, contract clause, war power and treaty power. Allocation and distribution of power within the federal system, and between federal and state systems, including economic regulatory power and police power; limitations on powers of state and national governments; constitutional role of the courts.

- D. Corporations. Business corporations for profit using the Model Business Corporations Act and state law provisions. Topics include: promotion, formation and organization; theories of corporations; corporate purposes and powers; disregard of corporateness; common law and statutory duties and liabilities of shareholders, directors, and officers; allocation of control, profit and risk; rights of shareholders; derivative suits and class action suits by shareholders; mergers and consolidations, sale of assets, and other fundamental changes in corporate structure; corporate dissolution; SEC proxy rules and Rule 10(b)(5).
- E. Evidence. Rules of proof applicable to judicial trials. Topics include: admission and exclusion of evidence, relevancy, hearsay rule and its exceptions, authentication of writings, the best evidence rule, examination and competency of witnesses, privileges, opinion and expert testimony, demonstrative evidence, presumptions, burden of proof, judicial notice.
- F. Uniform Commercial Code. Course covers Articles I, II, III, IV, VI, VII, and X of the Uniform Commercial Code. Course first examines problems in the sale of goods as governed by Article II (with a brief survey of its antecedents) including: warranty, risk of loss, acceptance and rejection, tender of delivery, revocation, remedies for breach of contract. Some discussion of other laws relating to warranties, Article VI on Bulk Sales, and Article VII on documents of title and bills of lading. Course next examines commercial paper, bank deposits and collections under UCC Articles III and IV, including: formation and use of negotiable instruments with an emphasis on checks, rights and liability of parties to negotiable instruments, defenses to liability, study of bank collection process and bank's relationship with its customers. Course finally examines secured transactions under UCC Article IX, including: types of security interests, perfection of such interests, priority of claims, rights to proceeds of collateral, multi-state transactions, rights of parties after debtor's default.

7-4 Third Year Clerkship.

- A. Constitutional Law II. Course examines the Bill of Rights. Topics include: free speech, prior restraint, obscenity, libel, fair trial and free press, loyalty oaths, compulsory disclosure laws, sedition and national security, picketing, symbolic conduct, protest, subversive advocacy; due process; equal protection development and analysis; fundamental rights and entitlements; religious clause; jury trial right in civil actions; constitutional protection and interpretation under state as contrasted to federal constitutional documents.
- B. Professional Responsibility. Study of legal ethics and a lawyer's roles in society, including lawyer-client relations, lawyer-public relations, and a lawyer's responsibility to the courts and the profession. Topics also include: organization of an integrated bar, Supreme Court's supervisory powers, professional service corporations, pre- paid legal services arrangements, malpractice, the Admission to Practice Rules, the Rules for the Enforcement of Lawyer Conduct, the Rules of

Professional Conduct and the ABA Model Rules of Professional Conduct.

- C. Domestic Relations. Study of the substantive and procedural law affecting the formation, disintegration and dissolution of family relations, including those of husband and wife, parent and child, and non-marital. Topics include: jurisdiction, procedure, costs, maintenance, child support, property division, custody, modification and enforcement of orders, some discussion of conflict of laws, taxation, URESA and UPA.
- D. Wills, Estates, Trusts, Probate. Study of the voluntary transmission of assets in contemplation of and at death. Topics include: disposition by will, creation of and disposition by a trust, effectiveness of the disposition in the creation of present and future interests in property, intestate succession, construction problems, powers of appointment, restrictions on perpetuities and accumulations, alternative methods of wealth transmission, some introduction to the basic tax framework important in formulating plans of disposition, and fiduciary administration and management of decedent's estates and trusts.
- E. Conflict of Laws. Study of that part of the law that determines by which state's law a legal problem will be solved. Topics include: choice-of-law problems in torts, contracts, property, domestic relations, administration of estates, and business associations.
- F. Criminal Procedure. Constitutional doctrines governing criminal procedure. Topics include: Fourth, Fifth, Sixth and Eighth Amendments, pertinent due process provisions of Fourteenth Amendment; search and seizure, confessions, identification procedures, right to counsel, arrest, jury trial, double jeopardy, and pertinent provisions of the state constitution. The Superior Court Criminal Rules are examined as they relate to the procedural aspects of raising the constitutional issues.

7-5 Fourth Year Clerkship; Electives.

- A. Administrative Law. Study of the administrative process and its role in the legal system. Subjects include: powers and procedures of administrative agencies, relationship of administrative agencies to executive, judicial and legislative departments of government.
- B. Personal Federal Income Tax. Examination of federal income tax law as it applies to individuals, but not in their role as partners, shareholders, or beneficiaries of trusts or estates. Topics include: concepts of income, gross income, net income, when income should be taxed, to whom it should be taxed and its character as unearned, earned or capital gain income. Deductions are also examined in detail.
- C. Land Use. Study of legal principles and constitutional limitations affecting systems for public regulation of the use of private land. Topics include: planning, zoning, variances, special use permits, subdivision controls, environmental legislation, nuisance, eminent domain, powers of public agencies, "taking" without just compensation, due process, administrative procedures and judicial review, exclusionary zoning and growth control.
- D. Labor Law. Study of the organizational rights of employees and unions and the governance of the use of economic force by employers and unions. Other topics include the duty to bargain collectively, the manner in which collective bargaining is conducted, subjects to which it extends,

administration and enforcement of collective bargaining agreements, and relations between a union and its members.

- E. Remedies. Historical development and use of judicial remedies that provide relief for past or potential injuries to interests in real or personal property. Topics include: history of equity, power of equity courts, restitution, specific performance, injunctions, equitable defenses, compensatory and punitive damages, unjust enrichment, constructive trusts, equitable liens, tracing and subrogation.
- F. Antitrust. An examination of the antitrust laws including the Sherman Act, Clayton Act, Robinson-Patman Act, Federal Trade Commission Act; and topics such as monopolies, restraint of trade, mergers, price fixing, boycotts, market allocation, tying arrangements, exclusive dealing and state antitrust law.
- G. Creditor-Debtor Relations. Rights and remedies of creditors and debtors under the Federal Bankruptcy Code, particularly in straight bankruptcy cases and under state laws relating to judgments, judgment liens, executions, attachments, garnishments, fraudulent conveyances, compositions, assignments for the benefit of creditors, and debtor's exemptions.
- H. Securities Regulation. Study of legal control over the issuance and distribution of corporate securities. Topics include: registration and distribution of securities under the Federal Securities Act of 1933, including the definition of a security; basic structure, applicability, and prohibitions of the Act; underwriting; preparation, processing and use of registration statement and prospectuses; exemptions from registration under the Act, including Regulation A, private offerings, and business reorganizations and recapitalizations; secondary distributions; brokers transactions; and civil liability for violation of the Act. Registration, distribution and regulation of securities under state "blue sky" laws, including the State of Washington Securities Act. Regulation of franchise arrangements under the Federal Securities Act of 1933 and the State of Washington Franchise Investment Protection Act. Regulation of national securities exchanges and broker-dealers; registration and listing of securities on national securities exchanges; periodic reporting and public disclosure of information requirements for companies whose securities are traded on national securities exchanges; and civil liability for violation of the Act. Regulation of mutual funds and other types of investment companies under the Federal Investment Company Act of 1940.
- I. Legal Accounting. Bookkeeping, use of journals and ledgers, analysis of financial statements, professional responsibility of a lawyer to a corporate client and relationship to accountants involved in a client's financial affairs. Course also addresses lawyer's accounting and recordkeeping obligations to his or her client under the Rules of Professional Conduct or its successor.
- J. International Law. Legal process by which interests are adjusted and authoritative decisions made on the international level. Topics include: nature and source of international law, law of treaties, jurisdiction, some discussion of international legal organizations, state responsibility and international claims for wrongs to citizens abroad, and application of international law in United States courts.
- K. Insurance. Legal principles governing formal mechanisms for the distribution of risk of loss. Emphasis is on property, casualty, life insurance. Topics include: marketing of insurance, indemnity

principle, insurable interest, amount of recovery and subrogation, persons and interests protected, brokers, and identification of risks transferred by insurance.

- L. Consumer Protection. Selected laws for protection of consumers, including federal, state and local laws that prohibit deceptive advertising, mandate disclosure of information, regulate credit practices, license occupations, establish quality standards for products and services, and condemn “unfair” practices. Emphasis on the theoretical justifications for governmental intervention in the marketplace. Attention to problems of consumer justice administration, including informal dispute resolution procedures and representation of consumer interests in administrative and legislative proceedings.
- M. Environmental Law. Survey of citizen, legislative, administrative and judicial action in response to the reality and the threat of man-induced alteration to the natural environment; focuses on National Environmental Policy Act, federal air and water pollution control legislation, state air and water pollution control statutes and shoreline management.
- N. Real Property Security. Methods by which an obligation may be secured by real property of the obligor or of a third person. Covers the common-law principles and statutes that regulate the creation, operation, and extinguishment of the legal relations known as the real property mortgage and deed of trust, considered in the context of financing the purchase or development of land. Some attention must be given to principles governing operation of the lending industry.
- O. American Indian Law. Tribal/state/federal judicial and legislative jurisdiction in Indian country. Criminal and civil jurisdiction. Indian religious freedom. Indian water rights. Special hunting and fishing rights. History of federal laws and policies towards Indians. Current federal law and policy. Judicial trends in Indian cases. The federal trust responsibility toward Indian tribes; tribal powers of self government. Tribal courts. Federal supremacy (preemption) over state law in Indian country.
- P. Trial Practicum. Advanced course in preparing for trial. Resources should include sample cases and text books as well as evidence and civil rules. The clerk will write a fully researched brief, motions in limine, prepare ER 904; prepare objections to opposition motions in limine and ER 904; argue pretrial motions; research and perform voir dire; prepare and give an opening statement; prepare and give a direct exam with introduction of multiple exhibits; prepare and give a cross exam with introduction of exhibits; draft and argue jury instructions; prepare and give a closing statement.

Then to be assigned an actual case in litigation and add to the above, a mock trial which includes: prepared statement of the “story” of the case; illustrate how each witness fits into the story and what evidence is to be used with each witness; develop direct examination of one witness, cross examination of one witness and at least one exhibit for each witness; prepare and give an opening; conduct voir dire of volunteers; examine a witness; handle objections; and argue sample motions in limine. The clerk is expected to attend court proceedings regularly, and participate to the extent permitted by APR 9, if licensed.
- Q. Elder and Disability Law. An examination and study of the complex legal needs of people who are elderly and people who have a disability. This course examines major issues and substantive laws affecting people who are elderly or who have a disability including income protection, asset

preservation and protection, options for financing long-term care and healthcare, planning for incapacity and the use of traditional and nontraditional estate and life care planning devices such as wills, trusts, special needs trusts, powers of attorney, guardianships, adult protection actions and other devices but in the context of the needs of people who are elderly or who have a disability. This course will also address the special ethical challenges and concerns of lawyers who are practicing elder and disability law.

TO: WSBA Board of Governors and Governors-Elect
FROM: Pam Anderson, Chair, Committee on Professional Ethics
Jeanne Marie Clavere, Staff Liaison
DATE: June 21, 2021
RE: Technical Corrections to RPC 1.6

ACTION/DISCUSSION : Approve technical corrections to RPC 1.6.

On June 4, 2021, the Committee on Professional Ethics unanimously approved technical corrections to two comments to RPC 1.6 to complete the process of renumbering the comments to this rule in connection with the addition of two new comments in 2016. Specifically:

- Revise the last sentence of Comment [15]: “See also Washington Comment ~~[24]~~[26].
- Revise the last sentence of Comment [17]: “See also Washington Comment ~~[23]~~[25].

Background

In 2013, the Washington Supreme Court asked the WSBA to evaluate recent amendments to the ABA Model Rules of Professional Conduct and to consider the amendments for possible adoption in Washington. The WSBA referred the matter to the WSBA Committee on Professional Ethics. The Committee on Professional Ethics proposed Rules of Professional Conduct changes that were approved by the WSBA Board of Governors on September 17-18, 2015, and subsequently submitted to the Supreme Court.

In 2016, the Washington Supreme Court adopted several amendments to the Washington Rules of Professional Conduct to incorporate changes made by the American Bar Association (ABA) to the Model Rules of Professional Conduct at the recommendation of the ABA Commission on Ethics 20/20. One amendment adopted current subsection (7) to RPC 1.6(b). This subsection provides:

(b) A lawyer to the extent the lawyer reasonably believes necessary:

* * *

(7) may reveal information relating to the representation of a client to detect and resolve conflicts of interest arising from the lawyer’s change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

Related to this amendment, current Comments [13] and [14] were adopted to provide guidance concerning the new rule. As a result, prior Comments [13] through [26] were renumbered to become Comments [15] through [28]. However, the references in current Comments [15] and [17] to renumbered Washington comments were not updated at that time. These references should be updated now.

Attachments:

- **Exhibit A** shows the relevant comments as they existed prior to September 1, 2016.
- **Exhibit B** shows the relevant comments as of September 1, 2016, following adoption of the amendments.
- **Exhibit C** shows the entire comments with proposed redline revisions to the current Comments [15] and [17] with the numbering changed in the last sentence.
- **Exhibit D** is a copy of the Court's order 25700-A-1129 dated November 4, 2015 that the proposed amendments be published, which includes the GR 9 statement providing more in-depth background.

Exhibit A

Comments [13], [15], [23] and [24] to RPC 1.6 prior to September 1, 2016

[13] [Washington revision] A lawyer may be ordered to reveal information relating to the representation of a client by a court. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

See also Washington Comment [24].

* * *

[15] [Washington revision] Paragraphs (b)(2) through (b)(7) permit but do not require the disclosure of information relating to a client's representation to accomplish the purposes specified in those paragraphs. In exercising the discretion conferred by those paragraphs, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 3.3, 4.1(b), and 8.1. See also Rule 1.13(c), which permits disclosure in some circumstances whether or not Rule 1.6 permits the disclosure. See also Washington Comment [23].

* * *

[23] The exceptions to the general rule prohibiting unauthorized disclosure of information relating to the representation "should not be carelessly invoked." In re Boelter, 139 Wn.2d 81, 91, 985 P.2d 328 (1999). A lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of avoidable disclosure.

[24] Washington has not adopted that portion of Model Rule 1.6(b)(6) permitting a lawyer to reveal information related to the representation to comply with "other law." Washington's omission of this phrase arises from a concern that it would authorize the lawyer to decide whether a disclosure is required by "other law," even though the right to confidentiality and the right to waive confidentiality belong to the client. The decision to waive confidentiality should only be made by a fully informed client after consultation with the client's lawyer or by a court of competent jurisdiction. Limiting the exception to compliance with a court order protects the client's interest in maintaining confidentiality while insuring that any determination about the legal necessity of revealing confidential information will be made by a court. It is the need for a judicial resolution of such issues that necessitates the omission of "other law" from this Rule.

Exhibit B

Comments [13], [14], [15], [17], [23], [24], [25], and [26] to RPC 1.6 as of September 1, 2016

Detection of Conflicts of Interest

[13] **[Washington revision]** Paragraph (b)(7) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. See Rule 1.17, comment [7]. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led

to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these Rules. See also Rule 1.1, comment [6], [7], and [10] as to decisions to associate other lawyers or LLLTs.

[14] Any information disclosed pursuant to paragraph (b)(7) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (b)(7) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, see Comment [5], such as when a lawyer in a firm discloses information to another lawyer in the same firms to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

[15] **[Washington revision]** A lawyer may be ordered to reveal information relating to the representation of a client by a court. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

See also Washington Comment [24].

* * *

[17] **[Washington revision]** Paragraphs (b)(2) through (b)(7) permit but do not require the disclosure of information relating to a client's representation to accomplish the purposes specified in those paragraphs. In exercising the discretion conferred by those paragraphs, the lawyer may

consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 3.3, 4.1(b), and 8.1. See also Rule 1.13(c), which permits disclosure in some circumstances whether or not Rule 1.6 permits the disclosure. See also Washington Comment [23].

* * *

[23] [Reserved.]

[24] [Reserved.]

[25] The exceptions to the general rule prohibiting unauthorized disclosure of information relating to the representation "should not be carelessly invoked." *In re Boelter*, 139 Wn.2d 81, 91, 985 P.2d 328 (1999). A lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of avoidable disclosure.

[26] Washington has not adopted that portion of Model Rule 1.6(b)(6) permitting a lawyer to reveal information related to the representation to comply with "other law." Washington's omission of this phrase arises from a concern that it would authorize the lawyer to decide whether a disclosure is required by "other law," even though the right to confidentiality and the right to waive confidentiality belong to the client. The decision to waive confidentiality should only be made by a fully informed client after consultation with the client's lawyer or by a court of competent jurisdiction. Limiting the exception to compliance with a court order protects the client's interest in maintaining confidentiality while insuring that any determination about the legal necessity of revealing confidential information will be made by a court. It is the need for a judicial resolution of such issues that necessitates the omission of "other law" from this Rule.

Exhibit C

Full Comments [13] to [28] with redline changes to [15] and [17] to RPC 1.6

Detection of Conflicts of Interest

[13] **[Washington revision]** Paragraph (b)(7) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. See Rule 1.17, comment [7]. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced, that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse, or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the RPC 1.6 lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these Rules. See also Rule 1.1, comment [6], [7], and [10] as to decisions to associate other lawyers or LLLTs.

[14] Any information disclosed pursuant to paragraph (b)(7) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (b)(7) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, see Comment [5], such as when a lawyer in a firm discloses information to another lawyer in the same firms to detect

and resolve conflicts of interest that could arise in connection with undertaking a new representation.

[15] **[Washington revision]** A lawyer may be ordered to reveal information relating to the representation of a client by a court. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order. See also Washington Comment ~~[24]~~ [26].

[16] Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[17] **[Washington revision]** Paragraphs (b)(2) through (b)(7) permit but do not require the disclosure of information relating to a client's representation to accomplish the purposes specified in those paragraphs. In exercising the discretion conferred by those paragraphs, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 3.3, 4.1(b), and 8.1. See also Rule 1.13(c), which permits disclosure in some circumstances whether or not Rule 1.6 permits the disclosure. See also Washington Comment ~~[23]~~ [25].

Acting Competently to Preserve Confidentiality

[18] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's RPC 1.6 23 duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 5.3, Comments [3]-[4].

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Former Client

[20] The duty of confidentiality continues after the client-lawyer relationship has terminated. See Rule 1.9(c)(2). See Rule 1.9(c)(1) for the prohibition against using such information to the disadvantage of the former client.

Additional Washington Comments (21 - 28)

[21] The phrase "information relating to the representation" should be interpreted broadly. The "information" protected by this Rule includes, but is not necessarily limited to, confidences and secrets. "Confidence" refers to information protected by the attorney client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

Disclosure Adverse to Client

[22] Washington's Rule 1.6(b)(2), which authorizes disclosure to prevent a client from committing a crime, is significantly broader than the corresponding exception in the Model Rule. While the Model Rule permits a lawyer to reveal information relating to the representation to prevent the client from "committing a crime . . . that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used the lawyer's services," Washington's Rule permits the lawyer to reveal such information to prevent the commission of any crime.

[23] [Reserved.]

[24] [Reserved.]

[25] The exceptions to the general rule prohibiting unauthorized disclosure of information relating to the representation "should not be carelessly invoked." In re Boelter, 139 Wn.2d 81, 91, 985 P.2d 328 (1999). A lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of avoidable disclosure.

[26] Washington has not adopted that portion of Model Rule 1.6(b)(6) permitting a lawyer to reveal information related to the representation to comply with "other law." Washington's omission of this phrase arises from a concern that it would authorize the lawyer to decide whether a disclosure is required by "other law," even though the right to confidentiality and the right to waive confidentiality belong to the client. The decision to waive confidentiality should only be made by a fully informed client after consultation with the client's lawyer or by a

court of competent jurisdiction. Limiting the exception to compliance with a court order protects the client's interest in maintaining confidentiality while insuring that any determination about the legal necessity of revealing confidential information will be made by a court. It is the need for a judicial resolution of such issues that necessitates the omission of "other law" from this Rule.

Withdrawal

[27] After withdrawal the lawyer is required to refrain from disclosing the client's confidences, except as otherwise permitted by Rules 1.6 or 1.9. A lawyer is not prohibited from giving notice of the fact of withdrawal by this Rule, Rule 1.8(b), or Rule 1.9(c). If the lawyer's services will be used by the client in furthering a course of criminal or fraudulent conduct, the lawyer must withdraw. See Rule 1.16(a)(1). Upon RPC 1.7 withdrawal from the representation in such circumstances, the lawyer may also disaffirm or withdraw any opinion, document, affirmation, or the like. If the client is an organization, the lawyer may be in doubt about whether contemplated conduct will actually be carried out by the organization. When a lawyer requires guidance about compliance with this Rule in connection with an organizational client, the lawyer may proceed under the provisions of Rule 1.13(b).

Other

[28] This Rule does not relieve a lawyer of his or her obligations under Rule 5.4(b) of the Rules for Enforcement of Lawyer Conduct.

EXHIBIT D

Page 2

ORDER

IN THE MATTER OF PROPOSED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT (RPC) 1.0A — TERMINOLOGY, 1.1 — COMPETENCE, etc.

Court-Annexed Limited Legal Service Programs, 7.1 — Communications Concerning a Lawyers Services, 7.2 — Advertising, 7.3 — Direct Contact with Prospective Clients, and 8.5 — Disciplinary Authority; Choice of Law, and the Court having considered the amendments and comments submitted thereto;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites expeditiously.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2016. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 4th day of November, 2015.

For the Court

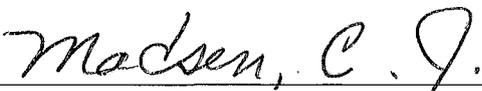

CHIEF JUSTICE

EXHIBIT D

EXHIBIT D
GR 9 COVER SHEET

**Suggested Amendments to
RULES 1.0A, 1.1, 1.2, 1.4, 1.5, 1.6, 1.10, 1.14, 1.17, 1.18, 4.4, 5.3, 5.5, 6.5, 7.1,
7.2, 7.3, and 8.5 of the Rules of Professional Conduct (RPC)**

A. Proponent

William D. Hyslop, President
Washington State Bar Association
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539

B. Spokesperson

Jeanne Marie Clavere
Professional Responsibility Counsel
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C. Purpose

In 2013, the Supreme Court asked the WSBA to evaluate recent amendments to the ABA Model Rules of Professional Conduct (Model Rules) and to consider the amendments for possible adoption in Washington. These Model Rule amendments were adopted by the ABA House of Delegates in 2012 at the recommendation of the ABA Commission on Ethics 20/20 [hereinafter Ethics 20/20 amendments]. The WSBA referred the matter to the WSBA Committee on Professional Ethics (CPE). In March 2015, during the course of the CPE's work, the Court adopted changes to Washington's Rules of Professional Conduct (RPC) to harmonize the RPC with the recently adopted Rules of Professional Conduct for Limited License Legal Technician's (LLLT RPC). The CPE consequently revised its draft proposal to reconcile the newly amended RPC with the CPE's draft Ethics 20/20-based recommendations.

The suggested amendments being submitted to the Court, which take into account the 2015 LLLT-related amendments, are individually summarized below. In general, the WSBA recommends adoption of most of the ABA Ethics 20/20 amendments. A few modifications to the Ethics 20/20 amendments are suggested to conform to existing differences between Washington's RPC and the Model Rules (including differences arising from the 2015 LLLT-related amendments), and in a few instances the CPE has recommended language that it concluded was an improvement on the ABA Ethics 20/20 amendments to the Model Rules.

EXHIBIT D GR 9 COVER SHEET

Suggested Amendments to RPC 1.0A

The proposed changes to this RPC and its comments are taken verbatim from the ABA Ethics 20/20 changes and are part of a larger project by Ethics 20/20 to more clearly embrace electronic communication in all its forms in the provisions that relate to communications in general.

Suggested Amendment to RPC 1.1

Proposed new Comments [6] and [7] and a portion of former Comment [6] (now proposed new Comment [8]) are taken verbatim from the Ethics 20/20 amendments, with the exception of the addition of LLLTs to proposed new Comment [7]. It is proposed that LLLTs be added in the places shown to take account their advent in Washington. (Note that the phrase “law firm” which appears in Comment [7] has already been expanded in the Washington Terminology Section, RPC 1.0A(c) to encompass LLLT firms.) The proposed additions are intended, in general, to deal with the phenomenon of “outsourcing” work by lawyers and are intended to clarify how the duty of competence interrelates to such practices.

Proposed new Washington Comment [9] is intended to clarify an issue that surfaces when proposed new Comments [6] and [7] are considered carefully. If a lawyer engages the services of a lawyer to provide what are essentially nonlegal services that might be provided by nonlawyers, the CPE concluded that the fact that the engaged person is a lawyer should not bring that lawyer within the scope of this and other rules applicable to lawyers when they are practicing law, but that person’s conduct should, instead, be governed by RPC 5.3, as would that of a nonlawyer. The point is of increasing importance as lawyers who are not licensed in Washington may be engaged to provide services that would not constitute the practice of law so long as they are properly supervised by a licensed lawyer. A proposed new sentence suggested for Comment [3] to RPC 5.3 makes this same point. This comment is not based on the Ethics 20/20 amendments.

To make room for these three comments, current Washington Comment [7], which was adopted as part of 2015 RPC amendments, needs to be renumbered as Washington Comment [10].

Suggested Amendment to RPC 1.2

This proposed amendment adds a “See also” sentence at the end of Comment [1] to RPC 1.2 because Comments [6] and [10] to RPC 1.1 refer and relate to RPC 1.2. If adopted, this would require designating this comment as a “Washington revision.” It is proposed to add LLLTs to the cross reference here because they have been added to Comments [7] and [10]. This change is not based on Ethics 20/20 amendments.

Suggested Amendment to RPC 1.4

This proposed amendment adds a “See also” sentence at the end of Comment [2] to RPC 1.4 because Comments [6] and [10] to RPC 1.1 refer and/or relate to RPC 1.4. If adopted, this would require designating this comment as a “Washington Revision”. It is proposed to add

EXHIBIT D GR 9 COVER SHEET

LLLTs to the cross reference here because they have been added to Comments [7] & [10]. This change is not based on Ethics 20/20 amendments.

The proposed addition to Comment [4] is taken verbatim from the ABA Ethics 20/20 changes and is simply intended to make clear that the duty a lawyer has to respond to client inquiries extends beyond use of the telephone.

Suggested Amendment to RPC 1.5

This proposed amendments adds a “See also” sentence at the end of Comment [7] to RPC 1.5 because Comments [6] and [10] to RPC 1.1 refer and/or relate to RPC 1.5. It is proposed to add LLLTs to the cross reference here because they have been added to Comment [10]. This change is not based on Ethics 20/20 amendments.

Suggested Amendments to RPC 1.6

The proposed addition of new paragraph (7) to RPC 1.6(b) – disclosure of confidences to engage in conflicts screening – is taken verbatim from the Ethics 20/20 amendments, which codify an earlier ABA Ethics Opinion that found such an exception implicit in Model Rule 1.6. In order to maintain maximum structural similarity to the ABA Model Rules and its numbering system, it is suggested that the addition of this new provision be accomplished by renumbering Washington’s current paragraph (b)(7), which is not in the Model Rules, as paragraph (b)(8).

The proposed addition of new paragraph (c) to RPC 1.6 – requiring “reasonable efforts to prevent the inadvertent or unauthorized disclosure of confidences” – is taken verbatim from Ethics 20/20 amendments and seems useful as a codification of the general state of the law.

Proposed new Comments [13] and [14], the additions to existing comment [16] (which would be renumbered as Comment [18]), and the addition at the end of existing Comment [17] (which would be renumbered Comment [19]), are all taken verbatim from the ABA Ethics 20/20 amendments, with the exception of the “see also” sentence at the end of proposed new Comment [13]. These comments are designed to elaborate on the proposed new RPC 1.6(b)(7) (conflict screening) and (c) (reasonable efforts), and the CPE concluded that they did not require revision except for the “see also” cross-reference at the end of Comment [13].

Suggested Amendments to RPC 1.10

If the CPE recommendation to renumber current comment [3] to RPC 5.3 (as Comment [5]) is accepted, then the cross reference to this comment in RPC 1.10 at the end of Comment [11] will need to be conformed.

Suggested Amendments to RPC 1.14

If the CPE recommendation to renumber current RPC 1.6(b)(7) as 1.6(b)(8) is adopted, the cross reference to 1.6(b)(7) in current Comment [4] to RPC 1.14 requires a conforming amendment.

EXHIBIT D GR 9 COVER SHEET

Suggested Amendments to RPC 1.17

Several very minor modifications to Comment [7] have been taken verbatim from the Ethics 20/20 amendments, but the CPE concluded that the cross reference (in the sentence beginning “But see”) to proposed new RPC 1.6(b)(7) (relating to conflicts screening) should be moved and expanded slightly here to assist the reader. The ABA version simply says “See Rule 1.6(b)(7)” and places the cross reference at the end of the prior sentence.

Suggested Amendments to RPC 1.18

Washington’s RPC 1.18(e) codifies Model Rule 1.18, Comment [5], where the word “conversation” was replaced with the word “consultation” as recommended in the Ethics 20/20 report. The CPE recommends this change in Washington’s RPC 1.18(e) in order to take advantage of the interpretive language that has been added to ABA Comments [1], [2], and [4] to Model Rule 1.18. It is recommended that the revisions to these comments be adopted in Washington as well.

The ABA has substantially amplified Comment [2] in order to spell out what it takes to become a prospective client for purposes of Rule 1.18. It is recommended that this amplification be adopted verbatim, except the ABA term “advertising” is replaced with the word “communications.” This change to the ABA version is recommended because of the increasing use of social media and a lack of clarity as to whether such platforms involve “advertising.” Regardless of whether such communications would normally be considered advertising, if they are used to invite or request the submission of confidential information, they are within the scope of what the comment is seeking to address. So “communications” seems more appropriate here.

Suggested Amendments to RPC 4.4

The ABA has made a minor change to Rule 4.4(b) to include electronic information, and it is recommended that this change be adopted in Washington. The ABA has also amended Comments [2] and [3] to include electronic information and, in Comment [2], has explained what it means for a communication to be inadvertently sent and what metadata is. It is recommended that these changes be adopted verbatim.

Suggested Amendments to RPC 5.3

The ABA has retained former Comment [1] unchanged but moved it (and the heading) down to make it Comment [2]. Former Comment [2] (now ABA comment [1]), has been amplified to make it clearer. It is recommended that all these changes be adopted.

The ABA has adopted two new comments to this Rule, Comments [3] and [4]. Comment [3] explains when it might be appropriate for a lawyer to associate with nonlawyers from outside the firm and explains what a lawyer’s supervision duties are. Comment [4] explains what the lawyer’s responsibilities are vis-à-vis the client when such a nonlawyer is engaged. It is recommended that these new comments be adopted verbatim, but with the addition of a sentence at the end of proposed Comment [3] (not found in the ABA Model Rules) referencing proposed

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Washington Comment [9] to RPC 1.1 (also not found in the Model Rules) to coincide with the point explained in the proposed Comment to Rule 1.1 relating to use of outside lawyers to provide nonlegal services. This change would require re-designating this as a “Washington Revision.”

The Court has recently adopted a new Washington Comment [3] to Rule 5.3 to the effect that a lawyer’s supervision duties with respect to an LLLT are governed by Washington RPC 5.10, rather than by RPC 5.3. This comment will need to be renumbered as Comment [5] to account for the incorporation of Model Rule Comments [3] and [4], as proposed. It is recommended that the phrase “acting as such” and additional content and cross references be adopted in renumbered Comment [5], to reinforce the distinction between conduct that requires a license and conduct which does not require that license. It also reinforces the distinction now proposed to be made in Comment [9] to Rule 1.1 between a lawyer engaged in conduct requiring the lawyer’s license, and a lawyer engaged in conduct that does not (i.e., delivery of “nonlegal services”).

Suggested Amendments to RPC 5.5

The ABA has added language to Model Rule 5.5(d) (in house counsel and practice permitted by federal law) which adds “foreign lawyers” to the scope of the rule. It is recommended that these amendments be adopted verbatim. But other Model Rule amendments required several changes and some reorganization in order to reconcile new Model Rule 5.5 with the changes previously made to this rule in Washington, particularly as they relate to practice by in-house counsel not generally licensed in Washington. The differences between Model Rule 5.5(d) and Washington’s RPC 5.5(d) are complex. In brief, the explanation for the departure from the Model Rule approach is as follows.

First, the Ethics 20/20 amendments added language to Model Rule 5.5(d) and a new 5.5(e) to include foreign lawyers within the scope of the rule. The ABA Model Rule additions are underlined below, and the deletions are stricken out:

(d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that :

(1) are provided to the lawyer’s employer or its organizational affiliates and are (i) provided on a temporary basis and (ii) not services for which the forum requires pro hac vice admission; and, when performed by a foreign lawyer and requires advice on the law of this or another jurisdiction or of the United States, such advice shall be based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

(2) are services that the lawyer is authorized ~~to provide~~ by federal law or other law or rule to provide in ~~of~~ this jurisdiction.

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(e) For purposes of paragraph (d), the foreign lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent, and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.

The language amplifying the rule to embrace foreign lawyers is recommended for adoption, but excluding the Model Rule language “through an office or other systematic and continuous presence” because it would conflict with the “temporary” practice limitation applicable to “house counsel” in Washington. Washington makes the house-counsel exception for practice without a Washington license available only on a temporary basis, whereas the Model Rules exception authorizes a continuous and systematic presence by non-licensed house counsel (subject to possible registration requirements imposed by state law). Accordingly, the ABA language has been modified to preserve Washington’s different treatment of house counsel.

Several Ethics 20/20 amendments to the Model Rule 5.5 comments (which conform them to the addition of “foreign lawyers” to Model 5.5(d)), are also recommended. But again, the Ethics 20/20 amendments are not completely consistent with Washington’s version of RPC 5.5(d)(1). Accordingly the suggested comments are modified from the Model Rules in order to reconcile them with Washington’s different treatment of in-house counsel.

It is recommended that the reference to paragraph (d)(1) in current Washington Comment [5] be stricken to coincide with Washington’s temporary practice limitation, and the language at the end of the comment has been added to coincide with the special Washington limited license for in-house counsel provided for in Admission and Practice Rule (APR) 8(f). These two changes are recommended to conform the RPC commentary with Washington’s APR and are not occasioned by the Ethics 20/20 amendments.

In Comment [8], a reference has been added to proposed new Comment [6] to RPC 1.1, which addresses a lawyer’s duties when associating with a lawyer outside the firm (and which cross references Rule 5.5). If adopted, this would be a Washington Revision to the comment.

The Ethics 20/20 amendments to Comment [15] added a reference to the ABA Model Rule on Temporary Practice by Foreign Lawyers. This reference is not recommended for adoption in Washington since Washington has not adopted that Model Rule.

Other Ethics 20/20 amendments to Comment [15] are also inconsistent with Washington’s version of Rule 5.5 and the APR. The recommended amendments do include some of the Ethics 20/20 language (specifically, the addition of “or a foreign,” “or the equivalent thereof,” and “United States or foreign”). Beyond that, however, the amendments being proposed rearrange the existing comment so that it first addresses Washington’s “temporary” practice exception (paragraph (d)(1)) and then addresses the “federal practice” exception (paragraph (d)(2)). The word “another” is used in the first line because the preceding comments explore unrelated temporary practice exceptions set out in Rule 5.5(c). The phrase “such a lawyer” is introduced in the second sentence of the comment to avoid repeating the lengthier text that precedes it: “a

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lawyer who is admitted to practice in another United States or a foreign jurisdiction, and is not disbarred or suspended from practice in any jurisdiction, or the equivalent thereof.”

The Ethics 20/20 amendments to Comment [16] added language dealing with the use of foreign lawyers as house counsel and the need to ensure that when the issue is one of U.S. domestic law, any advice should be based on the advice of a domestic lawyer. It is recommended that this amendment be adopted verbatim.

The Ethics 20/20 amendments to Comment [17] added a reference to the ABA Model Rule for Registration of In-House Counsel. It is recommended that this reference not be adopted in Washington because Washington has not adopted that Model Rule.

The Ethics 20/20 amendments to Comment [18] added a reference to the ABA Model Rule on Practice Pending Admission. It is recommended that this reference not be adopted in Washington because Washington has not adopted that Model Rule.

Suggested Amendments to RPC 6.5

If the proposal to renumber the comments to RPC 1.6 is adopted, the cross reference in Comment [7] to this rule needs to be amended from “Comment [19]” to “Comment [21].”

Suggested Amendments to RPC 7.1

Consistent with the Ethics 20/20 amendments, it is recommended that the words “a prospective client” be replaced with the words “the public” at the end of Comment [3]. Rule 7.1 embraces all communications by a lawyer about his or her services, not just communications to prospective clients.

Suggested Amendments to RPC 7.2

The Ethics 20/20 amendments added language to the comments to Model Rule 7.2 (Advertising), particularly to Comments [3] and [5], to add clarity and clearly encompass electronic communications and the internet. In general, these changes are recommended for adoption in Washington, but subject to a number of departures from the ABA approach.

First, at the end of Comment [3], this proposal adds the words “of a possible client” to conform to recommendations regarding RPC 7.3, explained below.

Second, the Ethics 20/20 amendments included minor revisions at the end of Comment [6] to Model Rule 7.2, but Washington previously deleted the Model Rule language in which these Ethics 20/20 changes are embedded. Accordingly, it is not recommended that these revisions be adopted.

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Suggested Amendments to RPC 7.3

The Ethics 20/20 amendments deleted the phrase “from a prospective client” previously appearing in paragraph (a) and (b) of Model Rule 7.3. This was apparently done to avoid confusion about the phrase “prospective client,” which is separately defined in Model Rule 1.18 (and Washington RPC 1.18). Although opinion on the issue was divided, the WSBA CPE concluded that the RPC 7.3(a) prohibition on direct solicitation should be limited to a potential client. Without such a limitation, the rule could be interpreted to unnecessarily preclude a lawyer from engaging in in-person conversations with friends, relatives or other professionals (at a Rotary meeting, for example) who in turn might have friends, relatives, clients or patients who may be in need of a lawyer’s services. Communication through an intermediary in this fashion is thought to be sufficient to protect potential clients from lawyer overreaching. Such solicitation is not what is meant by solicitation “through a third person,” and the lawyer would still be prohibited from using an agent, whether another professional or other person, to engage in in-person solicitation. By contrast, there appears to be no reason to prohibit a lawyer from personally asking another person if he or she has a friend, relative, client or patient who might benefit from the lawyer’s services, thus enabling the lawyer to send the potential client a permitted targeted written communication. To avoid confusion with the defined phrase “prospective client” but still retain the idea, the new phrase “possible client” is proposed. Inclusion of the word “possible” is not necessary in RPC 7.3(b) because any time a target of solicitation has made known his/her desire not to be solicited, or the solicitation involves coercion, duress or harassment, it should be prohibited, regardless of the identity or role of the individual. A new Washington Comment [14] is proposed that will explain this departure from the Model Rule comment. Apart from this modification, the remainder of the changes are taken verbatim from the Ethics 20/20 amendments, which are recommended for adoption in Washington.

The Ethics 20/20 amendments added a new Comment [1] to the Model Rule defining what a solicitation is, and has added clarifying language to former Comments [1] – [6], which were renumbered as Comments [2] – [7]. It is recommended that all these Model Rule revisions be adopted verbatim in Washington.

Consistent with the proposed revision to paragraph (a) of the rule, explained above, new Washington Comment [14] is proposed to explain the replacement of the words “prospective client” with the words “possible client” and elaborate on the ways in which a “possible client” may permissibly be solicited.

Suggested Amendments to RPC 8.5

The Ethics 20/20 amendments clarified Comment [5] to Model Rule 8.5, which deals with choice of law issues when applying the Rules of Professional Conduct. The amended Model Rule language makes relevant an agreement between the lawyer and the client that specifies a particular jurisdiction as the one in which the predominant effect of the lawyer’s conduct will occur. It is recommended that this language be adopted verbatim in Washington. In general, choice of law is a matter subject to agreement between parties to a contract, and making clear that such an agreement is relevant the legal ethics context seems reasonable.

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B. Observations about the 2015 LLLT-related changes to the RPC Offered by the Committee on Professional Ethics

In seeking to reconcile the ABA Ethics 20/20 amendments with the 2015 LLLT-related amendments to Washington's RPC,¹ the CPE came upon issues that it wants to call to the attention of the Board of Governors, the LLLT Board, and the Court. These issues relate to the ethically appropriate method of structuring fee contracts when an LLLT is an employee or partner of the lawyer, and the circumstances under which a lawyer may associate with an LLLT who is not an employee of the lawyer's firm.

First, APR 28.G.3 currently states that "[p]rior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician...." (It goes on to specify what must be contained in the contract.) The CPE is unclear how this requirement is supposed to operate when an LLLT is employed by a lawyer. Must the LLLT expressly contract with the lawyer's client before the employed LLLT may do LLLT-licensed work for the client? Or is it enough if the lawyer contracts with the client and delegates certain matters to the LLLT who is employed? Assuming the possibility of employed LLLTs doing LLLT-licensed work for the client is disclosed in a written lawyer-client contract, the CPE thinks the latter should suffice, but it does not seem consistent with APR 28.G.3. See also RPC 1.5, Comment [17], which suggests that where an LLLT works in a firm including both lawyers and LLLTs, fee agreements must comport with APR 28.G.3. Arguably, given APR 28.G.3, the only work an LLLT could perform for the lawyer's client without expressly contracting with the client would be to provide nonlawyer services for the client for which the LLLT license is not required. This seems to make the employment of LLLTs by lawyers exceedingly complicated and overly restrictive, and the CPE hopes that the LLLT Board and the Court will reexamine and clarify this issue.

Second, under what circumstances may a lawyer engage the services of an LLLT who is not in the same firm as the lawyer? Following the 2015 LLLT-related RPC amendments, Comment [7] to RPC 1.1 provides that "a lawyer may enlist the assistance of an LLLT who is not in the same firm only (1) after consultation with the client in accordance with Rules 1.2 and 1.4 and (2) by referring the client directly to the LLLT." (Note that that in this GR 9 submission Comment [7] is proposed to be renumbered as Comment [10] to account for the insertion of several new comments.) This sentence seems to preclude a lawyer from engaging an LLLT as an independent contractor to provide LLLT services to the client unless and until the LLLT has separately contracted with the client. Again, that seems dictated by APR 28.G.3. But, in the view of the CPE, it is unclear whether this was intended and whether it is necessary. If a lawyer hires another lawyer as an independent contractor to work on a matter or a series of matters, then it appears the rules do not require the independent-contractor lawyer to contract separately with each client. If that is not required of a lawyer, why should it be required of an LLLT? Why should it not suffice, where an LLLT is hired (or engaged as an independent contractor) by a

¹ Those amendments were adopted by order dated March 23, 2015, with an effective date of April 14, 2015 (the date of publication). Under the Court's March 23 order, the WSBA is currently gathering feedback on those amendments, which will be provided to the Court nine months after the rules' effective date.

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lawyer to work on client matters, if the lawyer has a written contract with the client which addresses the possible use of LLLTs with the appropriate disclosures as to the scope of an LLLT's services and the fees to be charged for the LLLT's time – i.e., complying with the contract-content requirements of APR 28.G.3? To be sure, part of the problem is that lawyers (unlike LLLTs) are not required to have written agreements with clients in most circumstances. But so long as a lawyer hiring or retaining an LLLT does have a written fee agreement with the client that conforms with the content requirements set out in APR 28.G.3., it is unclear why the LLLT must separately contract with the client. The CPE hopes that the LLLT Board and the Court will reexamine this issue and adopt revisions or clarifications that make the LLLT-lawyer interface more straightforward and less of a potential trap for unwary lawyers and/or LLLTs.

Until this is done, however, it appears to the CPE that when a lawyer has hired an LLLT, but the LLLT has not complied with the contracting requirement of APR 28.G.3, the LLLT will be permitted only to do things that do not require the LLLT license (e.g., paralegal work).

D. Hearing

The proponent does not request a public hearing.

E. Expedited Consideration

The proponent does not request expedited consideration.

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1 **SUGGESTED AMENDMENTS TO THE WASHINGTON**
2 **RULES OF PROFESSIONAL CONDUCT**
3 **RULES: 1.0A, 1.1, 1.2, 1.4, 1.5, 1.6, 1.10, 1.14, 1.17, 1.18, 4.4, 5.3, 5.5, 6.5,**
4 **7.1, 7.2, 7.3, 8.5**

6 **RULE 1.0A**
7 **TERMINOLOGY**

9 (a) – (m) [Unchanged.]

11 (n) "Writing" or "written" denotes a tangible or electronic record of a communication or
12 representation, including handwriting, typewriting, printing, photostating, photography,
13 audio or videorecording and ~~e-mail~~ electronic communications. A "signed" writing includes
14 an electronic sound, symbol or process attached to or logically associated with a writing and
15 executed or adopted by a person with the intent to sign the writing.

16
17 **Comment**

18
19 *Screened*

20 *****

21 [9] [**Washington revision**] The purpose of screening is to assure the affected parties that
22 confidential information known by the personally disqualified lawyer or LLLT remains
23 protected. The personally disqualified lawyer or LLLT should acknowledge the obligation
24 not to communicate with any of the other lawyers or LLLTs in the firm with respect to the
25 matter. Similarly, other lawyers or LLLTs in the firm who are working on the matter should
26 be informed that the screening is in place and that they may not communicate with the
27 personally disqualified lawyer or LLLT with respect to the matter. Additional screening
28 measures that are appropriate for the particular matter will depend on the circumstances. To
29 implement, reinforce and remind all affected lawyers or LLLTs of the presence of the
30 screening, it may be appropriate for the firm to undertake such procedures as a written
31 undertaking by the screened lawyer or LLLT to avoid any communication with other firm
32 personnel and any contact with any firm files or other ~~materials~~ information, including

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1 information in electronic form, relating to the matter, written notice and instructions to all
2 other firm personnel forbidding any communication with the screened lawyer or LLLT
3 relating to the matter, denial of access by the screened lawyer or LLLT to firm files or other
4 materials information, including information in electronic form, relating to the matter and
5 periodic reminders of the screen to the screened lawyer or LLLT and all other firm personnel.

7 **RULE 1.1** 8 **COMPETENCE**

9
10 A lawyer shall provide competent representation to a client. Competent representation
11 requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for
12 the representation.

13 14 **Comment**

15 *****

16 Retaining or Contracting With Other Lawyers

17 [6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm
18 to provide or assist in the provision of legal services to a client, the lawyer should ordinarily
19 obtain informed consent from the client and must reasonably believe that the other lawyers'
20 services will contribute to the competent and ethical representation of the client. See also
21 Rules 1.2 (allocation of authority), 1.4 (communication with client), 1.5(e) (fee sharing), 1.6
22 (confidentiality), and 5.5(a) (unauthorized practice of law). The reasonableness of the
23 decision to retain or contract with other lawyers outside the lawyer's own firm will depend
24 upon the circumstances, including the education, experience and reputation of the nonfirm
25 lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections,
26 professional conduct rules, and ethical environments of the jurisdictions in which the services
27 will be performed, particularly relating to confidential information.

28 [7] [Washington revision] When lawyers or LLLTs from more than one law firm are
29 providing legal services to the client on a particular matter, the lawyers and/or LLLTs
30 ordinarily should consult with each other and the client about the scope of their respective

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1 representations and the allocation of responsibility among them. See Rule 1.2. When making
2 allocations of responsibility in a matter pending before a tribunal, lawyers, LLLTs, and
3 parties may have additional obligations that are a matter of law beyond the scope of these
4 Rules.

5 *Maintaining Competence*

6 [68] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes
7 in the law and its practice, including the benefits and risks associated with relevant
8 technology, engage in continuing study and education and comply with all continuing legal
9 education requirements to which the lawyer is subject.

10 Additional Washington Comments (7 9-10)

11 [9] This rule applies to lawyers only when they are providing legal services. Where a
12 lawyer is providing nonlawyer services (“supporting lawyer”) in support of a lawyer who is
13 providing legal services (“supported lawyer”), the supported lawyer should treat the
14 supporting lawyer as a nonlawyer assistant for purposes of this rule and Rule 5.3
15 (Responsibilities Regarding Nonlawyer Assistants).

16 [7 10] In some circumstances, a lawyer can also provide adequate representation by
17 enlisting the assistance of an LLLT of established competence, within the scope of the
18 LLLT’s license and consistent with the provisions of the LLLT RPC. However, a lawyer
19 may not enter into an arrangement for the division of the fee with an LLLT who is not in the
20 same firm as the lawyer. See Comment [7] to Rule 1.5(e); LLLT RPC 1.5(e). Therefore, a
21 lawyer may enlist the assistance of an LLLT who is not in the same firm only (1) after
22 consultation with the client in accordance with Rules 1.2 and 1.4, and (2) by referring the
23 client directly to the LLLT.

24 **RULE 1.2**

25 **SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY** 26 **BETWEEN LAWYER AND CLIENT**

27 (a) – (f) [Unchanged.]
28
29

30 **Comment**

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Allocation of Authority between Client and Lawyer

[1] **[Washington revision]** Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation. See also Rule 1.1, comments [6] and [10] as to decisions to associate other lawyers or LLLTs.

RULE 1.4 COMMUNICATION

(a) – (b) [Unchanged.]

Comment

Communicating with Client

[2] **[Washington revision]** If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from an opposing lawyer an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See Rule 1.2(a). See also Rule 1.1, comments [6] and [10] as to decisions to associate other lawyers or LLLTs.

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1
2 [4] A lawyer's regular communication with clients will minimize the occasions on which
3 a client will need to request information concerning the representation. When a client makes
4 a reasonable request for information, however, paragraph (a)(4) requires prompt compliance
5 with the request, or if a prompt response is not feasible, that the lawyer, or a member of the
6 lawyer's staff, acknowledge receipt of the request and advise the client when a response may
7 be expected. ~~Client telephone calls should be promptly returned or acknowledged.~~ A
8 lawyer should promptly respond to or acknowledge client communications.

RULE 1.5

FEES

13 (a) – (f) [Unchanged.]

Comment

16 *****

Division of Fee

18 [7] [Washington revision] A division of fee is a single billing to a client covering the fee
19 of two or more lawyers who are not in the same firm. A division of fee facilitates association
20 of more than one lawyer in a matter in which neither alone could serve the client as well, and
21 most often is used when the fee is contingent and the division is between a referring lawyer
22 and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of
23 the proportion of services they render or if each lawyer assumes responsibility for the
24 representation as a whole. In addition, the client must agree to the arrangement, including the
25 share that each lawyer is to receive, and the agreement must be confirmed in writing.
26 Contingent fee agreements must be in a writing signed by the client and must otherwise
27 comply with paragraph (c) of this Rule. Joint responsibility for the representation entails
28 financial and ethical responsibility for the representation as if the lawyers were associated in
29 a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer
30 reasonably believes is competent to handle the matter. See Rule 1.1. See also Rule 1.1,
31 comments [6] and [10] as to decisions to associate other lawyers or LLLTs. See also

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1 Washington Comment [18].
2
3

4 RULE 1.6

5 CONFIDENTIALITY OF INFORMATION

6 (a) [Unchanged.]
7

8 (b) A lawyer to the extent the lawyer reasonably believes necessary:
9

10 (1) – (6) [Unchanged.]
11

12 (7) may reveal information relating to the representation to detect and resolve
13 conflicts of interest arising from the lawyer's change of employment or from changes in
14 the composition or ownership of a firm, but only if the revealed information would not
15 compromise the attorney-client privilege or otherwise prejudice the client;
16

17 (7~~8~~) may reveal information relating to the representation of a client to inform a
18 tribunal about any breach of fiduciary responsibility when the client is serving as a court-
19 appointed fiduciary such as a guardian, personal representative, or receiver.
20

21 (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized
22 disclosure of, or unauthorized access to, information relating to the representation of a client.
23

24 **Comment**

25 *****

26 Detection of Conflicts of Interest

27

28 [13] [Washington revision] Paragraph (b)(7) recognizes that lawyers in different firms
29 may need to disclose limited information to each other to detect and resolve conflicts of
30 interest, such as when a lawyer is considering an association with another firm, two or more
31 firms are considering a merger, or a lawyer is considering the purchase of a law practice. See

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1 Rule 1.17, Comment [7]. Under these circumstances, lawyers and law firms are permitted to
2 disclose limited information, but only once substantive discussions regarding the new
3 relationship have occurred. Any such disclosure should ordinarily include no more than the
4 identity of the persons and entities involved in a matter, a brief summary of the general issues
5 involved, and information about whether the matter has terminated. Even this limited
6 information, however, should be disclosed only to the extent reasonably necessary to detect
7 and resolve conflicts of interest that might arise from the possible new relationship.
8 Moreover, the disclosure of any information is prohibited if it would compromise the
9 attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client
10 is seeking advice on a corporate takeover that has not been publicly announced; that a person
11 has consulted a lawyer about the possibility of divorce before the person's intentions are
12 known to the person's spouse; or that a person has consulted a lawyer about a criminal
13 investigation that has not led to a public charge). Under those circumstances, paragraph (a)
14 prohibits disclosure unless the client or former client gives informed consent. A lawyer's
15 fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an
16 association with another firm and is beyond the scope of these Rules. See also Rule 1.1,
17 comment [6], [7], and [10] as to decisions to associate other lawyers or LLLTs.

18
19 [14] Any information disclosed pursuant to paragraph (b)(7) may be used or further
20 disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph
21 (b)(7) does not restrict the use of information acquired by means independent of any
22 disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure
23 of information within a law firm when the disclosure is otherwise authorized, see Comment
24 [5], such as when a lawyer in a firm discloses information to another lawyer in the same firm
25 to detect and resolve conflicts of interest that could arise in connection with undertaking a
26 new representation.

27 [13 15]

28 [14-16]

29 [15 17]

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1 *Acting Competently to Preserve Confidentiality*

2 [1816] Paragraph (c) requires a lawyer must to act competently to safeguard information
3 relating to the representation of a client against unauthorized access by third parties and
4 against inadvertent or unauthorized disclosure by the lawyer or other persons who are
5 participating in the representation of the client or who are subject to the lawyer's supervision.
6 See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized
7 disclosure of, information relating to the representation of a client does not constitute a
8 violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or
9 disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts
10 include, but are not limited to, the sensitivity of the information, the likelihood of disclosure
11 if additional safeguards are not employed, the cost of employing additional safeguards, the
12 difficulty of implementing the safeguards, and the extent to which the safeguards adversely
13 affect the lawyer's ability to represent clients (e.g., by making a device or important piece of
14 software excessively difficult to use). A client may require the lawyer to implement special
15 security measures not required by this Rule or may give informed consent to forgo security
16 measures that would otherwise be required by this Rule. Whether a lawyer may be required
17 to take additional steps to safeguard a client's information in order to comply with other law,
18 such as state and federal laws that govern data privacy or that impose notification
19 requirements upon the loss of, or unauthorized access to, electronic information, is beyond
20 the scope of these Rules. For a lawyer's duties when sharing information with nonlawyers
21 outside the lawyer's own firm, see Rule 5.3, Comments [3]-[4].

22
23 [1947] When transmitting a communication that includes information relating to the
24 representation of a client, the lawyer must take reasonable precautions to prevent the
25 information from coming into the hands of unintended recipients. This duty, however, does
26 not require that the lawyer use special security measures if the method of communication
27 affords a reasonable expectation of privacy. Special circumstances, however, may warrant
28 special precautions. Factors to be considered in determining the reasonableness of the
29 lawyer's expectation of confidentiality include the sensitivity of the information and the
30 extent to which the privacy of the communication is protected by law or by a confidentiality

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1 agreement. A client may require the lawyer to implement special security measures not
2 required by this Rule or may give informed consent to the use of a means of communication
3 that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take
4 additional steps in order to comply with other law, such as state and federal laws that govern
5 data privacy, is beyond the scope of these Rules.

6
7 *Former Client*

8 [2018]

9 Additional Washington Comments (~~19-26~~ 21-28)

10 [2119]

11 [2220]

12 [2321]

13 [2422]

14 [2523]

15 [2624]

16 [2725]

17 [2826]

18
19 **RPC 1.10**
20 **IMPUTATION OF CONFLICTS OF INTEREST:**
21 **GENERAL RULE**

22
23 (a) – (f) [Unchanged.]

24
25 **Comment**

26 *****

27 Additional Washington Comments (9 – 14)

28 *Principles of Imputed Disqualification*

29
30 *****

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1 [11] Under Rule 5.3, this Rule also applies to nonlawyer assistants and lawyers who
2 previously worked as nonlawyers at a law firm. See *Daines v. Alcatel*, 194 F.R.D. 678 (E.D.
3 Wash. 2000); *Richards v. Jain*, 168 F. Supp. 2d 1195 (W.D. Wash. 2001). For the definition
4 of nonlawyer for the purposes of Rule 5.3, see Washington Comment [3 5] to Rule 5.3.

RPC 1.14

CLIENT WITH DIMINISHED CAPACITY

5
6
7
8
9 (a) – (c) [Unchanged.]

Comment

10
11
12
13 *****

14 [4] [Washington revision] If a legal representative has already been appointed for the
15 client, the lawyer should ordinarily look to the representative for decisions on behalf of the
16 client. In matters involving a minor, whether the lawyer should look to the parents as natural
17 guardians may depend on the type of proceeding or matter in which the lawyer is
18 representing the minor. If the lawyer represents the guardian as distinct from the ward, and is
19 aware that the guardian is acting adversely to the ward's interest, the lawyer may have an
20 obligation to prevent or rectify the guardian's misconduct. See Rules 1.2(d) and 1.6(b)(78).

RULE 1.17

SALE OF LAW PRACTICE

21
22
23
24
25 A lawyer or a law firm may sell or purchase a law practice, or an area of law practice,
26 including good will, if the following conditions are satisfied:

27 (a) – (d) [Unchanged.]

Comment

28
29
30
31 *Client Confidences, Consent and Notice*

32 [7] [Washington revision] Negotiations between seller and prospective purchaser prior
33 to disclosure of information relating to a specific representation of an identifiable client no

EXHIBIT D

1 more violate the confidentiality provisions of Rule 1.6 than do preliminary discussions
2 concerning the possible association of another lawyer or mergers between firms, with respect
3 to which client consent is not required. Providing the purchaser access to detailed client-
4 specific information relating to the representation, such as the client's file, and to the file,
5 however, requires client consent. But see Rule 1.6(b)(7) (permitting disclosure of information
6 relating to the representation in limited circumstances to detect and resolve potential conflicts
7 of interest). The Rule provides that before such information can be disclosed by the seller to
8 the purchaser the client must be given actual written notice of the contemplated sale,
9 including the identity of the purchaser, and must be told that the decision to consent or make
10 other arrangements must be made within 90 days. If nothing is heard from the client within
11 that time, consent to the sale is presumed.

12 13 14 **RULE 1.18** 15 **DUTIES TO PROSPECTIVE CLIENT** 16

17
18 (a) A person who consults ~~discusses~~ with a lawyer about the possibility of forming a
19 client-lawyer relationship with respect to a matter is a prospective client.

20 (b) Even when no client-lawyer relationship ensues, a lawyer who has learned
21 information from ~~had discussions with~~ a prospective client shall not use or reveal that
22 information learned in the consultation, except as Rule 1.9 would permit with respect to
23 information of a former client or except as provided in paragraph (e).

24 (c) – (d) [Unchanged.]

25 (e) A lawyer may condition ~~conversations~~ a consultation with a prospective client on the
26 person's informed consent that no information disclosed during the consultation will prohibit
27 the lawyer from representing a different client in the matter. The prospective client may also
28 expressly consent to the lawyer's subsequent use of information received from the
29 prospective client.

30 31 **Comment** 32

EXHIBIT D

1 [1] Prospective clients, like clients, may disclose information to a lawyer, place
2 documents or other property in the lawyer's custody, or rely on the lawyer's advice. A
3 lawyer's consultations ~~discussions~~ with a prospective client usually are limited in time and
4 depth and leave both the prospective client and the lawyer free (and sometimes required) to
5 proceed no further. Hence, prospective clients should receive some but not all of the
6 protection afforded clients.

7
8 [2] **[Washington revision]** ~~Not all persons who communicate information to a lawyer are~~
9 ~~entitled to protection under this Rule. A person becomes a prospective client by consulting~~
10 with a lawyer about the possibility of forming a client-lawyer relationship with respect to a
11 matter. Whether communications, including written, oral, or electronic communications,
12 constitute a consultation depends on the circumstances. For example, a consultation is likely
13 to have occurred if a lawyer, either in person or through the lawyer's communications in any
14 medium, specifically requests or invites the submission of information about a potential
15 representation without clear and reasonably understandable warnings and cautionary
16 statements that limit the lawyer's obligations, and a person provides information in response.
17 See also Comment [4]. In contrast, a consultation does not occur if a person provides
18 information to a lawyer in response to a communication that merely describes the lawyer's
19 education, experience, areas of practice, and contact information, or provides legal
20 information of general interest. Such a person ~~A person who communicates information~~
21 ~~unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to~~
22 ~~discuss the possibility of forming a client-lawyer relationship, and is thus not a "prospective~~
23 ~~client," within the meaning of paragraph (a). Moreover, a person who communicates with a~~
24 ~~lawyer for the purpose of disqualifying the lawyer is not a "prospective client." See also~~
25 ~~Washington Comment [10].~~

26
27 *****
28

29 [4] In order to avoid acquiring disqualifying information from a prospective client, a
30 lawyer considering whether or not to undertake a new matter should limit the initial
31 consultation ~~interview~~ to only such information as reasonably appears necessary for that

EXHIBIT D

1 purpose. Where the information indicates that a conflict of interest or other reason for non-
2 representation exists, the lawyer should so inform the prospective client or decline the
3 representation. If the prospective client wishes to retain the lawyer, and if consent is possible
4 under Rule 1.7, then consent from all affected present or former clients must be obtained
5 before accepting the representation.

8 RULE 4.4

9 RESPECT FOR RIGHTS OF THIRD PERSONS

10 (a) [Unchanged.]

11 (b) A lawyer who receives a document or electronically stored information relating to the
12 representation of the lawyer's client and knows or reasonably should know that the document
13 or electronically stored information was inadvertently sent shall promptly notify the sender.
14

15 Comment

16 *****
17

18 [2] Paragraph (b) recognizes that lawyers sometimes receive a documents or
19 electronically stored information that was were mistakenly sent or produced by opposing
20 parties or their lawyers. A document or electronically stored information is inadvertently sent
21 when it is accidentally transmitted, such as when an email or letter is misaddressed or a
22 document or electronically stored information is accidentally included with information that
23 was intentionally transmitted. If a lawyer knows or reasonably should know that such a
24 document or electronically stored information was sent inadvertently, then this Rule requires
25 the lawyer to promptly notify the sender in order to permit that person to take protective
26 measures. Whether the lawyer is required to take additional steps, such as returning the
27 original document or electronically stored information, is a matter of law beyond the scope of
28 these Rules, as is the question of whether the privileged status of a document or
29 electronically stored information has been waived. Similarly, this Rule does not address the
30
31

EXHIBIT D

1 legal duties of a lawyer who receives a document or electronically stored information that the
2 lawyer knows or reasonably should know may have been ~~wrongfully~~ inappropriately
3 obtained by the sending person. For purposes of this Rule, “document or electronically stored
4 information” includes in addition to paper documents, email and other forms of electronically
5 stored information, including embedded data (commonly referred to as “metadata”), that is e-
6 ~~mail or other electronic modes of transmission~~ subject to being read or put into readable
7 form. Metadata in electronic documents creates an obligation under this Rule only if the
8 receiving lawyer knows or reasonably should know that the metadata was inadvertently sent
9 to the receiving lawyer.

10
11 [3] Some lawyers may choose to return a document or delete electronically stored
12 information unread, for example, when the lawyer learns before receiving it the document
13 that it was inadvertently sent ~~to the wrong address~~. Where a lawyer is not required by
14 applicable law to do so, the decision to voluntarily return such a document or delete
15 electronically stored information is a matter of professional judgment ordinarily reserved to
16 the lawyer. See Rules 1.2 and 1.4.

RULE 5.3

RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

20
21 With respect to a nonlawyer employed or retained by or associated with a lawyer:

22
23 (a) – (c) [Unchanged.]

Comment

24
25
26
27 [12] Paragraph (a) requires lawyers with managerial authority within a law firm to make
28 reasonable efforts to ensure that the firm has in effect measures giving to establish internal
29 policies and procedures designed to provide reasonable assurance that nonlawyers in the firm
30 and nonlawyers outside the firm who work on firm matters will act in a way compatible with
31 the professional obligations of the lawyer Rules of Professional Conduct. See Comment [6]

EXHIBIT D

1 to Rule 1.1 (retaining lawyers outside the firm) and Comment [1] to Rule 5.1 (responsibilities
2 with respect to lawyers within a firm). Paragraph (b) applies to lawyers who have
3 supervisory authority over such nonlawyers within or outside the firm. ~~the work of a~~
4 ~~nonlawyer.~~ Paragraph (c) specifies the circumstances in which a lawyer is responsible for the
5 conduct of such nonlawyers within or outside the firm ~~a nonlawyer~~ that would be a violation
6 of the Rules of Professional Conduct if engaged in by a lawyer.

7 8 *Nonlawyers Within the Firm*

9
10 [2+] Lawyers generally employ assistants in their practice, including secretaries,
11 investigators, law student interns, and paraprofessionals. Such assistants, whether employees
12 or independent contractors, act for the lawyer in rendition of the lawyer's professional
13 services. A lawyer must give such assistants appropriate instruction and supervision
14 concerning the ethical aspects of their employment, particularly regarding the obligation not
15 to disclose information relating to representation of the client, and should be responsible for
16 their work product. The measures employed in supervising nonlawyers should take account
17 of the fact that they do not have legal training and are not subject to professional discipline.

18 19 *Nonlawyers Outside the Firm*

20
21 [3] **[Washington revision]** A lawyer may use nonlawyers outside the firm to assist the
22 lawyer in rendering legal services to the client. Examples include the retention of an
23 investigative or paraprofessional service, hiring a document management company to create
24 and maintain a database for complex litigation, sending client documents to a third party for
25 printing or scanning, and using an Internet-based service to store client information. When
26 using such services outside the firm, a lawyer must make reasonable efforts to ensure that the
27 services are provided in a manner that is compatible with the lawyer's professional
28 obligations. The extent of this obligation will depend upon the circumstances, including the
29 education, experience and reputation of the nonlawyer; the nature of the services involved;
30 the terms of any arrangements concerning the protection of client information; and the legal
31 and ethical environments of the jurisdictions in which the services will be performed,

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1 particularly with regard to confidentiality. See also Rules 1.1 (competence), 1.2 (allocation of
2 authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4(a) (professional
3 independence of the lawyer), and 5.5(a) (unauthorized practice of law). When retaining or
4 directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate
5 under the circumstances to give reasonable assurance that the nonlawyer's conduct is
6 compatible with the professional obligations of the lawyer. Where an outside lawyer is
7 retained to provide nonlegal services, the lawyer should be treated like a nonlawyer assistant.
8 See also comment [9] to Rule 1.1.

9
10 [4] Where the client directs the selection of a particular nonlawyer service provider
11 outside the firm, the lawyer ordinarily should agree with the client concerning the allocation
12 of responsibility for monitoring as between the client and the lawyer. See Rule 1.2. When
13 making such an allocation in a matter pending before a tribunal, lawyers and parties may
14 have additional obligations that are a matter of law beyond the scope of these Rules.

15
16 Additional Washington Comment (5 3)

17
18 [5] ~~[3]~~ A nonlawyer for purpose of this Rule denotes an individual other than a lawyer or
19 an LLLT acting as such. For responsibilities regarding an LLLT associated with a lawyer,
20 see Rule 5.10. If a lawyer or an LLLT in a firm is providing services that do not require use
21 of the lawyer's or the LLLT's license, then lawyers at the firm should treat such a lawyer or
22 LLLT as a nonlawyer assistant under this Rule rather than as a subordinate lawyer under
23 Rule 5.1 or as an LLLT under Rule 5.10. See also Additional Washington Comment [9] to
24 Rule 1.1.

RULE 5.5

UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

25
26
27
28
29
30
31 (a) – (c) [Unchanged.]

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1 (d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction,
2 and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof,
3 may provide legal services in this jurisdiction that:

4 (1) are provided to the lawyer's employer or its organizational affiliates and are (i)
5 provided on a temporary basis and (ii) not services for which the forum requires pro hac vice
6 admission; and, when performed by a foreign lawyer and requires advice on the law of this or
7 another jurisdiction or of the United States, such advice shall be based upon the advice of a
8 lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

9 (2) are services that the lawyer is authorized to ~~provide~~ by federal law or other law or
10 rule to provide in of this jurisdiction.

11 (e) For purposes of paragraph (d), the foreign lawyer must be a member in good standing
12 of a recognized legal profession in a foreign jurisdiction, the members of which are admitted
13 to practice as lawyers or counselors at law or the equivalent, and are subject to effective
14 regulation and discipline by a duly constituted professional body or a public authority.

15 16 **Comment**

17
18 [1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to
19 practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may
20 be authorized by court rule or order or by law to practice for a limited purpose or on a
21 restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether
22 through the lawyer's direct action or by the lawyer assisting another person. For example, a
23 lawyer may not assist a person in practicing law in violation of the rules governing
24 professional conduct in that person's jurisdiction.

25
26 *****
27

28 [5] There are occasions in which a lawyer admitted to practice in another United States
29 jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide
30 legal services on a temporary basis in this jurisdiction under circumstances that do not create
31 an unreasonable risk to the interests of their clients, the public or the courts. Paragraph (c)

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1 identifies four such circumstances. The fact that conduct is not so identified does not imply
2 that the conduct is or is not authorized. With the exception of paragraphs ~~(d)(1) and (d)(2)~~,
3 this Rule does not authorize a U.S. or foreign lawyer to establish an office or other systematic
4 and continuous presence in this jurisdiction without being admitted to practice generally or as
5 house counsel under APR 8(f) here.

6
7 *****

8
9 [7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any
10 United States jurisdiction, which includes the District of Columbia and any state, territory or
11 commonwealth of the United States. Paragraph (d) also applies to lawyers admitted in a
12 foreign jurisdiction. The word “admitted” in paragraphs (c), (d) and (e) contemplates that the
13 lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and
14 excludes a lawyer who while technically admitted is not authorized to practice, because, for
15 example, the lawyer is on inactive status.

16 [8] **[Washington revision]** Paragraph (c)(1) recognizes that the interests of clients and
17 the public are protected if a lawyer admitted only in another jurisdiction associates with a
18 lawyer licensed to practice in this jurisdiction. For this paragraph to apply, however, the
19 lawyer admitted to practice in this jurisdiction must actively participate in and share
20 responsibility for the representation of the client. See also Rule 1.1, comment [6].

21
22 *****

23
24 [15] **[Washington revision]** Paragraph (d)(1) identifies ~~one~~ another circumstance in
25 which a lawyer who is admitted to practice in another United States or a foreign jurisdiction,
26 and is not disbarred or suspended from practice in any jurisdiction, or the equivalent thereof,
27 may provide legal services on a temporary basis i.e. as “in-house counsel” for an employer.
28 Paragraph (d)(2) identifies a circumstance in which such a lawyer may establish an office or
29 other systematic and continuous presence in this jurisdiction for the practice of law. ~~as well~~
30 ~~as provide legal services on a temporary basis.~~ Except as provided in paragraph (d)(2), a
31 lawyer who is admitted to practice law in another United States or foreign jurisdiction and

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1 who establishes an office or other systematic or continuous presence in this jurisdiction must
2 become admitted to practice law generally in this jurisdiction or as house counsel under APR
3 8(f). The Washington version of this comment has been amended to take account of the
4 requirement that in-house counsel wishing to engage in non-temporary practice in
5 Washington must either be generally admitted to practice under Admission and Practice Rule
6 3 or obtain a limited license to practice law as in-house counsel under Admission and
7 Practice Rule 8(f).

8
9 [16] Paragraph (d)(1) applies to a U.S. or foreign lawyer who is employed by a client to
10 provide legal services to the client or its organizational affiliates, i.e., entities that control, are
11 controlled by, or are under common control with the employer. This paragraph does not
12 authorize the provision of personal legal services to the employer's officers or employees.
13 The paragraph applies to in-house corporate lawyers, government lawyers and others who are
14 employed to render legal services to the employer. The lawyer's ability to represent the
15 employer outside the jurisdiction in which the lawyer is licensed generally serves the
16 interests of the employer and does not create an unreasonable risk to the client and others
17 because the employer is well situated to assess the lawyer's qualifications and the quality of
18 the lawyer's work. To further decrease any risk to the client, when advising on the domestic
19 law of a United States jurisdiction or on the law of the United States, the foreign lawyer
20 authorized to practice under paragraph (d)(1) of this Rule needs to base that advice on the
21 advice of a lawyer licensed and authorized by the jurisdiction to provide it.

22
23 [17] [**Washington revision**] In Washington, paragraph (d)(1) applies to lawyers who are
24 providing the services on a temporary basis only. If an employed lawyer establishes an
25 office or other systematic presence in this jurisdiction for the purpose of rendering legal
26 services to the employer, the lawyer must seek general admission under APR 3 or house
27 counsel admission under APR 8(f).

28
29 [18] Paragraph (d)(2) recognizes that a U.S. or foreign lawyer may provide legal services
30 in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or
31 other law, which includes statute, court rule, executive regulation or judicial precedent.

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1
2
3 **RPC 6.5**
4 **NONPROFIT AND COURT-ANNEXED**
5 **LIMITED LEGAL SERVICE PROGRAMS**
6

7 **Comment**

8
9 Additional Washington Comments (6 – 7)

10 *****

11 [7] Paragraph (a)(3) was taken from former Washington RPC 6.5(a)(3) as enacted in
12 2002. The replacement of "confidences and secrets" in paragraph (a)(3) with "information
13 relating to the representation" was necessary to conform the language of the Rule to a
14 terminology change in Rule 1.6. No substantive change is intended. See Comment [4921] to
15 Rule 1.6.
16

17 **RULE 7.1**

18 **COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**
19

20 A lawyer shall not make a false or misleading communication about the lawyer or the
21 lawyer's services. A communication is false or misleading if it contains a material
22 misrepresentation of fact or law, or omits a fact necessary to make the statement considered as
23 a whole not materially misleading.
24

25 **Comment**

26
27 *****

28 [3] An advertisement that truthfully reports a lawyer's achievements on behalf of clients
29 or former clients may be misleading if presented so as to lead a reasonable person to form an
30 unjustified expectation that the same results could be obtained for other clients in similar
31 matters without reference to the specific factual and legal circumstances of each client's case.
32 Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or

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1 fees of other lawyers may be misleading if presented with such specificity as would lead a
2 reasonable person to conclude that the comparison can be substantiated. The inclusion of an
3 appropriate disclaimer or qualifying language may preclude a finding that a statement is
4 likely to create unjustified expectations or otherwise mislead the public ~~a prospective client~~.

6 **RULE 7.2** 7 **ADVERTISING**

8
9 (a) – (c) [Unchanged.]
10

11 **Comment**

12
13 [1] To assist the public in learning about and obtaining legal services, lawyers should be
14 allowed to make known their services not only through reputation but also through organized
15 information campaigns in the form of advertising. Advertising involves an active quest for
16 clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's
17 need to know about legal services can be fulfilled in part through advertising. This need is
18 particularly acute in the case of persons of moderate means who have not made extensive use
19 of legal services. The interest in expanding public information about legal services ought to
20 prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk
21 of practices that are misleading or overreaching.

22
23 [2] This Rule permits public dissemination of information concerning a lawyer's name or
24 firm name, address, email address, website, and telephone number; the kinds of services the
25 lawyer will undertake; the basis on which the lawyer's fees are determined, including prices
26 for specific services and payment and credit arrangements; a lawyer's foreign language
27 ability; names of references and, with their consent, names of clients regularly represented;
28 and other information that might invite the attention of those seeking legal assistance.

29
30 [3] Questions of effectiveness and taste in advertising are matters of speculation and
31 subjective judgment. Some jurisdictions have had extensive prohibitions against television

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1 and other forms of advertising, against advertising going beyond specified facts about a
2 lawyer, or against “undignified” advertising. Television, the Internet, and other forms of
3 electronic communication are ~~is~~ now among one of the most powerful media for getting
4 information to the public, particularly persons of low and moderate income; prohibiting
5 television, Internet, and other forms of electronic advertising, therefore, would impede the
6 flow of information about legal services to many sectors of the public. Limiting the
7 information that may be advertised has a similar effect and assumes that the bar can
8 accurately forecast the kind of information that the public would regard as relevant.
9 ~~Similarly, electronic media, such as the Internet, can be an important source of information~~
10 ~~about legal services, and lawful communication by electronic mail is permitted by this Rule.~~
11 But see Rule 7.3(a) for the prohibition against the a solicitation of a prospective possible
12 client through a real-time electronic exchange initiated by the lawyer ~~that is not initiated by~~
13 ~~the prospective client.~~

14
15 [4] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as
16 notice to members of a class in class action litigation.

17 *Paying Others to Recommend a Lawyer*

18
19
20 [5] **[Washington revision]** Except as permitted under paragraphs (b)(1)-(b)(4), ~~l~~lawyers
21 are not permitted to pay others for recommending the lawyer’s services or for channeling
22 professional work in a manner that violates Rule 7.3. A communication contains a
23 recommendation if it endorses or vouches for a lawyer’s credentials, abilities, competence,
24 character, or other professional qualities. Paragraph (b)(1), however, allows a lawyer to pay
25 for advertising and communications permitted by this Rule, including the costs of print
26 directory listings, on-line directory listings, newspaper ads, television and radio airtime,
27 domain-name registrations, sponsorship fees, ~~banner ads,~~ Internet-based advertisements, and
28 group advertising. A lawyer may compensate employees, agents and vendors who are
29 engaged to provide marketing or client-development services, such as publicists, public-
30 relations personnel, business-development staff and website designers. Moreover, a lawyer
31 may pay others for generating client leads, such as Internet-based client leads, as long as the

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1 lead generator does not recommend the lawyer, any payment to the lead generator is
2 consistent with Rules 1.5(e) (division of fees) and 5.4 (professional independence of the
3 lawyer), and the lead generator's communications are consistent with Rule 7.1
4 (communications concerning a lawyer's services). To comply with Rule 7.1, a lawyer must
5 not pay a lead generator that states, implies, or creates a reasonable impression that it is
6 recommending the lawyer, is making the referral without payment from the lawyer, or has
7 analyzed a person's legal problems when determining which lawyer should receive the
8 referral. See also Rule 5.3 for the (duties of lawyers and law firms with respect to the
9 conduct of nonlawyers who prepare marketing materials for them); Rule 8.4(a) (duty to avoid
10 violating the Rules through the acts of another). For the definition of nonlawyer for the
11 purposes of Rule 5.3, see Washington Comment [3] [5] to Rule 5.3.

12
13 [6] **[Washington revision]** A lawyer may pay the usual charges of a legal service plan or
14 a not-for-profit lawyer referral service. A legal service plan is a prepaid or group legal
15 service plan or a similar delivery system that assists people who seek prospective clients to
16 secure legal representation. A lawyer referral service, on the other hand, is any organization
17 that holds itself out to the public as a lawyer referral service. Such referral services are
18 understood by the public laypersons to be consumer-oriented organizations that provide
19 unbiased referrals to lawyers with appropriate experience in the subject matter of the
20 representation and afford other client protections, such as complaint procedures or
21 malpractice insurance requirements. Consequently, this Rule only permits a lawyer to pay the
22 usual charges of a not-for-profit lawyer referral service.

23
24 [7] A lawyer who accepts assignments or referrals from a legal service plan or referrals
25 from a lawyer referral service must act reasonably to assure that the activities of the plan or
26 service are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service
27 plans and lawyer referral services may communicate with the public prospective clients, but
28 such communication must be in conformity with these Rules. Thus, advertising must not be
29 false or misleading, as would be the case if the communications of a group advertising
30 program or a group legal services plan would mislead the public prospective clients to think

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1 that it was a lawyer referral service sponsored by a state agency or bar association. Nor could
2 the lawyer allow in-person, telephonic, or real-time contacts that would violate Rule 7.3.

4 RULE 7.3

5 SOLICITATION OF ~~DIRECT CONTACT WITH PROSPECTIVE CLIENTS~~

6
7 (a) A lawyer shall not, directly or through a third person, by in-person, live telephone or
8 real-time electronic contact solicit professional employment from a ~~prospective~~ possible
9 client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain,
10 unless the person contacted:

11 (1) is a lawyer; or an LLLT or

12 (2) has a family, close personal, or prior professional relationship with the
13 lawyer; or

14 (3) has consented to the contact by requesting a referral from a not-for-profit lawyer
15 referral service.

16 (b) A lawyer shall not solicit professional employment from a ~~prospective~~ client by
17 written, recorded or electronic communication or by in-person, telephone or real-time
18 electronic contact even when not otherwise prohibited by paragraph (a), if:

19 (1) the target of the solicitation ~~prospective client~~ has made known to the lawyer a
20 desire not to be solicited by the lawyer; or

21 (2) the solicitation involves coercion, duress or harassment.

22
23 (c) – (d) [Unchanged.]
24

25 **Comment**

26
27 [1] A solicitation is a targeted communication initiated by the lawyer that is directed to a
28 specific person and that offers to provide, or can reasonably be understood as offering to
29 provide, legal services. In contrast, a lawyer's communication typically does not constitute a
30 solicitation if it is directed to the general public, such as through a billboard, an Internet

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1 banner advertisement, a website or a television commercial, or if it is in response to a request
2 for information or is automatically generated in response to Internet searches.

3 [24] There is a potential for abuse when a solicitation involves inherent in direct in-
4 person, live telephone or real-time electronic contact by a lawyer with someone a prospective
5 client known to need legal services. These forms of contact ~~between a lawyer and a~~
6 ~~prospective client~~ subject a person the lawyer to the private importuning of the trained
7 advocate in a direct interpersonal encounter. The person prospective client, who may already
8 feel overwhelmed by the circumstances giving rise to the need for legal services, may find it
9 difficult fully to evaluate all available alternatives with reasoned judgment and appropriate
10 self-interest in the face of the lawyer's presence and insistence upon being retained
11 immediately. The situation is fraught with the possibility of undue influence, intimidation,
12 and over-reaching.

13
14 [32] This potential for abuse inherent in direct in-person, live telephone or real-time
15 electronic solicitation ~~of prospective clients~~ justifies its prohibition, particularly since
16 lawyers have advertising and written and recorded communication permitted under Rule 7.2
17 ~~offer~~ alternative means of conveying necessary information to those who may be in need of
18 legal services. In particular, Advertising and written and recorded communications can which
19 may be mailed or autodialed or transmitted by email or other electronic means that do not
20 involve real-time contact and do not violate other laws governing solicitations. These forms
21 of communications and solicitations make it possible for the public a prospective client to be
22 informed about the need for legal services, and about the qualifications of available lawyers
23 and law firms, without subjecting the public prospective client to direct in-person, telephone
24 or real-time electronic persuasion that may overwhelm a person's the client's judgment.

25
26 [43] The use of general advertising and written, recorded or electronic communications to
27 transmit information from lawyer to the public prospective client, rather than direct in-
28 person, live telephone or real-time electronic contact, will help to assure that the information
29 flows cleanly as well as freely. The contents of advertisements and communications
30 permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and
31 may be shared with others who know the lawyer. This potential for informal review is itself

EXHIBIT D

1 likely to help guard against statements and claims that might constitute false and misleading
2 communications, in violation of Rule 7.1. The contents of direct in-person, live telephone or
3 real-time electronic contact ~~conversations between a lawyer and a prospective client~~ can be
4 disputed and may not be subject to third-party scrutiny. Consequently, they are much more
5 likely to approach (and occasionally cross) the dividing line between accurate representations
6 and those that are false and misleading.

7
8 [54] [Washington revision] There is far less likelihood that a lawyer would engage in
9 abusive practices against ~~an individual who is~~ a former client, or a person with whom the
10 lawyer has close personal or family relationship, or in situations in which the lawyer is
11 motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious
12 potential for abuse when the person contacted is a lawyer or an LLLT. Consequently, the
13 general prohibition in Rule 7.3(a) is not applicable in those situations. Also, paragraph (a) is
14 not intended to prohibit a lawyer from participating in constitutionally protected activities of
15 public or charitable legal-service organizations or bona fide political, social, civic, fraternal,
16 employee or trade organizations whose purposes include providing or recommending legal
17 services to its members or beneficiaries.

18
19 [65] But even permitted forms of solicitation can be abused. Thus, any solicitation which
20 contains information which is false or misleading within the meaning of Rule 7.1, which
21 involves coercion, duress or harassment within the meaning of Rule 7.3(b)(2), or which
22 involves contact with someone ~~a prospective client~~ who has made known to the lawyer a
23 desire not to be solicited by the lawyer within the meaning of Rule 7.3(b)(1) is prohibited.
24 Moreover, if after sending a letter or other communication ~~to a client~~ as permitted by Rule
25 7.2 the lawyer receives no response, any further effort to communicate with the recipient of
26 the communication ~~prospective client~~ may violate the provisions of Rule 7.3(b).

27
28 [76] This Rule is not intended to prohibit a lawyer from contacting representatives of
29 organizations or groups that may be interested in establishing a group or prepaid legal plan
30 for their members, insureds, beneficiaries or other third parties for the purpose of informing
31 such entities of the availability of and details concerning the plan or arrangement which the

EXHIBIT D

1 lawyer or lawyer's firm is willing to offer. This form of communication is not directed to
2 people who are seeking legal services for themselves. ~~a prospective client.~~ Rather, it is
3 usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal
4 services for others who may, if they choose, become prospective clients of the lawyer. Under
5 these circumstances, the activity which the lawyer undertakes in communicating with such
6 representatives and the type of information transmitted to the individual are functionally
7 similar to and serve the same purpose as advertising permitted under Rule 7.2.

8 ~~[87]~~

9 ~~[98]~~

10
11 Additional Washington Comments (~~910~~ – ~~1214~~)

12
13 ~~[109]~~

14 ~~[1110]~~

15 ~~[1211]~~

16 ~~[1312]~~

17
18 ~~[14] The phrase "prospective client" in Rule 7.3(a) has been replaced with the phrase~~
19 ~~"possible client" because the phrase "prospective client" has become a defined phrase under~~
20 ~~Rule 1.18 with a different meaning. This is a departure from the ABA Model Rule which has~~
21 ~~dispensed altogether with the phrase "from a prospective client" in this rule. The rule is not~~
22 ~~intended to preclude lawyers from in-person conversations with friends, relatives or other~~
23 ~~professionals (i.e. intermediaries) about other friends, relatives, clients or patients who may~~
24 ~~need or benefit from the lawyer's services, so long as the lawyer is not asking or expecting~~
25 ~~the intermediary to engage in improper solicitation. See RPC 8.4(a) which prohibits improper~~
26 ~~solicitation "through the acts of another". Absent limitation of prohibited in-person~~
27 ~~communications to "possible clients" there is a danger that lawyers might mistakenly infer~~
28 ~~that the kind of benign conversations with non-client intermediaries described above are~~
29 ~~precluded by this rule.~~

EXHIBIT D

RULE 8.5

DISCIPLINARY AUTHORITY; CHOICE OF LAW

(a) – (c) [Unchanged.]

Comment

Choice of Law

[5] When a lawyer’s conduct involves significant contacts with more than one jurisdiction, it may not be clear whether the predominant effect of the lawyer’s conduct will occur in a jurisdiction other than the one in which the conduct occurred. So long as the lawyer’s conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this Rule. With respect to conflicts of interest, in determining a lawyer's reasonable belief under paragraph (b)(2), a written agreement between the lawyer and client that reasonably specifies a particular jurisdiction as within the scope of that paragraph may be considered if the agreement was obtained with the client's informed consent confirmed in the agreement.

WASHINGTON STATE BAR ASSOCIATION

WSBA Entity Meeting with the Board of Governors – Discussion Guide –

WSBA Mission

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

Introduction

It is important that the WSBA Board of Governors [the Board] have a framework to facilitate an ongoing, constructive and evaluative dialogue with each WSBA entity. In addition to the annual report required by the Bylaws, the Board and Board Executive Committee¹ would like to meet with each entity on a rotating basis.

Each entity is asked to meet with the Board of Governors Executive Committee every year and join one full Board of Governors meeting every three years. The discussions with the Board Executive Committee are an opportunity to support and strengthen the collaboration, communication and support between the WSBA Board of Governors and the various entities, whether created to carry out the mission of the WSBA or by Court Rule.

For meeting with the Board of Governors, The discussion should focus on three areas, 1) overview of what the entity does and how it furthers the WSBA mission, 2) what the entity is currently working on and 3) how can the Board and/or WSBA provide support or assistance, if needed. The entity should anticipate questions from the full Board of Governors.

Entity Representatives

The current chair, staff liaison and BOG Liaison are invited to attend the meeting. If the current chair is unable to attend, an alternative representative should be designated. The chair may include additional members from the entity to be present and participate in the discussion.

Materials

¹ A BOG standing committee, the Board Executive Committee is comprised of the Immediate Past President, President, President-elect, Treasurer, Executive Director and one current Board member from each year.

2020-2021

The most recent annual report for the entity will be provided as materials for the discussion unless otherwise requested. Additional materials are welcome, but not required and should be kept to a reasonable minimum.

The Volunteer Engagement Advisor and staff liaison will communicate any material deadlines to ensure that materials are included in the Board meeting materials.

Discussion Topics & Questions

The below questions are intended to be a guide for the discussion. Board members and other attendees to the meeting may invite other topics and questions for discussion.

1. Please share with us an overview of the purpose of your entity and please reference any documents that support its purpose, authority, composition, etc. (e.g. Court rule, charter, Bylaw).
2. In what ways does your entity further the mission of the WSBA?
3. What projects and/or initiatives are you currently working on?
4. What are the long-term goals, if any, for this body of work?
5. How can the Board assist in your efforts and/or in addressing any barriers or areas of concern?

Notes

WASHINGTON STATE BAR ASSOCIATION

WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Name of Committee or Board:	Diversity Committee
Chair:	Laura Wulf and Governor Jean Kang
Staff Liaison:	Dana Barnett
Board of Governors Liaison:	n/a
Size of Committee:	14 (+4 BOG Members)
Direct Expenses:	\$21,250
Indirect Expenses:	\$52,047
Number of Applicants for FY21 <i>(October 1, 2020 – September 30, 2021)</i>	15
Purpose:	
The Washington State Bar Association’s Diversity Committee (Committee) is dedicated to implementing WSBA’s Diversity and Inclusion Plan. The work of the Committee promotes historically underrepresented groups to enter and stay in the profession of law.	
Strategy to Fulfill Purpose:	
The Diversity Committee fulfills its purpose through collaborative relationships and community building activities, which highlight the numerous societal benefits of a diverse law profession.	
2019-2020 Accomplishments and Work in Progress:	
<ol style="list-style-type: none"> 1. Hosted programs with students at UW Law School to assist them with their Diversity Fellowship applications, and to provide mentorship for students from underrepresented groups about entering the practice of law. 2. Advocated to ensure that Diversity, Equity and Inclusion and Access to Justice programming are part of the mandatory Bar to the Bar Structure Workgroup. 3. Increased the opportunities for interaction and collaboration between the WSBA Diversity Committee and MBAs by attending MBA annual events. 	

4. Continued to follow and support the passing of MCLE rule change proposal in collaboration with the MBAs and the MCLE Board.
5. Published pieces in NWLawyer that relate to Diversity, Equity, and Inclusion.
6. Continued to work with school programs and community partners to explore new avenues to support students and new and young lawyers from underrepresented groups.
7. Worked with the Board of Governors to amend the bylaw related to the election process for At-Large Governors.
8. Submitted a letter to the Board of Governors to provide recommendations in support of the WSBA taking an “inside out” approach to equity and inclusion.
9. Approved a proposal to redistribute funds unused by the Diversity budget, due to COVID-19, to create a grant for MBA scholarships.
10. Developed topics and presented CLEs in three diversity, equity and inclusion areas.

Please note: The Diversity Committee had several in-person programs scheduled with law schools, undergraduate programs and community organizations for the year, most of which were canceled due to COVID-19.

2020-2021 Goals:

1. Work with Law Schools and other educational partners to re-imagine partnerships and support for underrepresented students within the virtual sphere.
2. Review and make decisions on scholarships for the Judge Pro Tem CLE.
3. Work collaboratively with the WYLC and the Board of Governors to develop a process for At-Large Governors elections.
4. Revisit the bylaw definition of “diversity” and the roles and responsibilities of the At-Large diversity positions.
5. Support the MCLE rule change proposal regarding one mandatory ethics credit in elimination of bias.
6. Continue to support the WSBA in reaching its stated goals and commitments around diversity, equity and inclusion.
7. Work to increase participation and leadership of historically marginalized groups in WSBA volunteers, committees, and boards.

Please report how this committee/board is addressing diversity, equity and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

- 1) The committee is staffed by the Equity and Justice Program Manager, and the Equity and Justice Lead, both of whom have educational experience and expertise in diversity topics, both lead regular workshops and training with committee members throughout the year. This year we also conducted an equity assessment of our committee dynamics.

<ol style="list-style-type: none"> 2) We have integrated more group discussion and collaboration in decision making, as well as supported committee members with resources, tools and training to be confident ambassadors about the work of diversity and inclusion at WSBA. 3) Training, education and awareness building activities on diversity and inclusion are all consistent elements integrated in and throughout our meetings, events and programming. 4) All our programming and work is focused on these goals, the committee has also acted to support the Board of Governors in pursuing equity and inclusion goals. 									
<p>Please report how this committee/board is addressing professionalism: <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>									
<ol style="list-style-type: none"> 1) The Committee integrates and connects a focus on professionalism throughout its programming. The substantive content of workshops, seminars, etc. provide interpersonal and organizational skills necessary to support the professional development of attorneys. 2) The Committee seeks to educate the legal community on diversity issues through legal lunchboxes and town halls. 3) The Committee raises awareness of the consequences of unprofessional behavior that are rooted in personal bias and systemic inequity. 4) Committee members mentor new attorneys and students, advising on issues of professionalism. 									
<p>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work: <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>									
<ol style="list-style-type: none"> 1) We have new and young lawyers on our committee. 2) We offer WYLC members the opportunity to partner on our community networking events and to speak publicly to represent the committee. 3) This year we had members attend WYLC meetings and invited representatives to our meeting to discuss court dress code policy. 									
<p>Please report how this committee/board is addressing the needs of the public: <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>									
<p>The Diversity Committee invites community organizations and members of the public to attend our Community Networking Events. The committee sees acknowledges that the public are stakeholders in the work of equity in the legal profession and creates this opportunity for partnership, education, and dialogue with the public and the committee. This year we were unable to hold these events due to COVID-19.</p>									
<p>FY20 Demographics: To Be Completed by WSBA Staff</p> <table border="0"> <tr> <td>Gender:</td> <td></td> <td></td> </tr> <tr> <td>Female (11)</td> <td>Male (3)</td> <td>No Response (1)</td> </tr> <tr> <td>Transgender</td> <td>Two-spirit</td> <td>Multi</td> </tr> </table>	Gender:			Female (11)	Male (3)	No Response (1)	Transgender	Two-spirit	Multi
Gender:									
Female (11)	Male (3)	No Response (1)							
Transgender	Two-spirit	Multi							

Non-Binary	Not Listed
Ethnicity:	
American Indian/Native American/Alaskan Native (1)	Black/African-American/African Descent (3)
Asian (3)	Hispanic/Latinx (3)
Middle-Eastern Descent	Pacific Islander/Native Hawaiian
White/European Descent (4)	Multi-Racial/Biracial (1)
Not Listed (1)	No Response
Sexual Orientation:	
Asexual	Gay, Lesbian, Bisexual, Pansexual or Queer (3)
Two-Spirit	Heterosexual (9)
Multiple Orientations	Not Listed
No Response (4)	
Disability:	
Yes (1)	No (10)

WASHINGTON STATE BAR ASSOCIATION

WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Name of Committee or Board:	Washington Young Lawyers Committee
Chair:	Jordan Couch
Staff Liaison:	Julianne Unite
Board of Governors Liaison:	Russell Knight
Size of Committee:	18
Direct Expenses:	\$15,000
Indirect Expenses:	\$63,620
Number of Applicants for FY21 (October 1, 2020 – September 30, 2021)	6
Purpose:	
<p>The Washington Young Lawyers Committee (WYLC) derives its authority from the WSBA Bylaws, WSBA Board of Governors (BOG) Committees and Boards Policy, and WYLC Appointment Policy.</p> <p>Per Section XII.A of the WSBA Bylaws, the WYLC's purpose is to encourage the interest and participation of:</p> <ol style="list-style-type: none"> 1) new and young lawyers and law students in the activities of the WSBA; 2) developing and conducting programs of interest and value to new and young lawyers consistent with the focus areas of public service and pro bono programs, transition to practice, and member outreach and leadership; and upholding and supporting the Guiding Principles of the WSBA. 	
Strategy to Fulfill Purpose:	
<p>This year's focus on fulfilling the WYLC's purpose involves seven key areas:</p> <ol style="list-style-type: none"> 1. Outreach and communication; 2. Debt; 3. Public Service and Leadership; 4. Rural Practice Project; 	

5. Northwest Regional Summit;
6. ABA YLD Representation; and
7. PREP

The accomplishments and FY20 goals outlined in this document reflect how the work of the WYLC addresses these priorities and fulfills the purpose of the WYLC. These priorities are focused on the four key areas identified in the November 2014 new lawyer survey and July 25, 2015 Generative Discussion of the BOG with the WYLC for key issues facing new and young lawyers: Employment, Debt, Community, and Leadership.

This year, the WYLC replaced subcommittees with project teams to address discrete issues. Project team members may involve constituents who are not members of the WYLC to help accomplish the project team goals.

2019-2020 Accomplishments and Work in Progress:

2019-2020 Goals:

Outreach and Communication

1. The WYLC tasked a specific member, Past Chair Kim Sandher, with keeping social media accounts updated with content to inform the public of the WYLC’s activities.
2. Unfortunately, COVID-19 impacted the WYLC’s ability to host socials/events/mixers as originally planned. Planned socials in Pierce County and Skamania were cancelled and no further socials are being planned until Washington’s phased approach progresses. Meetings have taken place virtually via Zoom.

Debt

1. The debt project team presented a Loan Repayment Assistance Program (LRAP) bill to the WYLC. The WYLC voted to forward the bill to the WSBA’s legislative affairs team. WYLC Chair-elect Brian Neuharth is currently identifying and reaching out to stakeholders for additional input.
2. The debt project team is researching alternative approaches to addressing debt, including income share agreements. The project team generally has met in alternating months to discuss findings.

Public Service and Leadership

1. The Public Service and Leadership Award (PSLA) exists to connect and recognize new and young lawyers that demonstrate values of public service and leadership. The WYLC received several applications and voted to honor four new or young lawyers this year with the PSLA. Current WYLC At-large member, and incoming Chair-elect Emily Ann Albrecht will write an article about the PSLA recipients for and upcoming Washington State Bar News issue.
2. WYLC Chair Jordan Couch was recognized as the WSBA Outstanding Young Lawyer APEX Award recipient this year.

Rural Practice Project

1. WYLC Access to Justice (ATJ) and Rural Recruitment and Retention (RRR) project team, led by WYLC member Alixanne Pinkerton, met with the BOG’s rural practice project stakeholders and staff regarding the results of their contacts with rural practitioners in Washington State.
2. The WSBA requested the WYLC to assist with research gathering for the rural practice project. WYLC will assist with a specific focus on what will help new and young lawyers in underserved rural areas. WYLC can connect with other groups who are already researching or involved with rural community outreach, to gain information helpful to the issue of legal access in rural communities in Washington State. WYLC could help identify who those entities are that WSBA should be connecting with who have information helpful to the rural practice project.

Northwest Regional Summit

1. After researching possibilities and value, the WYLC chose not to co-host the Northwest Regional Summit in partnership with the Oregon New Lawyers Division in 2020.
2. Instead of a summit, the WYLC is working on establishing ongoing relationships with new and young lawyers in Oregon, Idaho, Montana, and South Dakota to collaborate on addressing the legal needs of rural areas.

ABA YLD Representation

1. The WYLC continued to provide the ABA YLD Meeting Scholarships for new and young lawyers attending ABA meetings as delegates. No delegate spots went unfilled, maximizing Washington’s voting power. Scholarship recipients reported to the WYLC regarding their experiences and identified additional ABA opportunities of value to new and young lawyers.
2. Current WYLC At-large member and incoming Chair-elect Emily Albrecht served as the ABA YLD District Representative for Washington and Oregon.
3. Due to the WYLC’s work this past year, the WYLC was acknowledged as an ABA YLD “Star Affiliate” at the ABA Annual Meeting this summer, which recognizes young lawyers who go above and beyond the YLD, the legal profession, and/or the community on a national scale.

Preadmission Education Program (PREP)

1. The WYLC successfully worked with the WSBA in developing PREP materials.

2020-2021 Goals:

1. Debt – The WYLC will continue to coordinate with the WSBA’s legislative affairs team in the hopes of having the LRAP bill considered in Olympia. Should there be delays in either presenting the bill or the bill actually being passed, the debt project team hopes present recommendations to the WYLC regarding Income Share Agreements. The project team also seeks to identify at least one new mechanism to address debt issues for research. The project team will review the need for a 2021 Financial Focus Series to help educate young lawyers. The need for a new installment will depend on identifying a new topic that has not been previously addressed.
2. PSLA — The WYLC will award four PSLAs to new or young lawyers and write an article for the *Washington State Bar News* magazine highlighting the impact of the new lawyer’s work in the community.
3. ATJ/RRR— The WYLC will work on establishing ongoing relationships with new and young lawyers in Oregon, Idaho, Montana, and South Dakota to collaborate on addressing the legal needs of rural areas. The WYLC hopes to become involved in the Western States Bar Conference next year to better connect with rural states and collaborate on solutions. The WYLC will also continue contributing to the WSBA’s rural practice project with research.
4. Outreach and Communication—It is vital to connect new and young lawyers with WSBA programs, services, and activities. To accomplish this, the WYLC plans to:
 - a. Work on a stronger social media presence by liking, posting, and sharing relevant content and WSBA posts with their new and young lawyer social networks. The WYLC is exploring if new social media platforms are needed to better reach its intended audience as user preferences change over time.
 - b. When Covid-19 phase guidance permits, the WYLC will resume focusing on developing in-person outreach/communications/events/mixers in partnership with WYLC regional representatives and local bar association young lawyer divisions.
 - c. Determine the best way of distributing a calendar of new lawyer regional events for the year to new admittees.
5. ABA YLD representation – The WYLC’s budget for the next fiscal year provided more funding for ABA YLD scholarships to defray the costs of attending and ensure a full delegation is sent to every meeting. As long as Covid-19 restrictions remain in place, meetings are taking place virtually and scholarships may not be necessary.

<p>Please report how this committee/board is addressing diversity, equity and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<ol style="list-style-type: none"> 1) A WSBA new member survey included demographic information to help the WYLC understand its constituency. 2) The WYLC is currently working on a proposed amendment regarding dress codes for in court appearances. WYLC members reached out to the WSBA Diversity Committee and they are supportive. The proposal has been submitted the WSBA for formal approval and submission to the Court. 3) WYLC members brought up the ABA’s Embracing Diversity Challenge Award. Sponsored by the ABA YLD, the Challenge recognizes and awards top young lawyer organization programs that increase diversity in the legal profession.
<p>Please report how this committee/board is addressing professionalism: <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> 1) The WYLC regularly invites speakers to educate WYLC members and guests on various topics so that members have the information they need. 2) The WYLC is on-boarded to understand WSBA communication norms, values, and conflict resolution expectations. Over the course of the year, the WYLC has continued to discuss the value of following the communication norms and consequences of failing to do so. We’ve focused on social media and closer interaction with the BOG. Unfortunately, WYLC was unable to meet with the BOG at Skamania due to Covid-19. 3) As above, the WYLC is currently working on a proposed amendment regarding dress codes for in court appearances.
<p>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work: <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<ol style="list-style-type: none"> 1) The WYLC is entirely made up of new and young lawyers. 2) Yes, the WYLC focuses entirely on these topic areas.
<p>Please report how this committee/board is addressing the needs of the public: <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>
<ol style="list-style-type: none"> 1) The public has interest in having competent representation. As new and young lawyers come in, the WYLC helps those lawyers navigate through difficult issues. 2) We have a project team dedicated to access to justice. 3) We have been using our Facebook page to interact with the public and make young lawyers more accessible to young lawyers.

- 4) The WYLC continues to explore ways to include community involvement either by attending meetings or inviting them to come to events.
- 5) The WYLC encourages all new and young lawyers to participate in public service.

FY20 Demographics: To Be Completed by WSBA Staff

Gender:

Female (9)

Transgender
Non-Binary

Male (5)

Two-spirit
Not Listed

No Response (4)

Multi

Ethnicity:

American Indian/Native American/Alaskan
Native

Black/African-American/African Descent (1)

Asian (1)

Middle-Eastern Descent

Hispanic/Latinx (1)

Pacific Islander/Native Hawaiian

White/European Descent (11)

Not Listed (1)

Multi-Racial/Biracial (2)

No Response (2)

Sexual Orientation:

Asexual
Two-Spirit
Multiple Orientations
No Response (11)

Gay, Lesbian, Bisexual, Pansexual or Queer (2)

Heterosexual (5)

Not Listed

Disability:

Yes

No (14)

WASHINGTON STATE BAR ASSOCIATION

TO: WSBA Board of Governors
 FROM: Brian Tollefson, WSBA President-elect
 RE: 2021 - 2022 Committee & Board Chair Appointments
 DATE: June 31, 2021

Action: Please appoint the 2021-2022 WSBA committee and board chairs listed below.

The WSBA has a number of standing committees that are created and authorized by the BOG to study matters relating to the general purposes and business of the Bar which are of a continuous and recurring character. Pursuant to the WSBA Bylaws, IX(B)(1)(c), the President-elect annually selects the Chair or Vice Chair of each committee, with the BOG having the authority to accept or reject that selection. Below is my proposed slate of WSBA committee chairs for the 2021-2022 year. The candidates' resumes are attached. All eligible members of the committees listed below were encouraged to apply for the Chair position. Additional Chair appointments forthcoming.

Committee/Board	Recommended for Appointment
Character and Fitness Board	Chair: Michael Morguess* Vice-chair: Jennifer Taylor
Client Protection Board	Chair: Carrie Umland**
Committee on Professional Ethics	Chair: Pam Anderson**
Court Rules & Procedures Committee	Chair: Isham Reavis**
Editorial Advisory Committee	Chair: Drew Pollom
Law Clerk Board	Chair: Emily Rose Mowrey
Legislative Review Committee	Chair: Brian Considine**
Pro Bono and Public Service Committee	Co-chair: Bonnie Rosinbaum** Co-chair: Michael R. Addams

* Moving up from Vice-chair position

** Reappointment

Jennifer J. Taylor

[REDACTED]

[REDACTED]

[REDACTED]

June 1, 2021

Washington State Bar Association
ATTN: President-elect Brian Tollefson
1325 Fourth Avenue, Ste. 600
Seattle, WA 98101-2539
Email: barleaders@wsba.org

Re: WSBA Character and Fitness Board Vice-Chair 2021-2022

Dear President-elect Tollefson:

This letter is to express my interest in serving as Vice-Chair of the Character and Fitness Board for the upcoming 2021-2022 year. I have had the pleasure of serving as a Board member since September 2020 and have had the privilege of working with the current Chair, Knowrasa Patrick, and Vice-Chair, Michael Morguess. The work of the Board is critical, not only to ensure the protection of the profession, but also to treat the applicants fairly and respectfully.

I have been an active WSBA member in good standing since 1996. The bulk of my professional career has been as an attorney in the public sector. The Character and Fitness Board provides an opportunity to give back to the profession, and I look forward to continuing this service. I am a good candidate to provide leadership to the Character and Fitness Board. I had the privilege of serving on the Pierce County Personnel Board for eight years, as indicated on my resume, and for nearly six of those years, I served as Chair of the Board, presiding over disciplinary hearings and other designated matters. The skills and qualifications I have developed will, I hope, be of value to the Character and Fitness Board. Additionally, I served as legal advisor to the City of Tacoma Civil Service Board for eleven years, during which I authored numerous findings and conclusions for that board based on the evidentiary record. In short, I believe I would serve the Board well as Vice-Chair in 2021-2022. I sincerely appreciate your consideration for the position and I thank you for the opportunity to enhance my service to WSBA.

Very truly yours,

Jennifer Taylor
Jennifer J. Taylor
WSBA #26607

Encl.

12/96 to 04/97

Contract Attorney

Law Offices of Jeffrey A. Robinson – Gig Harbor, Washington

- ◆ Researched property law issues and prepared related memoranda.
- ◆ Met regularly with clients to identify needs and objectives in pending cases, and then developed those objectives into trial strategies.
- ◆ Second-chaired successful civil suit on behalf of client suing homeowners association for violation of covenant terms.

12/96 to 04/97

Contract Attorney

Law Offices of Steve Callson – Tacoma, Washington

- ◆ Prepared documents for real-estate attorney in residential and commercial real-estate matters.
- ◆ Researched and investigated title disputes.

EDUCATION

Seattle University School of Law – Tacoma, WA

Juris Doctorate Degree, 1996

Admitted to the Washington State Bar Association in 1996.

University of Northern Colorado – Greeley, CO

Bachelor of Arts Degree, Political Science, 1993

ADMISSIONS & ASSOCIATIONS

- ◆ Puyallup Nation Tribal Court
- ◆ Tacoma-Pierce County Bar Association
- ◆ United States District Court, Western District of Washington
- ◆ Washington Defense Trial Lawyers
- ◆ Pierce County Personnel Board
 - ◇ Board member, 2009-2017
 - ◇ Presiding Chair, 2012-2017
- ◆ Washington State Bar Association Character and Fitness Board, 2020-present
- ◆ United States Court of Appeals, Ninth Circuit
- ◆ Washington State Bar Association
- ◆ Washington Women Lawyers Association
 - ◇ Board member, 2003-2012
 - ◇ Co-President, Pierce County Chapter, 2005
 - ◇ Judicial Evaluations Committee, present

Paris Eriksen

From: Carrie Umland <Carrie@palacelaw.com>
Sent: Wednesday, May 12, 2021 8:31 PM
To: Bar Leaders
Subject: Client Protection Board Chair
Attachments: 2020 Resume.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Greetings Bar Leaders:

I am applying for the Chair of the Client Protection Board. I have served on this committee since 2014 and had the honor of chairing it this last year. I would like to continue being the chair. I love participating in the important work this committee does for the community.

I would be honored to chair this Board next year.

Thank you for your consideration,

Carrie Umland

CAUTION: This is an EXTERNAL email. DO NOT open attachments or click links from UNKNOWN senders or in UNEXPECTED emails.

CARRIE D. UMLAND

Professional Summary

Persuasive litigator providing legal counsel and representation to injured people. Skilled in fostering positive and trusting client relationships. Well-established knowledge of civil law and years of obtaining the best results for clients.

Skills

- Litigation Strategy and Management
- Client Advocacy and Trial Preparation
- Legal Research & Documentation
- Legal Research & Documentation
- State & Federal Court Trials
- Reliable and Detail Oriented

Work History

PALACE PERSONAL INJURY LAW GROUP – University Place, WA

Personal Injury Department Manager, 2012 to Current

- Lead team that provides compassionate and efficient case management and resolution.
- Represent clients injured in automobile collisions, construction site injuries, premises liability, and dog bites.
- Experienced in the development and implementation of pre-litigation processes and litigation discovery plans, motions practice, and resolution by negotiation, ADR, or trial.

GRAHAM LUNDBERG PESCHEL P.S – Seattle, WA

Associate Attorney, 2005 to 2012

- Represent clients injured in automobile collisions, construction site injuries, premises liability, and dog bites.
- Experienced in the development and implementation of pre-litigation and litigation discovery plans, motions practice, and resolution by negotiation, ADR, or trial.

Earlier Positions

PLANCO FINANCIAL SERVICES/HARTFORD LIFE

Regional Marketing Director, 2000 to 2005

DAVID H. MIDDLETON & ASSOCIATES, P.S – Federal Way, WA

Associate Attorney, 1998 to 2000

DAVID A. LARSON, P.S., – Federal Way, WA

Associate Attorney, 1995 to 1998

Education & Credentials

Juris Doctor -- SEATTLE UNIVERSITY SCHOOL of LAW, 12/1994

Washington Bar Admission – June 1995 WSBA #24949

Affiliations

- WSBA Client Protection Fund Board Chairperson
- WSAJ Judicial Relations Committee
- WSAJ Insurance/PIP Committee
- Cascade Bicycle Club Board of Directors
- WA Bikes Board of Directors

MEMORANDUM

TO: Board of Governors of the Washington State Bar Association

FROM: Pamela H Anderson

RE: Interest in Serving on Committee on Professional Ethics

DATE: June 1, 2021

I am writing to express my interest in serving as Chair of the Committee on Professional Ethics (CPE), for a second year, commencing on October 1, 2021.

I am currently in my third year of my first term on the Committee, having previously served as a member of the Client Protection Fund Board, the Character and Fitness Board, and the Rules of Professional Conduct Committee. I have been the Chair of the CPE for the past year and have applied to be reappointed to the CPE.

Despite meeting by ZOOM for the past year, the CPE has had a productive year, recommending amendments to RPCs 1.7, 1.11, 1.13, 1.15A, and 1.16, and continuing its work on various other inquiries from the Board of Governors or members of the WSBA. The CPE is fortunate to receive fantastic support from WSBA staff --Jeanne Marie Clavere, Darlene Neumann, and Kirsten Schimpff. It has been a pleasure to work with all of them, especially during my term as Chair.

While I have an interest in serving as Chair for another year, to provide continuity and shepherd some pending projects to completion, I have also reached out to other members of the CPE to ascertain their interest in assuming the leadership position. The CPE is fortunate to have several experienced members. If other members step forward, I will be happy to provide input about their role on the CPE during the past year, and step aside as Chair.

Pamela H Anderson

3117 Capitol Boulevard, Olympia, WA 98501

253 691 3081

pandapara@comcast.net

RELEVANT WORK EXPERIENCE

1998-2018-Washington State Attorney General's Office

Torts Division Chief, 2013-2018; Counsel to Department of Health, Medical Quality Assurance Commission, Life Sciences Discovery Fund, 2006-2013; Counsel to Social and Health Services, 1998-2006

- Member, Attorney General's Office Ethics Committee, 2004-20018, Co-Chair, 2013-2018
- Co-Chair, Task Group on Health Information Portability and Accountability Act (HIPAA)
- Member, Electronic Discovery Task Group
- Member, Task Group for Model Rules for Public Disclosure Act

1982-1990, Associate, Shaw Pittman Potts and Trowbridge, Washington, D.C.

1980-1981, Judicial Clerkship, Hon. Ellsworth A. Van Graafeiland, United States Court of Appeals for the Second Circuit

EDUCATION

J.D., magna cum laude, University of Georgia School of Law 1981

B.S., Biology, University of Georgia 1977

SERVICE FOR WSBA

Current Member: Committee on Professional Ethics, Ad Hoc Committee to Investigate Alternatives to Mandatory Malpractice Insurance

Prior Member: Client Protection Fund Board, Character and Fitness Board, Rules of Professional Conduct Committee

June 4, 2021

Sent by email

President Elect Brian Tollefson
Washington State Bar Association
1325 Fourth Avenue #600
Seattle, WA 98101

Re: Court Rules & Procedures Committee Chair

Dear President-Elect Tollefson:

Please accept my request to be appointed for a second term as chair of WSBA's Court Rules & Procedures Committee. I've enclosed a current resume for your consideration.

It's been my privilege to oversee the Committee during its work over the year. As a group we've considered, debated, and recommended many changes, including a thorough overhaul of gendered language in the civil rules for courts of limited jurisdiction. I look forward to working with the Board of Governors and the Committee next year.

Thank you, and please don't hesitate to let me know (at isham@aokilaw.com or 
) if you have any questions.

Sincerely,



Isham M. Reavis

Enclosure

Isham M. Reavis

isham@aokilaw.com | [REDACTED]

Legal AOKI LAW PLLC

Experience Associate Attorney, Oct. 2012–present. Conduct criminal and civil litigation in federal district court, state district and superior court, and municipal court. Handle primarily criminal caseload in all stages from pretrial investigation to post-trial motions. Assist retained counsel, and CJA attorneys by court appointment, in organization and review of discovery in complex federal criminal cases.

COSTELLO & ASSOCIATES, PLLC

Contract Legal Research & Writing Assistant, Sept.–Oct. 2012. Conduct legal research on federal criminal law; draft motions and supporting briefs for federal court.

ZULAUF & CHAMBLISS LAW OFFICES

Contract Legal Research Assistant, Sept. 2012. Conduct research and draft memoranda on state criminal case law.

Internships & Externships OFFICE OF THE FEDERAL PUBLIC DEFENDER, WESTERN DISTRICT OF WASHINGTON: Intern, Summer 2011

THE HON. MARSHA J. PECHMAN, U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON: *Judicial extern, Winter 2011*

FEDERAL TRADE COMMISSION, NORTHWEST REGION: *Intern, Spring 2011*

ASSOCIATED COUNSEL FOR THE ACCUSED: *Volunteer intern at King County, Washington public defense firm, Summer 2010*

Education UNIVERSITY OF WASHINGTON: J.D. 2012, *Washington Law Review, Managing Editor*
UNIVERSITY OF CALIFORNIA, DAVIS: B.A. 2008, *Studio Art*

Organizations & Activities WASHINGTON STATE BAR ASSOCIATION, Court Rules Committee: Member, 2018–present; Chair 2020–present

WASHINGTON STATE BAR ASSOCIATION, Editorial Advisory Committee: Member, 2013–17; Chair, 2015–16

KING COUNTY BAR ASSOCIATION, Judiciary & Litigation Committee: Member, 2013–present; Co-Chair, 2019–present

WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS: *Member, 2012–present*

AMERICAN BAR FOUNDATION: *Fellow, 2017–present*

Selected Publications *Prestige and Punishment: The Fuzzy World of White-Collar Crime and Where It's Headed*, NWLAWYER, May 2019, at 38

Comes Now the Plaintiff, John Doe, NWLAWYER, Nov. 2017, at 16

Footing the Bill for White-Collar Defendants: Liability Insurance and Indemnification in Corporate Criminal Defense, NWLAWYER, Nov. 2016, at 39

Procrustes in Municipal Court: When City Prosecutions Don't Measure Up, NWLAWYER, Feb. 2016, at 17

Driving Dangerously: Vehicle Flight and the Armed Career Criminal Act After Sykes v. United States, 87 WASH. L. REV. 281 (2012)

Selected Presentations WSBA CLE: Keeping Ethical in a Technical World (2019): *Chair*

WSBA CLE: Competence, Security, and E-Litigation (2019): *Presenter*

WSBA CLE: Social Media, Cloud Computing, and Ethics (2016): *Presenter*

Escalating Cost of Civil Litigation Task Force Panel Presentation: Early Mediation Recommendations (2015): *Panelist*

Paris Eriksen

From: Kirsten Abel
Sent: Tuesday, June 15, 2021 3:51 PM
To: Paris Eriksen
Subject: RE: Update: Chair (Appointed by WSBA) Applications

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Paris,

The Editorial Advisory Committee doesn't expect any other chair applications (our one applicant is Drew Pollom). The committee recommends that Drew be appointed chair of the EAC. He will be a second-term member and has been a regular and valuable contributor to the magazine and to discussions regarding content and policies in the magazine for the last two years.

If you need any other information from me, let me know.

Thanks!



Kirsten Abel | Washington State Bar News Editor

Washington State Bar Association | 206.239.2127 | kirstena@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org

Preferred pronouns she/her

The WSBA is committed to full access and participation by persons with disabilities.

If you have questions about accessibility or require accommodation please contact adamr@wsba.org.

COVID 19: Most WSBA employees are working remotely; click here for more information and resources.

From: Paris Eriksen <parise@wsba.org>
Sent: Monday, June 7, 2021 4:40 PM
To: Gus Quiniones <gusq@wsba.org>; Renata Garcia <renatag@wsba.org>; Ramana Pendyala <ramanap@wsba.org>; Kyle.Sciuchetti@MillerNash.com; Jeanne Marie Clavere <jeannec@wsba.org>; Darlene Neumann <darlenen@wsba.org>; Diana Singleton <dianas@wsba.org>; Kirsten Abel <kirstena@wsba.org>; Sanjay Walvekar <Sanjayw@wsba.org>; Shanthi Raghu <shanthir@wsba.org>; Nicole Gustine <nicoleg@wsba.org>; Katherine Skinner <Katherines@wsba.org>; Tyler Washington <Tylerrw@wsba.org>
Subject: Update: Chair (Appointed by WSBA) Applications
Importance: High

Staff Liaisons,

You are receiving this email because your entity has a chair or vice chair position that is appointed by the WSBA (President-elect Brian Tollefson). Below is the status of each entity.

1. Please let me if you anticipate an application coming in for your entity.

2. Please let me know if I have this incorrect.
3. Please let me know if your entity has a recommendation or information for President-elect Tollefson to consider when making appointments, please let me know.

A reminder: the appointments will be final after Board approval at the upcoming July Board meeting.

Entity	Name of Applicant, Position
Board of Bar Examiners	No application received to date
Character & Fitness Board	Jennifer Taylor, Vice-Chair
Client Protection Board	Carrie Umland, Chair
Committee on Professional Ethics	Pam Anderson, Chair
CLE Committee	No application received to date
Court Rules & Procedures Committee	Ken Henrikson, Chair Isham Reavis, Chair
Diversity Committee	No application received to date
Editorial Advisory Committee	Drew Pollom, Chair
Judicial Recommendation Committee	No application received to date
Law Clerk Board	Emily Rose Mowrey, Chair
Legislative Review Committee	Ken Henrikson, Chair
Pro Bono & Public Service Committee	Bonnie Rosinbaum, Co-Chair Michael Addams, Co-Chair

If you have any questions, let me know!

Paris



Paris A. Eriksen | Volunteer Engagement Advisor | Office of the Executive Director

I am working remotely.

Washington State Bar Association | parise@wsba.org

1325 Fourth Avenue #600 | Seattle, WA 98101-2539 | www.wsba.org

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DREW POLLOM

• WSBA #49632

June 7, 2021

Members of the WSBA Nomination Committee:

I am excited to apply for the Chair of the Editorial Advisory Committee. I have enjoyed my time on the EAC helping direct the Bar News that can managed to achieve three goals: 1) provide relevant and useful information for members in their practice, 2) find interesting stories in the legal field, and 3) celebrate our members.

I believe that my values and experience would make a good fit to lead the EAC through the next two years.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Drew Pollom". The signature is written in black ink and is positioned below the typed name.

Drew Pollom

EDUCATION

University of Washington School of Law

LL.M. Sustainable International Development, Indigenous Rights Concentration (2018)

Seattle University School of Law Juris Doctor, *Cum Laude* and Order of the Barristers (2015)

Gonzaga University Bachelor of Arts, *Cum Laude*, Political Science & Criminal Justice (2011)

LEGAL EXPERIENCE

Lummi Nation, Bellingham, WA | Staff Attorney, June 2020 - Present

Advises the Lummi Indian Business Council and provides legal services to the Education Division, Lummi Nation Housing Authority, and Lummi Nation Police Department. Drafts resolutions, code revisions, internal policies and procedures for the Nation, and participates in federal administrative litigation. Counsels the Trespasser Working Group, Lummi Education Committee, Housing Commission, and Law and Justice Commission. Assists with training new staff attorneys and wrote a training manual. Writes letters to federal agencies on behalf of the Nation.

Deputy Tribal Prosecutor, January 2019 - Present

Represents the Lummi Nation in all traffic and natural resource infractions as well as criminal matters, juvenile delinquency, and exclusions. Represents the Lummi Nation in Lummi Tribal Court from bail setting through the post-adjudication stages of criminal and civil proceedings, including Healing to Wellness Drug Court . Worked with Natural Resource Commission to address concerns of the Lummi fishing community.

Staff Attorney I- Indian Child Welfare, February 2017 - December 2018

Represented the Lummi Nation in all dependency matters. Writing included extensive preparation of orders, motions, and declarations. Role included working closely with Lummi Child Welfare and individual social workers in determining the best interests of Lummi children. Collaborated with the child’s individual service providers, the Child Consultation Team, and the Grandparents Committee to provide best outcomes for Lummi families.

Hoopa Valley Tribe | Contract Victims of Crime Attorney, January - December 2019

Provided legal services to individual victims of domestic violence, as well as developed new policies and procedures for the Hoopa Valley Tribe Advocacy Program, and helped manage the grant funding the program.

Perkins Coie, Seattle, WA | ESS Discovery Services and Review Attorney, June 2016 - Feb 2017

Working within the E-Discovery Services & Strategy team, reviewed documents at the center of commercial litigation for confidential or privileged information. Ensured compliance with court-ordered discovery in pending litigation, while protecting the privacy and legal rights of our clients.

Tulalip Tribes of Washington, Marysville, WA | Staff Attorney October 2015 - June 2016

Worked for the Chief Judge of the Tulalip Tribal Court and conducted legal research and produced bench memos.

PROFESSIONAL EXPERIENCE

Publications: *Killing the Policy to Save the Child: Comparing the Historical Removal of Indigenous Children in Australia to the United States and How the Countries Can Learn from Each Other*, 4 Am. Indian L.J. 252 (2016); *Betting Against the House: Santa Ysabel and the Lessons Learned in Indian Gaming*, WBSA Indian Law Newsletter Summer 2016, *The Wide Reach of Indian Law*, April/May 2020 issue of NW Lawyer

Affiliations: NW Indian Bar Association; At-Large Executive Committee member, WSBA Indian Law Section

Certifications: National Institute on the Prosecution of Domestic Violence in Indian County, March 2019

Jurisdictions: Puyallup Tribe of Indians, Tulalip Tribes, Lummi Nation, Hoopa Valley Tribe

Paris Eriksen

From: Emily Rose Mowrey [REDACTED]
Sent: Saturday, May 8, 2021 7:51 AM
To: Bar Leaders
Cc: Ben Phillabaum; Katherine Skinner
Subject: Law Clerk Board Chair Application
Attachments: Emily Mowrey Resume for Law Clerk Board Chair Position.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear WSBA Board of Governors:

I have been honored to serve on the Law Clerk Board since 2017 and it has been a pleasure to help oversee the APR 6 Program during that time. As a former APR 6 Clerk, I feel strongly that this Program is an extremely valuable part of the WSBA and I appreciate the opportunity to help grow and develop the Law Clerk Program as well as helping applicants to succeed and become contributing members of WSBA.

This coming year will be my final year on the Law Clerk Board and it would be wonderful to have the opportunity to Chair the Board during this final part of my term of service. I am grateful to have the support of my fellow Board Members in pursuing this appointment.

I appreciate your consideration of my application to Chair the Law Clerk Board this coming year. I have attached my resume for your consideration as well. Please don't hesitate to ask if there is any other information I can provide in support of my application.

Emily Rose Mowrey

Attorney at Law

Limitless Law PLLC

www.limitlesslaw.com

1313 E. Maple Street, Suite 400

Bellingham, Washington 98225

Phone: (360) 685-0145

Fax: (888) 262-4167

Email: [REDACTED]

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Emily Rose Mowrey

1313 E. Maple St, Ste 400 ♦ Bellingham, WA 98225 ♦ [REDACTED]
www.limitlesslaw.com ♦ Phone: (360) 685-0145 ♦ Fax: (888) 262-4167

AREAS OF EXCELLENCE

Experienced Litigator & Legal Writer

- ♦ Compose complex contracts including settlement agreements, purchase/sale contracts & corporate mergers
- ♦ Draft estate planning documents - wills, living & testamentary trusts, powers of attorney & living wills
- ♦ Create pleadings, from Notices of Appearance to Interrogatories & Motions for Summary Judgment
- ♦ Craft schedules for Chapter 7 & 13 bankruptcy filings; represent debtors in Federal Bankruptcy Court
- ♦ Facilitate real estate transactions: leases, deeds, sale agreements, easements, deeds of trust & promissory notes
- ♦ Originate & file a full range of probate documents, including TEDRA Petitions & Agreements

Skilled Negotiator

- ♦ Intervene with creditors to settle debts for 15 to 20 cents on the dollar & resolve unfair mortgage contracts
- ♦ Prepare discovery responses & trial preparation for jury trials & depositions
- ♦ Appear in court to gain entry of probate cases & agreed orders

Community Leader

- ♦ Selected as a Super Lawyers “Rising Star” for 2020 and 2021
- ♦ Washington State Bar Association Law Clerk Program Board, 2017-2022
- ♦ Bellingham Roller Betties roller derby league Board of Directors, 2018-2019
- ♦ Bellingham/Whatcom Chamber of Commerce Young Professional of the Year, 2015
- ♦ President, Washington Women Lawyers, Whatcom County Chapter, 2014
- ♦ Recipient of the 2013-2014 Washington Young Lawyer Committee Public Service Award
- ♦ Designed law firm operations manuals for training legal staff; supervised & managed law firm staff & interns
- ♦ Experienced in screening potential new hires & coordinating employment interviews
- ♦ Supervise, manage & train multiple paralegal interns and law firm staff
- ♦ LAW Advocates legal aid volunteer, providing *pro bono* counsel assistance at “Law on the Street” events

EXPERIENCE

- ♦ **Team Lead/Attorney Advisor (GS-11)** – United States Small Business Administration – **2020-present**
- ♦ **Professor of Business Law** – Whatcom Community College, Bellingham, Washington – **2016-present**
- ♦ **Attorney** – Limitless Law PLLC, Bellingham, Washington – **2014-present**
- ♦ **Attorney/Rule 9/Law Clerk** – Britain & Vis PLLC, Bellingham, Washington – **2007-2014**

EDUCATION

- ♦ Certificate of Completion - Washington State Bar Association Law Clerk Program – Seattle, Washington
- ♦ Bachelor of Arts in Politics – Whitman College – Walla Walla, Washington

BAR ADMISSIONS

- ♦ Washington State Bar Association, WSBA No. 46673

June 9, 2021

To: WSBA Board of Governors

From: Brian J. Considine, WSBA No. 39517

██████████ / ██████████

Re: Application for Chair of WSBA Legislative Review Committee

Dear WSBA Board of Governors:

I'm applying to continue as the Chair of the WSBA Legislative Review Committee. I have the necessary legal and legislative experience that will allow me to effectively serve as chair of this committee to ensure the Committee meets your and the WSBA's legislative objectives. Lastly, I enjoyed being chair this past year and believe I can continue to add value as chair because I understand the innerworkings of the committee and the bar-request legislation process having been a member of this Committee since 2016.

Currently, I am the Legal and Legislative Manager for the Gambling Commission. I am responsible for managing the agency's legal, legislative, rule-making, and public records programs. I provide expert level legal support to agency leadership and staff regarding civil, criminal, and administrative actions.

I am responsible for all legislative issues that may impact the agency. I work with my leadership, including my Commissioners, Director and Deputy Director, to establish legislative priorities and goals for each legislative session. I draft, find sponsorship, and advocate for agency request legislation throughout the legislative process. I also effectively work with a wide-range of stakeholders, including Tribes, large international companies, small businesses, and local nonprofits, to ensure the agency has good stakeholder relationships to drawn upon during a legislative session.

Additionally, I have been successful in passing agency request legislation and/or securing operating budget appropriations each year I have been in my current position. My legislative duties require me to have expert-level knowledge of the legislative process and I enjoy bringing this experience to the committee as the Committee Chair.

Lastly, I believe my status as a government attorney is an important group to consider since we are generally underrepresented throughout the WSBA committee structures and we typically work with a diverse group of people as public servants. My work and experience as a government attorney in Olympia is valuable and I will be able to use my in-depth understanding of the innerworkings of our branches of government to lead the Legislative Review Committee in the upcoming year.

I hope you will consider re-appointing me Chair of the WSBA Legislative Review Committee. Thank you for your time and consideration, and I look forward to working with you soon.

Sincerely,



Brian J. Considine

Brian J. Considine

██████████ Olympia, WA ██████████

Phone: ██████████

Email: ██████████

EDUCATION

Seattle University School of Law, Seattle, WA

J.D., *Cum Laude*, May 2007

- Seattle Journal for Social Justice, Staff
- Public Interest Law Foundation, Vice President
- Dispute Resolution Board

John Carroll University, Cleveland, OH

B.A., Sociology, Business minor, May 2000

WORK EXPERIENCE

Washington State Gambling Commission, Olympia, WA

Legal and Legislative Manager, November 2015 – present

- Manage the Agency’s Legal and Records Division
 - Provide expert level legal guidance on gambling laws, agency rules, Administrative Procedures Act, Public Records Act, and Tribal-State gaming compacts.
 - Supervise a unit of three employees that are responsible for the agency’s Legal, Rule-making, Records Management and Public Disclosure programs.
- Manage the Agency’s Policy and Legislative Priorities
 - Provide Commissioners, Director, and senior leadership with expert level guidance on legal, records, regulatory, tribal, law enforcement, and legislative policies and issues.
 - Work with Legislators, legislative staff, and stakeholders to pass agency priority legislation.
 - 2017 session: drafted and advocated for passage of two agency request bills, [HB 1274](#) and [HB 1475](#)—both passed into law.
 - 2018 session: secured a \$100,000 appropriation for a problem gambling study.
 - 2019 session: drafted, advocated agency request bill [HB 1302](#) passed into law and secured \$100,000 appropriation for a problem gambling task force.
 - 2020 session: drafted and advocated for agency request bills [SB 6119](#) and [SB 6120](#) passed into law, closely worked on the state’s new sports wagering law, [HB 2638](#); and obtained a \$500,000 appropriation for a problem gambling prevalence study.
 - 2021 session: drafted and advocated for operating budget provisos on: Problem Gambling Task Force, Problem Gambling Prevalence Study, and \$3.6 million appropriation to agency.
 - Cultivate critical government-to-government relationships with Tribal partners to ensure agency’s policy and legislative objectives are met.

Washington State Attorney General’s Office, Olympia, WA

Assistant Attorney General, June 2008 – November 2015

- Corrections Division (Nov. 2011 – Nov. 2015):
 - Areas of Practice: Civil Rights, Public Records Act, Personal Restraint Petitions, and Parole Revocations
 - Advised and defended DOC on issues and policies related to inmates’ legal access, Eighth Amendment medical, and First Amendment speech and religion, including Tribal religious issues.
- Government Compliance and Enforcement Division (June 2008 – Nov. 2011):
 - Clients: Liquor Control Board, Gambling and Horse Racing Commissions, and Washington State Patrol.

Office of Program Research – Washington State House of Representatives, Olympia, WA

December 2007 – March 2008

Session Counsel

- Counsel for the Commerce and Labor, Early Learning and Children’s Services, and Human Services Committees.
- Researched, analyzed, and presented House and Senate bills for committees and members. Also, drafted bills and amendments for members.

Governor's Executive Policy Office, Olympia, WA

January 2007 – May 2007

Policy Intern

- Worked under policy advisor John Lane. Researched and analyzed assigned criminal justice bills, and tracked all criminal justice bills throughout the 2007 legislative session.
- Important project: researched, tracked, and analyzed the offender reentry bill, SB 6157, signed into law on May 15, 2007.

Kitsap County Prosecuting Attorney's Office, Port Orchard, WA

May 2006 – August 2006

Rule 9, Legal Intern

- Duties included: criminal prosecution: arraignments, status conferences, revocation hearings, and jury trials.

Yakima County Prosecuting Attorney's Office, Yakima, WA

August 2001 – November 2003

Victim-Witness Assistant

- Duties included: courtroom advocacy, trial preparation for victims and witnesses, and community outreach.

Texas Rural Legal Aid, Inc., Edinburg, TX

August 2000 – August 2001

Legal Advocate, Advocacy Resource Center for Housing (A.R.C.H.) Project

- Duties included: Assisting indigent clients with landlord/tenant issues, representing tenants in eviction hearings before Justices of the Peace, and prepared motions for indigent clients.

PROFESSIONAL AND VOLUNTEER ASSOCIATIONS

Washington State Bar Association

November 2007 – Present

WSBA Legislative Review Committee • Current Chair • Member, 2016-present

Bar No. 39517

Government Lawyers Bar Association of Washington

January 2010 – Present, Member

Board Member • 2015-18, President

American Constitution Society

January 2005 – Present

Member • 2009 Public Interest Fellow

Jesuit Volunteer Corps Alumnus

Jesuit Volunteer, 2000 – 2002 • Support Person, 2004 – 2014

AWARDS

2013 Excellence Award – Washington State Attorney General's Office

2010 Recent Alumni of the Year – Seattle University School of Law

Eagle Scout – Boy Scouts of America, Buckeye Council, Canton, OH

PUBLISHED DECISIONS

Kozol v. Department of Corrections, 185 Wn.2d 405, 373 P.3d 244 (2016) (per curiam).

Gronquist v. Department of Corrections, 177 Wn. App. 389, 313 P.3d 416 (2013).

Greenhalgh v. Department of Corrections, 170 Wn. App. 137, 282 P.3d 1175 (2011).

June 3, 2021

Board of Governors
Washington State Bar Association
1325 Fourth Avenue #600
Seattle, WA 98101-2539

Dear WSBA Board of Governors:

I am writing to express my interest in continuing my service as co-chair of the WSBA Pro Bono Public Service Committee (PBPSC) for the 2021-2022 fiscal year. I have been a member of the committee since October 2018 and have served as co-chair since October 2020. This upcoming year will be my final on the committee before I am term limited. Serving as co-chair with a newer member of the committee this coming year will allow for me to pass on my knowledge and experience to ensure a smooth transition going forward.

I am proud of the work that the committee has done during my time as a volunteer, and I know there are additional goals that I hope to help the committee achieve during my final term. I have focused my committee work on the efforts of the rules and policy workgroups, and I have appreciated the opportunities to work closer with the other workgroups as committee co-chair. Additionally, as a staff attorney with Thurston County Volunteer Legal Services, a Qualified Legal Services Provider, I believe I bring a unique perspective to the committee.

Please feel free to contact me with any questions or concerns. Thank you for your consideration.

Sincerely,

Bonnie Rosinbum

WSBA #48410

BONNIE L. ROSINBUM

Olympia, Washington
Washington State Bar Association member since 2014

EDUCATION

UNIVERSITY OF WASHINGTON SCHOOL OF LAW | Seattle, Washington
Juris Doctor, June 2014 | GPA: 3.65 | Class Rank: Top 33%
Washington International Law Journal | Executive Comments Editor

UNIVERSITY OF MINNESOTA | Minneapolis, Minnesota
Bachelor of Arts, Psychology, minor in Sociology, *summa cum laude*, May 2007 | GPA: 3.86
Honors:
Dean's List, six of eight semesters
Graduation with Distinction
Completed Freshmen-Sophomore Honors Program

EXPERIENCE

THURSTON COUNTY VOLUNTEER LEGAL SERVICES | March 2018 — Present | Olympia, Washington
Equal Justice Attorney: Facilitate pro bono representation for low-income clients facing additional barriers to effective self-representation by matching clients with volunteer attorneys and matching volunteer attorneys with mentor attorneys as needed. Represent and/or advise clients, either on an ongoing basis, or until a match can be made with a volunteer. Develop and implement program level conflict of interest policy, including coalition building and advocacy around seeking a clarifying comment to RPC 6.5. Recruit presenters and organize monthly CLE events on topics of relevance to volunteers.

WSBA PRO BONO AND PUBLIC SERVICE COMMITTEE | October 2018 — Present
Volunteer Committee Member: Explore creative ways to enhance a culture of legal service by promoting opportunities and best practices that encourage WSBA members to engage in pro bono and public service work. Co-chair since October 2020.

COLUMBIA LEGAL SERVICES | April 2014 — June 2014 | Seattle, Washington
Legal Extern: Assisted supervising attorneys in the preparation of a legal brief for a motion to enforce a prior settlement agreement from a class action brought against a state agency. Researched applicable law, identified precedent in support of legal and procedural arguments, and confirmed factual accuracy by reviewing documentation associated with the case dating back 16 years. Conducted legal and policy research in support of the development of a legislative policy agenda intended to break down barriers faced by runaway and homeless youth with specific focus on access to education, employment, and health care.

CHILDREN AND YOUTH LEGISLATIVE ADVOCACY CLINIC | September 2013 — June 2014 | Seattle, Washington
Student Advocate: Organized a coalition of community stakeholders to develop legislative policy proposals with the goal of improving educational outcomes for homeless students in Washington's public schools. Advocated for and helped introduce two bills in the Washington State Legislature, including explaining the issue and the policy proposals to legislators and stakeholders, securing bill sponsors, testifying in committee hearings, and developing and implementing media and outreach strategies, resulting in the passage of and allocation of funding for SB 6074 (The Homeless Children Education Act).

UNIVERSITY OF WASHINGTON | July 2013 — December 2013 | Seattle, Washington
Research Assistant to Professors Lisa Kelly, Peter Nicolas & Elizabeth Porter: *Kelly:* Aided in the drafting process of a practical guide for representing youth in foster care proceedings, including conducting fifty-state law and policy surveys, and researching runaway youth, trafficking, and detention of status offenders. *Nicolas:* Updated publications detailing LGBTQ+ rights in the US, including fifty-state surveys of laws addressing marriage equality, hate crimes, and parenting rights, as well as charting voting records of federal legislators (*summer only*). *Porter:* Researched Federal cases regarding permissive intervention, and Federal IIED and sexual harassment cases involving judicial discretion (*summer only*).

INTERESTS

Snowboarding and practicing yoga. Traveling around the Pacific Northwest. Cross-stitching and learning to crochet.

To whom it may concern,

My name is Michael R Addams, and I am a member of the WSBA Pro Bono Public Service Committee. I would like to be considered for appointment as co-chair of the PBPS. I resume is attached.

As you can see from my resume, I am dedicated to being a public servant. I currently work for the Washington Association of Prosecuting Attorneys, and previously worked at the Division of Child Support. Even while in private practice, I regularly accepted pro bono and low bono cases, as well as contracted public defense work.

As a co-chair to the committee, I would work to build connections and foster relationships between individuals and organizations that are committed to pro bono and public service work, and I would seek opportunities to encourage other attorneys to take part in this work as well. As the junior co-chair of the committee, I would look to my counterpart for guidance as we worked together to lead the mission of the committee.

If you have any questions for me, please don't hesitate to contact me. Thank you for your time and consideration.

Signed,

A handwritten signature in black ink, appearing to read "Michael R Addams", written in a cursive style.

Michael R Addams

MICHAEL R. ADDAMS

Curriculum Vitae

EDUCATION

Gonzaga University Graduate School of Business

MBA: December 2014

- Relevant coursework: Operational Management, Strategic Management

Gonzaga University School of Law

JD: May 2014

- Thomas More Scholar; Armed Services Law Club – President; Federalist Society – President; Child Advocacy Club – Treasurer
- Relevant coursework: Legal Research and Writing

Weber State University

B.A. Criminal Justice (Communication minor), cum laude, April 2011

- Relevant coursework: Media Management; Small Group & Interpersonal Communication; Communication Theory

Community College of the Air Force

A.A.S. Information Systems Technology, April 2006

A.A.S. Human Resource Management, February 2018

WORK EXPERIENCE HIGHLIGHTS

Brigham Young University – Idaho

Online Adjunct Instructor, September 2019 – present

- Instructor for FAML 100 – The Family (2019-2020)
- Instructor for FAML 460 – Child and Family Advocacy (2020-present)

Washington Association of Prosecuting Attorneys

Director – Support Enforcement Project, September 2019 – present

- Manage statewide partnership between Division of Child Support and elected prosecutors
- Oversee best practices coordination between deputy prosecutors of all Washington state counties
- Direct statewide training program of child support enforcement prosecutors and staff
- Provide bill analysis regarding proposed legislation affecting child support enforcement

United States Air Force / Air National Guard

Captain, June 2002 – present

- Healthcare Systems Administrator and Chief Information Officer
- Officer in Charge – 141st Air Refueling Wing Honor Guard
- Former Executive Officer; assisted detachment commander with various tasks to carry out agenda
- Former First Sergeant; advised commander regarding enlisted personnel issues of discipline and morale
- Performed operational management of logistics with multimillion-dollar weapon systems
- President of Airman Against Drunk Driving – Hawaii Chapter (2006)

Department of Social and Health Services – Division of Child Support

Government Liaison, February 2018 – September 2019

- Maintained statewide partnership with elected and deputy prosecutors of Title IV-D judicial caseloads
- Facilitated workgroup of statewide prosecutor liaisons to resolve disagreements between prosecutors and DCS
- Coordinated support to county clerks for timely entry of judicial child support orders
- Managed DCS contracts team

Addams & Leavitt, PLLC – Attorneys at Law

Attorney & Managing Partner, November 2014 – January 2018

- Provided analysis and representation to clients in family, juvenile, criminal, and administrative proceedings
- Managed accounting, advertising, supervising, scheduling, and other daily operational management activities
- Awarded Public Service and Leadership Award – 2016 by Washington State Bar Association

Counsel for Defense – Spokane County

Law Clerk / Extern, January – May 2011

- Represented juvenile delinquents in felony and misdemeanor proceedings

U.S. Attorney’s Office – Eastern District of Washington

Law Clerk / Extern, June 2012 – July 2013

- Managed and prosecuted federal misdemeanor caseload
- Assisted in prosecution of felonies, including controlled substances, illegal immigration, and child exploitation
- Drafted appellate briefs for Ninth Circuit Court of Appeals

Ogden City Prosecutor

Undergraduate Law Clerk, May 2010 – August 2010

- Assisted in prosecution of misdemeanors

Weber State University – KWCR

General Manager/Instructor, May 2009 – April 2011

- Oversaw programming, promotions, and sponsorship of student-operated broadcast radio station
- Classroom and hands-on instruction of broadcasting techniques and technology

HONORS AND AWARDS

Public Service and Leadership Award

Washington Young Lawyer Committee – Washington State Bar Association
2016

Small Firm of the Year

Spokane County Bar Association – Volunteer Lawyers Program
2016

Status Conference Volunteer of the Year

Spokane County Bar Association – Volunteer Lawyers Program
2015

Thomas More Scholar

Gonzaga University School of Law
2011-2014

PUBLICATIONS

How to Serve the Underserved While Building Your Practice

Washington State Bar News
October 2020

SPEAKING ENGAGEMENTS

Coming Together When Things Fall Apart: Best Practices for Collaboration Between the IV-D and IV-E Agencies and Courts

Western Interstate Child Support Engagement Council (WICSEC)
2019

Digitally Aware Decisions – Sexting and Cyberbullying

Various audiences
2013-2016

Moderate Means as a Good Business Practice

Gonzaga University School of Law
2016

Moderate Means as a Good Business Practice

Gonzaga University School of Law
2016

Moderate Means

Washington State Bar Association
2016

Law and Religion Panel Discussion

Gonzaga University School of Law and J. Reuben Clark Law Society
2016

Contention in the Legal Field

J. Reuben Clark Law Society
2015

Starting Your Own Legal Practice

Gonzaga University School of Law
2015

Digital Citizenship

Davenport High School
2014

SELECTED VOLUNTEER EXPERIENCE

Pro Bono Public Service Committee – Washington State Bar Association

Committee Member, October 2020 – present

Juvenile Law Section – Washington State Bar Association

Secretary, October 2020 – present

Administrative Law Section – Washington State Bar Association

Young Lawyer Liaison, October 2018 – September 2019

Volunteer Lawyers Program – Spokane County Bar Association

Volunteer Lawyer, June 2014 – January 2018

CASA Partners

Vice President/Race Director, June 2014 – January 2018

Boy Scouts of America

Scoutmaster, 2005 – 2011

PERSONAL LIFE

Distance runner and sprint triathlete; snow skier; leadership in church men’s group; oil painting; and time with family

TO: WSBA Board of Governors

FROM: Kevin Plachy, WSBA Advancement Department Director and Paris Eriksen, WSBA Volunteer Engagement Advisor, on behalf of the Rural Practice Project Team

DATE: July 8, 2021

RE: **Small Town and Rural (STAR) Committee Charter Revision**

The Rural Practice Project (RPP) Team requests that the STAR Committee Charter be revised to make the Chair of the Committee a voting member.

As the RPP Team was establishing a recruitment plan for members of the STAR Committee, it was unanimously agreed that the Chair of this committee should be a voting member. The STAR Committee is composed of 13 members including the Chair and, assuming full attendance, there would be no need for the Chair to break a tie. It was also noted that other WSBA Committee Chairs are voting members of their respective committees so this would not be a deviation from WSBA practices. The RPP Team also agreed that the Chair should be given the authority to cast a vote on any of the proposals that are identified to bring forward to the Board of Governors for implementation.

Respectfully Submitted,

Kevin Plachy, WSBA Director of Advancement
Paris Eriksen, WSBA Volunteer Engagement Advisor

WASHINGTON STATE BAR ASSOCIATION

Small Town and Rural Committee Charter

Effective: Upon
Approval by the WSBA
Board of Governors

Purpose

The WSBA Small Town and Rural (STAR) Committee is committed to strengthen and support the practice of law in the rural communities throughout Washington state. Members of the STAR Committee will work to ensure that the practice of law in rural communities is present, growing, and thriving.

Practitioners in rural communities are few and far between. Additionally, many of these practitioners are nearing retirement without a clear plan of succession for their clients, leaving a void of access to legal representation and counsel. The STAR Committee will guide policy & program development, serves as ambassadors between the WSBA and these communities, explore and advocate for creative and innovative solutions, and regularly assess the legal landscape in rural communities to determine if WSBA policy, advocacy and program development require further resource for sustainability and improvements.

The STAR Committee aligns with the authorized activities outlined in General Rule 12. More specifically, GR 12.1 (a) articulates the Washington Supreme Court’s regulatory objective to provide, in part, “meaningful access to justice. . .” while GR 12.1(d) strives for “affordable and accessible legal services.” In addition, the STAR Committee aligns with the authorized activities outlined in GR 12.2, in particular by providing “services to members and the public,” and “fostering collegiality among its members and goodwill between the legal profession and the public.”

Further, the STAR Committee furthers the WSBA mission to serve the public and the members of the Bar by providing focused attention on the unique needs of residents and members in rural areas both by improving access to legal practitioners in rural communities and outreach and development of a pipeline of younger rural residents to pursue a legal career and serve their communities.

Definition of “Rural”

For the purpose of the STAR Committee and reflective of Washington’s unique geographic and socio-geographic landscape, the definition of “rural” is as follows:

Based on the definitions produced by the U.S. Department of Agriculture Economic Research Service (ERS) and an overview of Washington county population, we focused on counties with populations of less than 50,000 and more than 2,500. These areas are considered ‘urban non-metro areas not part of larger labor markets’ by ERS. As part of the working definition, and for ease, we have termed these counties as ‘rural.’ Based upon WA county population data, we’ve pursued a hypothesis that counties with 30,000 or more as rural, but likely more

adjacent to a labor market and perhaps have a varying set of circumstances that may differ from counties that are less than 30,000.

Composition

Members of the STAR Committee should have demonstrated experience and/or interest in a thriving legal practice in Washington's rural communities. The STAR Committee will consist of 13 members and are outlined as:

- Chair (~~non-voting member, but has a vote in the event of a tie~~)
- 2 Current or Former WSBA Board of Governors Members (voting members)
- 1 Active WSBA Member At Large (voting member)
- 4 Active WSBA Members from rural communities - see above for definition of "rural" (voting members)
- 1 Active WSBA Young Lawyer Member, as defined in WSBA Bylaws (voting member)
- 3 Law School Representatives (voting members, must be currently employed with a WA Law School which is not currently represented on the Committee.)
- 1 Active WSBA Lawyer Member currently employed with a Qualified Legal Service Provider (QLSP)(voting member).

WSBA Staff Liaison: Member Services and Engagement Manager or staff member in the Advancement Department, non-voting

Board of Governor Liaison: as assigned annually, non-voting.

Terms

- Chair: two-year term
- Members: three-year term

Initial Committee Terms

The first appointments to the STAR Committee should effectuate a staggered rotation of STAR Committee members. Therefore, the following terms are in place for the first appointment cycle only. All subsequent terms should adhere to the term limits stated above. STAR Committee member serving an initial term less than three years, should be considered an incomplete term. Therefore, the member is eligible to serve two subsequent complete three-year terms in WSBA Bylaws.

- 2 Active WSBA Members
1 member with two-year term, 1 member with three-year term.
- 4 Active WSBA Members from rural communities (see above for definition)
1 member with one-year term, 1 member with two years term, 2 members with three-years term.
- 3 Law School Representatives (voting, must be currently employed with a WA Law School)
- *1 member with one-year term, 1 member with two-years term, 1 member with three-years term.*

The following positions will begin as a standard term as set forth in this charter.

- Chair
- 1 Active WSBA Young Lawyer Member

- 1 Active WSBA Lawyer Member currently employed with a Qualified Legal Service Provider (QLSP).

Scope of Work

The scope of the STAR Committee's work will focus on what the WSBA is uniquely positioned to do in supporting a sustaining and thriving environment for the practice of law in Washington's rural communities. The STAR Committee will work with all relevant and interested stakeholders to collaborate where needed. The provision of direct legal services and civil legal aid to the public is outside the scope of the STAR Committee.

Measures of Success

- Increased awareness of the issues and possible solutions to address any gap in practicing members in rural communities.
- A sustainable pipeline of legal practitioners in rural communities.
- Increased numbers of legal practitioners in rural communities.
- The establishment of funding for programs and initiatives for the practice of law in rural communities.

STAR Committee Roles

1. Community Education and Outreach

Coordinated efforts to educate members and potential members about the unique needs, opportunities and benefits of a rural practice. This can include, but should not be limited to, comprehensive information on WSBA's website, features in WSBA publications, presentations at high schools, law schools and community colleges. Meetings and events, such as a summit or symposium, to highlight the issue, convene interested stakeholders to share their concerns and strategize on possible solutions.

2. Pipeline and Placement Program(s)

Develop WSBA programming, or WSBA supported/partnered programming designed to build a pipeline of practitioners in rural areas as well as an incentive program to encourage members to explore a rural practice on a time-limited or multi-year timeframe. This role should explore a possible collaboration or strategic overlap with WSBA existing and future mentorship program(s). In particular, this role will require extensive strategic planning and identification of external stakeholder support and additional funding sources. Coordinate with law schools and other stakeholders regarding economic incentives to practice in rural areas.

3. Job Opportunities and Clearinghouse

Utilize existing and future WSBA resources to support and highlight job opportunities in rural communities. This role should include making it easier, and perhaps more cost-effective, to add job postings to WSBA's service. Develop a clearing house to assist retiring members with succession planning and the buying/selling of a practice.

Committee Evaluation

The STAR Committee should conduct an assessment within five years from the date of Board of Governors' approval by 1) conducting a survey of rural practitioners to provide stakeholder feedback regarding the impact of this Committee to effectuate change in these areas, 2) assessing the scope of work to reflect impact and progress in this area and align with trends in the greater legal community, and 3) earnestly examining if the Committee is necessary to continue the scope of work.

TO: WSBA Board of Governors
FROM: Paris Eriksen, Volunteer Engagement Advisor
Alec Stephens, Governor At Large
DATE: July 5, 2021
RE: Second Reading/Action: Amendments to WSBA Bylaws regarding the At-Large positions

ACTION: Approve proposed amendments to the WSBA Bylaws, Article VI. ELECTIONS
--

As discussed at the November 2020 Board meeting, Article VI regarding the Board election provides a clear timeline for the congressional district position but does not provide the same level of detail for the At Large positions. The Board voted to create a subgroup to review the draft amendments and elections processes. Governors Hunter Abell, Sunitha Anjilvel, and Russell Knight provided input to this proposal over the course of two meetings and several email communications. Governor Williams-Ruth provided initial input but withdrew from the subgroup and is not a collaborator on the final recommendation.

This topic was on the agenda for March 2021 but due to time constraints was moved to a later meeting. Included in the March 2021 meeting materials was a memo from the Diversity Committee with feedback regarding the proposed Bylaw amendments. Since March, the subgroup met with members of the Diversity Committee to discuss the feedback; the resulting proposed Bylaw amendments are set forth in these materials.

To summarize, the subgroup agreed to the following updated amendments:

- At large application deadline to follow the conclusion of the congressional district election,
- An election to following the at large application deadline and,
- clarifying language regarding eligibility disputes.

The subgroup and Diversity Committee agree that the ultimate goal of the Board elections and timeline should work to ensure diverse representation on the Board. Therefore, the two application and election timeframes allow for multiple opportunities to serve on the Board each year. Lastly, the subgroup sought to clarify more explicitly, that the ultimate arbiter of any eligibility disputes would be the Board of Governors.

The following amendments carry-over from the November 2020 version:

- remove reference to appointment process for the At Large positions,
- expand the reference to an election to be inclusive of both Congressional and At Large positions, unless the distinction is necessary, and
- include copy edit changes throughout for consistency.

WASHINGTON STATE BAR ASSOCIATION

Graphic: a ‘calendar view’ of the additional election process of the At Large position which follows the conclusion of the congressional district election set forth in these amendments.

	FEB	MAR	APR	MAY	JUNE
CURRENT Congressional District Positions	Feb. 15 Application Deadline	Voting March 15 – April 1			
At Large Positions			Apr. 20 Application Deadline	Appointed by BOG at May or June meeting	
REVISED PROPOSAL Congressional District Positions	Feb. 15 Application Deadline	Voting March 15 – April 1			
At Large Positions			Apr. 15 Application Deadline	Voting Begins May 15	Voting Ends June 1

Background

In April 2020, the Washington Supreme Court approved amendments to the WSBA Bylaws regarding Article IV. Governance and Article VI. Elections. The approved amendments included, 1) changes to the Governor At-Large positions from appointed by the Board to elected by WSBA members and, 2) the candidates for two of the At-Large positions to be identified by the Washington Diversity Committee.

However, remnants of the previous processes remain in Article VI, including, 1) an appointment process and requisite deadline for the At-Large positions and, 2) a requisite timeline for the congressional district elections that does not include the At-Large positions nor account for the aforementioned committee’s obligations within the Bylaws. Therefore, the goal of the amendments is to address the need to align processes and modify the overall timeline for Governor elections.

The amendments include feedback from the staff liaisons for both the Diversity and Washington Young Lawyers Committees. The Washington Diversity Committee and Washington Young Lawyers Committee are aware of the need to update the Bylaws to clarify the election process. Additionally, given that the draft timeline may overlap with some section elections, feedback has been solicited from section leaders.

Incl.,

WSBA Bylaws Article VI. ELECTIONS draft amendments, updated redline dated July 5, 2021

WSBA Bylaws Article VI. ELECTIONS draft amendments, updated clean copy dated July 5, 2021

VI. ELECTIONS

A. ELIGIBILITY FOR MEMBERSHIP ON BOARD OF GOVERNORS

1. Governors from Congressional Districts: Any Active member of the Bar, except a person who has previously served as a Governor for more than 48 consecutive months, may be nominated or apply for election as Governor from the Congressional District, or geographic regions within the Seventh Congressional District, in which such person resides.

Members that have served as Governors for more than 48 consecutive months at time of filing ~~or an~~ application, are not eligible to be nominated or apply for election or appointment as Governor from the Congressional District, At-Large Governor position, or geographic regions within the Seventh Congressional District, in which such person resides, for a period of 36 months after the conclusion of that term of service. Any disputes regarding the eligibility of a member to serve on the Board of Governors shall be addressed by the Board of Governors.

2. At Large Governors: There will be a total of three At Large Governor positions.
 - a. Two At Large (“Member At Large Governor”) Positions: Any Active member of the Bar, except a person who has previously served as a Governor for more than 48 consecutive months, may be nominated or apply.
 - b. One Young Lawyer (“Young Lawyer At Large Governor”) Position: Any Active lawyer member of the Bar who qualifies as a Young Lawyer as set forth in these Bylaws, except for a person who has previously served as a Governor for more than 48 consecutive months, may be nominated or apply ~~for election as an At Large Governor.~~

~~Members that have served as an At Large Governor for more than 48 consecutive months at time of filing or application, are not eligible to be nominated or apply for election or appointment as an At Large Governor from the Congressional District, At Large Governor position or geographic regions within the Seventh Congressional District, or in which such person resides, for a period of 36 months after the conclusion of that term of service.~~

3. Filing of nominations and applications must be in accordance with this Article.

B. NOMINATIONS AND APPLICATIONS

1. Applications for the Board of Governors elected from Congressional Districts must be filed in the office of the Bar not later than 5:00 p.m., on the 15th day of February of the year in which the election is to be held. If this deadline falls on a day in which the office of the Bar is closed, the deadline will be 5:00 p.m. of the following business day.
2. Applications and nominations for At Large Governor positions must be filed in the office of the Bar not later than 5:00 p.m. on the ~~20th~~ 15th day of April of the year in which the election or nomination is to be held.

3. Applications for the position of President-elect must be filed by the deadline set forth in the notice published in the Bar's official publication and posted on the Bar's website. ~~Notice~~ Notice must be given not less than 30 days before the filing deadline.
4. In the event no application is made for a ~~Congressional District~~ seat, the position will be treated, advertised, and filled by Board appointment as an at-large position for that ~~until the next~~ election cycle only, in which the position will be included in the election cycle for the remainder of the term.
- 5.

C. ELECTION OF GOVERNORS

1. Election of one Governor from each Congressional District and for the ~~at~~ At-large ~~Large~~ positions will be held every three years as follows:
 - a. Third, Sixth, Eighth Congressional Districts and the North region of the Seventh Congressional District and one At Large Member Governor – 2014 and every three years thereafter.
 - b. First, Fourth, Fifth Congressional Districts and the South region of the Seventh Congressional District and one At Large Young Lawyer Governor – 2015 and every three years thereafter.
 - c. Second, Ninth and Tenth Congressional Districts and one At Large Member Governor – 2013 and every three years thereafter.
2. Voting in the Election of Governors from Congressional Districts will be conducted in the following manner:
 - a. Eligibility to Vote. All Active members, as of March 1st of each year, are eligible to vote in the BOG election for their district, subject to the election schedule shown above. Active members residing in the State of Washington may only vote in the district in which they reside. Active members residing outside the State of Washington may only vote in the district of the address of the agent they have designated within the State of Washington for the purpose of receiving service of process as required by APR 13, or, if specifically designated to the Executive Director, within the district of their primary Washington practice.
 - b. Ballots. On March 15th of each election year, the Executive Director will ensure delivery of ballots containing the names of all candidates for Governor for each District in which an election is to be held to each Active member eligible to vote in that District. Elections will be conducted electronically using ~~via~~ a secure process ~~website~~ ("electronic voting"). Active members who are eligible to vote in an election may request a paper ballot to be used in place of the electronic ballot. Electronic ballots will be sent to active members eligible to vote in an election, and will include information about how to vote by electronic voting. Should any Active member eligible to vote fail to receive a ballot, or receive a defective ballot, the member may obtain a replacement ballot by furnishing proof of eligibility to the Executive Director, and upon returning the defective ballot if the member received a paper ballot.

- c. Voting Procedure. Each Active member eligible to vote in the election may vote in one of the following ways. Each member has only one vote. Only one vote will be counted from any member who inadvertently votes both by paper ballot and by electronic means:
 - 1) By paper ballot. Paper ballots will be available upon request. The member must submit the request by March 15 and, after marking a ballot, place the ballot in the envelope marked "Ballot," place that envelope in the envelope directed to the Bar, print or type the member's name, sign the outside of the envelope, and cause the envelope containing the ballot to be delivered to the office of the Bar by no later than 5:00 p.m. (PDT) on April 1st of that election year. Alteration of or addition to the ballot, other than the marking of the member's choice, invalidates the ballot.
 - 2) By electronic voting. Voters will be sent links to their ballots via email. Voting must be completed by no later than 5:00 p.m. (PDT) on April 1st of that election year.
- d. Voting System. In any election for membership on the BOG, if there is only one qualified candidate nominated, then that candidate will be declared elected. If there are only two candidates for a position, then the candidate receiving the highest number of votes will be declared elected. If there are more than two candidates, and if no candidate receives more than 50% of the total vote, the two candidates receiving the highest number of votes will participate in a run-off election. In the event of a tie for the second highest vote total, all candidates who are tied will participate in the run-off election along with the candidate who received the most votes.

If a run-off election is necessary, the Executive Director in consultation with the President will designate the date for delivering the ballots and the deadline for voting, which will be no later than 5:00 p.m. (PDT), 10 days after the date the ballots are delivered. The candidate receiving the highest number of votes will be declared elected.

- e. Checking and Custody of Ballots. The Executive Director will deposit—maintain custody of all satisfactorily identified and signed paper ballot envelopes, in receptacles segregated as to Districts position. The receptacles—paper ballot will remain in the custody of the Executive Director until the ballots are counted. Any paper ballots not enclosed in an envelope, satisfactorily identified and signed, will not be counted.
- f. Electronic votes must be verified and securely stored by the online voting vendor.
- g. Counting of Ballots. Paper ballots will be counted by the Executive Director or their designee under the supervision of the Election Board ~~in the office of the Bar,~~ and electronic ballots, ~~if any,~~ will be counted by the online voting vendor ~~and certified.~~ The election—ballot verification process will be supervised by an Election Board of not less than three Active members appointed by the President. At least two members of the Election Board must be present (in person or by video conference) at any count of paper ballots. Any Active member of the Bar may be present at such count of paper ballots.

The Executive Director will establish and follow a procedure that will ensure that no member's vote is counted more than once.

Promptly upon determination of the election results, the Election Board will forward the results to the Executive Director, who will notify each candidate as promptly as reasonably possible of the result of the election and publicly announce the election of the successful candidates. Official written notice of the election results also will be emailed to each candidate.

- h. Retaining Ballots. All paper ballots and identifying return envelopes must be retained in the custody of the Executive Director. The elections vendor must retain the electronic voting data, and maintain an auditable trail of the election, for no less than 90 days after the close of the election.
- i. If no challenge to the ballot count has been made after 90 days, the ballots and identifying return envelopes may be destroyed, and the Executive Director will notify the vendor to destroy the data and auditable trail for that election.

3. Eligibility Requirements: Election of At-Large Governors

At-Large Governors shall be elected by the Members as follows:

- a. Member At Large Governors: After notice of the position has been adequately provided to all members, the Diversity Committee shall forward at least three candidates who have the experience and knowledge of the needs of those members whose membership is or may be historically underrepresented in governance, or who represent some of the diverse elements of the public of the State of Washington, to the end that the BOG will be a more diverse and representative body than the results of the election of Governors based solely on Congressional Districts may allow. Underrepresentation and diversity may be based upon, but not be limited to age, race, gender, sexual orientation, disability, geography, areas and types of practice, and years of membership, provided that no single factor will be determinative. The ~~BOG~~ Executive Director shall then place all candidates forwarded by the Diversity Committee on the ballot to be elected by all eligible voting members. If the Diversity Committee forwards less than three candidates by May 1, the Executive Director shall notify the BOG, which may, at its option, select additional qualifying candidates on its own or place only those candidates forwarded by the Diversity Committee on the ballot to be elected by all eligible voting members.
- b. Young Lawyer At Large Governor: By May 1, ~~the~~ Washington Young Lawyers Committee shall forward at least three candidates to the BOG who qualify as Young Lawyers as defined by Article XII(B) of these Bylaws ~~as of December 31~~ in the year of the election. The BOG shall then place all candidates forwarded by the Washington Young Lawyers Committee on the ballot to be elected by a vote of all Young Lawyer Members as defined in section XII(B) of these ~~bylaws~~ Bylaws. If the Washington Young Lawyers Committee forwards less than three candidates by May 1, the Executive Director shall notify the BOG, which may, at its option, select additional qualifying candidates on its own or place only those candidates forwarded by the Washington Young Lawyers Committee on the ballot to be elected by a vote of all Young Lawyer Members as defined in section XII(B) of these ~~bylaws~~ Bylaws.

4. Voting in the Election of Member At Large Governor positions will be conducted in the following manner:

a. Voting Procedure for the At Large Governor positions shall follow the procedures described above with the exception of the dates of the election.

b. Election will begin on May 15.

~~b.~~ c. Voting must be completed no later than 5:00 p.m. (PDT) on June 1 of that election year.

D. ELECTIONS BY BOARD OF GOVERNORS

1. Office of President-Elect.

The BOG will elect an Active lawyer member of the Washington State Bar Association to serve as President-elect. The election shall take place during a BOG meeting not later than the 38th week of each fiscal year, and will be by secret written ballot. The President-elect will take office upon the incumbent President-elect becoming President or upon vacancy of the office of President-elect.

If at the time of election, no President-elect in the preceding three years was an individual whose primary place of business was located in Eastern Washington, the President-elect must be an individual whose primary place of business is located in Eastern Washington. For purposes of these Bylaws, "Eastern Washington" is defined as that area east of the Cascade mountain range generally known as Eastern Washington. In any year where the President-elect must be an individual from Eastern Washington and no qualifying application is received within the timeframe allowed, the President will advise the BOG, and the BOG, at any regular meeting or special meeting called for that purpose, will establish procedures to re-open and extend the application period or otherwise address the issue. Such action by the BOG may include waiver of any geographic limitation for the year in question.

2. Treasurer

The Treasurer must be a current lawyer Governor and will be nominated and elected by the BOG at the second to the last regularly scheduled BOG meeting of the fiscal year. The Treasurer will be elected by simple majority of Governors voting. In the event there is more than one nomination, the vote will be by secret written ballot.

3. Election Procedures for President and President-elect

Elections of ~~At Large Governors,~~ President and President-elect elections, and any other elections held by the BOG under these Bylaws, ~~except elections for the position of Treasurer,~~ are conducted as follows:

- a. Notice of the position will be advertised in the Bar's official publication and on the Bar's website no less than 30 days before the filing deadline and must include the closing date and time for filing candidate applications.
- b. Following expiration of the closing date and time identified, all candidate names will be posted publicly.
- c. The BOG may appoint a committee to recommend candidates to the BOG from all who have submitted their applications for a position in a timely manner.

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- d. All recommended candidates, or others as determined at the discretion of the BOG, will be interviewed in public session of the BOG's meeting. Candidates who are competing for the same position must not be present for each other's interviews.
- e. Discussion of the candidates will be in public session but candidates will be asked by the President not to be present.
- f. Election of candidates will be conducted by secret written ballot.
- g. If no candidate for a given position receives a majority of the votes cast, the two candidates receiving the highest number of votes will be voted on in a run-off election. In the event of a tie for the second highest vote total, all candidates who are tied will participate in the run-off election along with the candidate who received the most votes. The candidate with the most votes in the run-off will be deemed the winner.
- h. Ballots will be tallied by three persons designated by the President, one of whom will be the Executive Director.
- i. Proxy votes are not allowed; however, a Governor who participated in the interview and discussion process by electronic means may cast a vote telephonically via a confidential phone call with the Executive Director and the other persons designated by the President to count the ballots.
- j. The elected candidate will be announced publicly following the vote. However, the vote count will not be announced and all ballots will be immediately sealed to both the BOG and the public and remain in the custody of the Executive Director for 90 days, when they will be destroyed.

Sections E, F and G are unchanged.

VI. ELECTIONS

A. ELIGIBILITY FOR MEMBERSHIP ON BOARD OF GOVERNORS

1. Governors from Congressional Districts: Any Active member of the Bar, except a person who has previously served as a Governor for more than 48 consecutive months, may be nominated or apply for election as Governor from the Congressional District, or geographic regions within the Seventh Congressional District, in which such person resides.

Members that have served as Governors for more than 48 consecutive months at time of filing an application, are not eligible to be nominated or apply for election or appointment as Governor from the Congressional District, At- Large Governor position, or geographic regions within the Seventh Congressional District, in which such person resides, for a period of 36 months after the conclusion of that term of service. Any disputes regarding the eligibility of a member to serve on the Board of Governors shall be addressed by the Board of Governors.

2. At Large Governors: There will be a total of three At Large Governor positions.
 - a. Two At Large (“Member At Large Governor”) Positions: Any Active member of the Bar, except a person who has previously served as a Governor for more than 48 consecutive months, may be nominated or apply.
 - b. One Young Lawyer (“Young Lawyer At Large Governor”) Position: Any Active lawyer member of the Bar who qualifies as a Young Lawyer as set forth in these Bylaws, except for a person who has previously served as a Governor for more than 48 consecutive months, may be nominated or apply.
3. Filing of nominations and applications must be in accordance with this Article.

B. NOMINATIONS AND APPLICATIONS

1. Applications for the Board of Governors elected from Congressional Districts must be filed in the office of the Bar not later than 5:00 p.m., on the 15th day of February of the year in which the election is to be held. If this deadline falls on a day in which the office of the Bar is closed, the deadline will be 5:00 p.m. of the following business day.
2. Applications and nominations for At Large Governor positions must be filed in the office of the Bar not later than 5:00 p.m. on the 15th day of April of the year in which the election or nomination is to be held.
3. Applications for the position of President-elect must be filed by the deadline set forth in the notice published in the Bar’s official publication and posted on the Bar’s website. Notice must be given not less than 30 days before the filing deadline.
4. In the event no application is made for a seat, the position will be treated, advertised, and filled by Board appointment until the next election cycle only, in which the position will be included in the election cycle for the remainder of the term.

C. ELECTION OF GOVERNORS

1. Election of one Governor from each Congressional District and for the At Large positions will be held every three years as follows:
 - a. Third, Sixth, Eighth Congressional Districts and the North region of the Seventh Congressional District and one At Large Member Governor – 2014 and every three years thereafter.
 - b. First, Fourth, Fifth Congressional Districts and the South region of the Seventh Congressional District and one At Large Young Lawyer Governor – 2015 and every three years thereafter.
 - c. Second, Ninth and Tenth Congressional Districts and one At Large Member Governor – 2013 and every three years thereafter.
2. Voting in the Election of Governors from Congressional Districts will be conducted in the following manner:
 - a. Eligibility to Vote. All Active members, as of March 1st of each year, are eligible to vote in the BOG election for their district, subject to the election schedule shown above. Active members residing in the State of Washington may only vote in the district in which they reside. Active members residing outside the State of Washington may only vote in the district of the address of the agent they have designated within the State of Washington for the purpose of receiving service of process as required by APR 13, or, if specifically designated to the Executive Director, within the district of their primary Washington practice.
 - b. Ballots. On March 15th of each election year, the Executive Director will ensure delivery of ballots containing the names of all candidates for Governor for each District in which an election is to be held to each Active member eligible to vote in that District. Elections will be conducted electronically using a secure process (“electronic voting”). Active members who are eligible to vote in an election may request a paper ballot to be used in place of the electronic ballot. Electronic ballots will be sent to active members eligible to vote in an election, and will include information about how to vote by electronic voting. Should any Active member eligible to vote fail to receive a ballot, or receive a defective ballot, the member may obtain a replacement ballot by furnishing proof of eligibility to the Executive Director, and upon returning the defective ballot if the member received a paper ballot.
 - c. Voting Procedure. Each Active member eligible to vote in the election may vote in one of the following ways. Each member has only one vote. Only one vote will be counted from any member who inadvertently votes both by paper ballot and by electronic means:
 - 1) By paper ballot. Paper ballots will be available upon request. The member must submit the request by March 15 and cause the envelope containing the ballot to be delivered to the office of the Bar by no later than 5:00 p.m. (PDT) on April 1st of that election year. Alteration of or addition to the ballot, other than the marking of the member's choice, invalidates the ballot.
 - 2) By electronic voting. Voters will be sent links to their ballots via email. Voting must be completed by no later than 5:00 p.m. (PDT) on April 1st of that election year.

- d. Voting System. In any election for membership on the BOG, if there is only one qualified candidate nominated, then that candidate will be declared elected. If there are only two candidates for a position, then the candidate receiving the highest number of votes will be declared elected. If there are more than two candidates, and if no candidate receives more than 50% of the total vote, the two candidates receiving the highest number of votes will participate in a run-off election. In the event of a tie for the second highest vote total, all candidates who are tied will participate in the run-off election along with the candidate who received the most votes.

If a run-off election is necessary, the Executive Director in consultation with the President will designate the date for delivering the ballots and the deadline for voting, which will be no later than 5:00 p.m. (PDT), 10 days after the date the ballots are delivered. The candidate receiving the highest number of votes will be declared elected.

- e. Checking and Custody of Ballots. The Executive Director will maintain custody of all satisfactorily identified and signed paper ballot envelopes, segregated as to position. The paper ballot will remain in the custody of the Executive Director until counted. Any paper ballots not enclosed in an envelope, satisfactorily identified and signed, will not be counted.
- f. Electronic votes must be verified and securely stored by the online voting vendor.
- g. Counting of Ballots. Paper ballots will be counted by the Executive Director or their designee under the supervision of the Election Board, and electronic ballots will be counted by the online voting vendor. The ballot verification process will be supervised by an Election Board of not less than three Active members appointed by the President. At least two members of the Election Board must be present (in person or by video conference) at any count of paper ballots. Any Active member of the Bar may be present at such count of paper ballots.

The Executive Director will establish and follow a procedure that will ensure that no member's vote is counted more than once.

Promptly upon determination of the election results, the Election Board will forward the results to the Executive Director, who will notify each candidate as promptly as reasonably possible of the result of the election and publicly announce the election of the successful candidates. Official written notice of the election results also will be emailed to each candidate.

- h. Retaining Ballots. All paper ballots and identifying return envelopes must be retained in the custody of the Executive Director. The elections vendor must retain the electronic voting data, and maintain an auditable trail of the election, for no less than 90 days after the close of the election.
- i. If no challenge to the ballot count has been made after 90 days, the ballots and identifying return envelopes may be destroyed, and the Executive Director will notify the vendor to destroy the data and auditable trail for that election.

3. Eligibility Requirements: Election of At Large Governors

At Large Governors shall be elected by the Members as follows:

- a. Member At Large Governors: After notice of the position has been adequately provided to all members, the Diversity Committee shall forward at least three candidates who have the experience and knowledge of the needs of those members whose membership is or may be historically underrepresented in governance, or who represent some of the diverse elements of the public of the State of Washington, to the end that the BOG will be a more diverse and representative body than the results of the election of Governors based solely on Congressional Districts may allow. Underrepresentation and diversity may be based upon, but not be limited to age, race, gender, sexual orientation, disability, geography, areas and types of practice, and years of membership, provided that no single factor will be determinative. The Executive Director shall then place all candidates forwarded by the Diversity Committee on the ballot to be elected by all eligible voting members. If the Diversity Committee forwards less than three candidates by May 1, the Executive Director shall notify the BOG, which may, at its option, select additional qualifying candidates on its own or place only those candidates forwarded by the Diversity Committee on the ballot to be elected by all eligible voting members.
- b. Young Lawyer At Large Governor: By May 1, the Washington Young Lawyers Committee shall forward at least three candidates to the BOG who qualify as Young Lawyers as defined by Article XII(B) of these Bylaws in the year of the election. The BOG shall then place all candidates forwarded by the Washington Young Lawyers Committee on the ballot to be elected by a vote of all Young Lawyer Members as defined in section XII(B) of these Bylaws. If the Washington Young Lawyers Committee forwards less than three candidates by May 1, the Executive Director shall notify the BOG, which may, at its option, select additional qualifying candidates on its own or place only those candidates forwarded by the Washington Young Lawyers Committee on the ballot to be elected by a vote of all Young Lawyer Members as defined in section XII(B) of these Bylaws.

4. Voting in the Election of Member At Large Governor positions will be conducted in the following manner:

- a. Voting Procedure for the At Large Governor positions shall follow the procedures described above with the exception of the dates of the election.
- b. Election will begin on May 15.
- c. Voting must be completed no later than 5:00 p.m. (PDT) on June 1 of that election year.

D. ELECTIONS BY BOARD OF GOVERNORS

1. Office of President-Elect.

The BOG will elect an Active lawyer member of the Washington State Bar Association to serve as President-elect. The election shall take place during a BOG meeting not later than the 38th week of each fiscal year, and will be by secret written ballot. The President-elect will take office upon the incumbent President-elect becoming President or upon vacancy of the office of President-elect.

If at the time of election, no President-elect in the preceding three years was an individual whose primary place of business was located in Eastern Washington, the President-elect must be an individual whose primary place of business is located in Eastern Washington. For purposes of these Bylaws, "Eastern Washington" is defined as that area east of the Cascade mountain range generally known as Eastern Washington. In any year where the President-elect must be an individual from Eastern Washington and no qualifying application is received within the timeframe allowed, the President will advise the BOG, and the BOG, at any regular meeting or special meeting called for that purpose, will establish procedures to re-open and extend the application period or otherwise address the issue. Such action by the BOG may include waiver of any geographic limitation for the year in question.

2. Treasurer

The Treasurer must be a current lawyer Governor and will be nominated and elected by the BOG at the second to the last regularly scheduled BOG meeting of the fiscal year. The Treasurer will be elected by simple majority of Governors voting. In the event there is more than one nomination, the vote will be by secret written ballot.

3. Election Procedures for President and President-elect

Elections of President and President-elect elections, and any other elections held by the BOG under these Bylaws, are conducted as follows:

- a. Notice of the position will be advertised in the Bar's official publication and on the Bar's website no less than 30 days before the filing deadline and must include the closing date and time for filing candidate applications.
- b. Following expiration of the closing date and time identified, all candidate names will be posted publicly.
- c. The BOG may appoint a committee to recommend candidates to the BOG from all who have submitted their applications for a position in a timely manner.
- d. All recommended candidates, or others as determined at the discretion of the BOG, will be interviewed in public session of the BOG's meeting. Candidates who are competing for the same position must not be present for each other's interviews.
- e. Discussion of the candidates will be in public session but candidates will be asked by the President not to be present.
- f. Election of candidates will be conducted by secret written ballot.
- g. If no candidate for a given position receives a majority of the votes cast, the two candidates receiving the highest number of votes will be voted on in a run-off election. In the event of a tie for the second highest vote total, all candidates who are tied will participate in the run-off election along with the candidate who received the most votes. The candidate with the most votes in the run-off will be deemed the winner.
- h. Ballots will be tallied by three persons designated by the President, one of whom will be the Executive Director.
- i. Proxy votes are not allowed; however, a Governor who participated in the interview and discussion process by electronic means may cast a vote telephonically via a confidential phone call with the Executive Director and the other persons designated by the President to count the ballots.

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- j. The elected candidate will be announced publicly following the vote. However, the vote count will not be announced and all ballots will be immediately sealed to both the BOG and the public and remain in the custody of the Executive Director for 90 days, when they will be destroyed.

Sections E, F and G are unchanged.

TO: WSBA Board of Governors
FROM: Daniel D. Clark, WSBA Treasurer & 4th District Governor
DATE: July 8, 2021
RE: July BOG Meeting Treasurer Update

DISCUSSION: Discussion of WSBA May 2021 General Fund Financial report.

The latest financial material that WSBA has for revenue and expenses as of May 31, 2021, which would represent 8/12 months or 66.67% complete of FY 2021 represents a favorable increase in the net change in the General Fund balance of WSBA to the tune of \$1,759,774. This figure does not take into account a \$500,000 shift of funds from the General Fund to the Facilities Reserve Fund that the Board of Governors approved at the May 2021 meeting.

The FY 2021 Budget reforecast called for an overall net loss for WSBA's general fund in expenses exceeding revenue by a total of (\$114,092). To date, we are at \$1,759,774 in positive revenue through 2/3 of FY 2021.

These numbers are expected to significantly decrease though as we have several expenses that are paid during the second half of FY 2021. Additionally, the more that WSBA moves from having Zoom meetings and operations that are held exclusively remotely, the more significant increases in expenses for travel, lodging, venue rental, and meal per diem expenses that are likely to occur.

Overall, given the Board of Governors passed an FY 2021 Budget that called for use of reserves to the amount of approx. \$199k, through 2/3 of FY 2021, we are positively trending at approximately \$1,958,000 above the original budget projections, or \$1,458,000 with the moving of the \$500,000 from the unrestricted WSBA General Fund to the restricted Facilities Reserve Fund.

Respectfully,

Dan Clark

WSBA Treasurer/4th District Governor

DanClarkBoG@yahoo.com

(509) 969-4731

WASHINGTON STATE BAR ASSOCIATION

WSBA MISSION

The Washington State Bar Association’s mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

WSBA GUIDING PRINCIPLES

The WSBA will operate a well-managed association that supports its members and advances and promotes:

- **Access to the justice system.**
Focus: Provide training and leverage community partnerships in order to enhance a culture of service for legal professionals to give back to their communities, with a particular focus on services to underserved low and moderate income people.
- **Diversity, equality, and cultural understanding throughout the legal community.**
Focus: Work to understand the lay of the land of our legal community and provide tools to members and employers in order to enhance the retention of minority legal professionals in our community.
- **The public’s understanding of the rule of law and its confidence in the legal system.**
Focus: Educate youth and adult audiences about the importance of the three branches of government and how they work together.
- **A fair and impartial judiciary.**
- **The ethics, civility, professionalism, and competence of the Bar.**

MISSION FOCUS AREAS

Ensuring Competent and Qualified Legal Professionals

- Cradle to Grave
- Regulation and Assistance

Promoting the Role of Legal Professionals in Society

- Service
- Professionalism

PROGRAM CRITERIA

- Does the Program further either or both of WSBA’s mission-focus areas?
- Does WSBA have the competency to operate the Program?
- As the mandatory bar, how is WSBA uniquely positioned to successfully operate the Program?
- Is statewide leadership required in order to achieve the mission of the Program?
- Does the Program’s design optimize the expenditure of WSBA resources devoted to the Program, including the balance between volunteer and staff involvement, the number of people served, the cost per person, etc?

2016 – 2018 STRATEGIC GOALS

- **Equip members with skills for the changing profession**
- **Promote equitable conditions for members from historically marginalized or underrepresented backgrounds to enter, stay and thrive in the profession**
- **Explore and pursue regulatory innovation and advocate to enhance the public’s access to legal services**

GR 12
REGULATION OF THE PRACTICE OF LAW

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law in Washington. The legal profession serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system. The Court ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under the Supreme Court's authority.

[Adopted effective September 1, 2017.]

GR 12.1
REGULATORY OBJECTIVES

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include: protection of the public; advancement of the administration of justice and the rule of law; meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;

- (a) transparency regarding the nature and scope of legal services To be provided, the credentials of those who provide them, and the availability of regulatory protections;
- (b) delivery of affordable and accessible legal services;
- (c) efficient, competent, and ethical delivery of legal services;
- (d) protection of privileged and confidential information;
- (e) independence of professional judgment;
- (f) Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;
- (g) Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

[Adopted effective September 1, 2017.]

GR 12.2
**WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED
ACTIVITIES, AND PROHIBITED ACTIVITIES**

In the exercise of its inherent and plenary authority to regulate the practice of law in Washington, the Supreme Court authorizes and supervises the Washington State Bar Association's activities. The Washington State Bar Association carries out the administrative responsibilities and functions expressly delegated to it by this rule and other Supreme Court rules and orders enacted or adopted to regulate the practice of law, including the purposes and authorized activities set forth below.

- (a) Purposes: In General. In general, the Washington State Bar Association strives to:

- (1) Promote independence of the judiciary and the legal profession.
- (2) Promote an effective legal system, accessible to all.
- (3) Provide services to its members and the public.
- (4) Foster and maintain high standards of competence, professionalism, and ethics among its members.
- (5) Foster collegiality among its members and goodwill between the legal profession and the public.
- (6) Promote diversity and equality in the courts and the legal profession.
- (7) Administer admission, regulation, and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.
- (8) Administer programs of legal education.
- (9) Promote understanding of and respect for our legal system and the law.
- (10) Operate a well-managed and financially sound association, with a positive work environment for its employees.
- (11) Serve as a statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the association and the legal profession.

(b) Specific Activities Authorized. In pursuit of these purposes, the Washington State Bar Association may:

- (1) Sponsor and maintain committees and sections, whose activities further these purposes;
- (2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;
- (3) Provide periodic reviews and recommendations concerning court rules and procedures;
- (4) Administer examinations and review applicants' character and fitness to practice law;
- (5) Inform and advise its members regarding their ethical obligations;
- (6) Administer an effective system of discipline of its members, including receiving and investigating complaints of misconduct by legal professionals, taking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;
- (7) Maintain a program, pursuant to court rule, requiring members to submit fee disputes to arbitration;
- (8) Maintain a program for mediation of disputes between members and others;
- (9) Maintain a program for legal professional practice assistance;
- (10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;

- (11) Maintain a system for accrediting programs of continuing legal education;
- (12) Conduct examinations of legal professionals' trust accounts;
- (13) Maintain a fund for client protection in accordance with the Admission and Practice Rules;
- (14) Maintain a program for the aid and rehabilitation of impaired members;
- (15) Disseminate information about the organization's activities, interests, and positions;
- (16) Monitor, report on, and advise public officials about matters of interest to the organization and the legal profession;
- (17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization's positions and concerns;
- (18) Encourage public service by members and support programs providing legal services to those in need;
- (19) Maintain and foster programs of public information and education about the law and the legal system;
- (20) Provide, sponsor, and participate in services to its members;
- (21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the organization's discretion, authorizing collective bargaining;
- (22) Establish the amount of all license, application, investigation, and other related fees, as well as charges for services provided by the Washington State Bar Association, and collect, allocate, invest, and disburse funds so that its mission, purposes, and activities may be effectively and efficiently discharged. The amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable;

(23) Administer Supreme-Court-created boards in accordance with General Rule 12.3.

(c) Activities Not Authorized. The Washington State Bar Association will not:

- (1) Take positions on issues concerning the politics or social positions of foreign nations;
- (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or
- (3) Support or oppose, in an election, candidates for public office.

[Adopted effective July 17, 1987; amended effective December 10, 1993; September 1, 1997; September 1, 2007; September 1, 2013; September 1, 2017.]

GR 12.3
WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION
OF SUPREME COURT-CREATED BOARDS AND COMMITTEES

The Supreme Court has delegated to the Washington State Bar Association the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.

[Adopted effective September 1, 2007; amended effective September 1, 2017.]

GR 12.4
WASHINGTON STATE BAR ASSOCIATION ACCESS TO
RECORDS

(a) Policy and Purpose. It is the policy of the Washington State Bar Association to facilitate access to Bar records. A presumption of public access exists for Bar records, but public access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.3 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a Bar record.

(2) "Bar record" means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the Bar and its staff or stored under Bar ownership and control in facilities or servers. Records solely in the possession of hearing officers, non-Bar staff members of boards, committees, task forces, commissions, sections, councils, or divisions that were prepared by the hearing officers or the members and in their sole possession, including private notes and working papers, are not Bar records and are not subject to public access under this rule. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital, or other format.

(d) Bar Records--Right of Access.

(1) The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule, or any other state statute (including the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be applied to a public agency, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules and associated regulations, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes, or orders, the Bar shall delete identifying details in a manner consistent with those rules, statutes, or orders when it makes available or publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

(2) In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may expressly be made public by court rule:

(A) Records of the personnel committee, and personal information in Bar records for employees, appointees, members, or volunteers of the Bar to the extent that disclosure would violate their right to privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. Membership class and status, bar number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Executive Director approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.

(B) Specific information and records regarding

(i) internal policies, guidelines, procedures, or techniques, the disclosure of which would reasonably be expected to compromise the conduct of disciplinary or regulatory functions, investigations, or examinations;

(ii) application, investigation, and hearing or proceeding records relating to lawyer, Limited Practice Officer, or Limited License Legal Technician admissions, licensing, or discipline, or that relate to the work of ELC 2.5 hearing officers, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law Board, or the Disciplinary Board in conducting investigations, hearings or proceedings; and

(iii) the work of the Judicial Recommendation Committee and the Hearing Officer selection panel, unless such records are expressly categorized as public information by court rule.

(C) Valuable formulae, designs, drawings, computer source code or object code, and research data created or obtained by the Bar.

(D) Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.

(E) Applications for licensure by the Bar and annual licensing forms and related records, including applications for license fee hardship waivers and any decision or determinations on the hardship waiver applications.

(F) Requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

Information covered by exemptions will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed.

(3) Persons Who Are Subjects of Records.

(A) Unless otherwise required or prohibited by law, the Bar has the option to give notice of any records request to any member or third party whose records would be included in the Bar's response.

(B) Any person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker.

(C) If the Bar decides to allow access to a requested record, a person who is named in that record, or to whom the records specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. The deadlines that apply to a requester apply as well to a person who is a subject of a record.

(e) Bar Records--Procedures for Access.

(1) General Procedures. The Bar Executive Director shall appoint a Bar staff member to serve as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the Bar public records officer, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and adopt and publish on its website the public records officer's work mailing address, telephone number, fax number, and e-mail address, and the procedures and fee schedules for accepting and responding to records requests by the effective date of this rule. The Bar shall acknowledge receipt of the request within 14 days of receipt, and shall communicate with the requester as necessary to clarify any ambiguities as to the records being requested. Records requests shall not be directed to other Bar staff or to volunteers serving on boards, committees, task forces, commissions, sections, councils, or divisions.

(2) Charging of Fees.

(A) A fee may not be charged to view Bar records.

(B) A fee may be charged for the photocopying or scanning of Bar records according to the fee schedule established by the Bar and published on its web site.

(C) A fee not to exceed \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

(f) Extraordinary Requests Limited by Resource Constraints. If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on time, resources, and personnel, the Bar shall communicate this information to the requester along with a good faith estimate of the time needed to complete the Bar's response. The Bar must attempt to reach

agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable, clarify how and why the response differs from the request, and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial as well as a written summary of the procedures under which the requesting party may seek further review.

(h) Review of Records Decisions.

(1) Internal Review. A person who objects to a record decision or other action by the Bar's public records officer may request review by the Bar's Executive Director.

(A) A record requester's petition for internal review must be submitted within 90 days of the Bar's public records officer's decision, on such form as the Bar shall designate and make available.

(B) The review proceeding is informal, summary, and on the record.

(C) The review proceeding shall be held within five working days. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.

(2) External Review. A person who objects to a records review decision by the Bar's Executive Director may request review by the Records Request Appeals Officer (RRAO) for the Bar.

(A) The requesting party's request for review of the Executive Director's decision must be deposited in the mail and postmarked or delivered to the Bar not later than 30 days after the issuance of the decision, and must be on such form as the Bar shall designate and make available.

(B) The review will be informal and summary, but in the sole discretion of the RRAO may include the submission of briefs no more than 20 pages long and of oral arguments no more than 15 minutes long.

(C) Decisions of the RRAO are final unless, within 30 days of the issuance of the decision, a request for discretionary review of the decision is filed with the Supreme Court. If review is granted, review is conducted by the Chief Justice of the Washington Supreme Court or his or her designee in accordance with procedures established by the Supreme Court. A designee of the Chief Justice shall be a current or former elected judge. The review proceeding shall be on the record, without additional briefing or argument unless such is ordered by the Chief Justice or his or her designee.

(D) The RRAO shall be appointed by the Board of Governors. The Bar may reimburse the RRAO for all necessary and reasonable expenses incurred in the completion of these duties, and may provide compensation for the time necessary for these reviews at a level established by the Board of Governors.

(i) Monetary Awards Not Allowed. Attorney fees, costs, civil penalties, or fines may not be awarded under this rule.

(j) Effective Date of Rule.

(1) This rule goes into effect on July 1, 2014, and applies to records that are created on or after that date.

(2) Public access to records that are created before that date are to be analyzed according to other court rules, applicable statutes, and the common law balancing test; the Public Records Act, chapter 42.56 RCW, does not apply to such Bar records, but it may be used for nonbinding guidance.

[Adopted effective July 1, 2014; amended effective September 1, 2017.]

**GR 12.5
IMMUNITY**

All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission and Practice Rules, the Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice officers and limited license legal technicians, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

[Adopted effective January 2, 2008; amended effective September 1, 2017.]

2020-2021
WSBA BOARD OF GOVERNORS MEETING SCHEDULE

MEETING DATE	LOCATION	POTENTIAL ISSUES / SOCIAL FUNCTION	AGENDA ITEMS DUE FOR EXEC COMMITTEE MTG	EXECUTIVE COMMITTEE MTG 9:00 am–12:00 pm	BOARD BOOK MATERIALS DEADLINE
November 13-14, 2020	Webcast & Teleconference	BOG Meeting	October 20, 2020	October 26, 2020	October 28, 2020
January 14-15, 2021	WSBA Conference Center Seattle, WA	BOG Meeting	December 8, 2020	December 14, 2020	December 30, 2020
March 18-19, 2021	Hotel RL, Olympia, WA	BOG Meeting	February 23, 2021	March 1, 2021	March 3, 2021
March 19, 2021	Temple of Justice	BOG Meeting with Supreme Court			
April 16-17, 2021	Davenport Hotel Spokane, WA	BOG Meeting	March 23, 2021	March 29, 2021	March 31, 2021
May 20-21, 2021	WSBA Conference Center Seattle, WA	BOG Meeting	April 27, 2021	May 3, 2021	May 5, 2021
July 15, 2021	Hilton Portland Downtown Portland, OR	BOG Retreat	June 22, 2021	June 28, 2021	June 30, 2021
July 16-17, 2021		BOG Meeting			
August 20-21, 2021	TBD Boise, ID	BOG Meeting	July 27, 2021	August 2, 2021	August 4, 2021
September 23-24, 2021	WSBA Conference Center Seattle, WA	BOG Meeting	August 24, 2021	August 30, 2021	September 8, 2021

Note – In-person meetings are dependent upon Covid-19 state guidance on in-person gatherings.

The Board Book Material Deadline is the final due date for submission of materials for the respective Board meeting. Please notify the Executive Director's office in advance of possible late materials. Refer to 1305 BOG Action Procedure on how to bring agenda items to the Board.

This information can be found online at: www.wsba.org/About-WSBA/Governance/Board-Meeting-Schedule-Materials



WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



Kyle Sciuchetti
President



Brian Tollefson
President-Elect



Rajeev Majumdar
Immediate Past
President



Terra Nevitt
Executive Director
& Secretary

2020-2021



BASIC CHARACTERISTICS OF MOTIONS

*From: The Complete Idiot's Guide to Robert's Rules
The Guerilla Guide to Robert's Rules*

MOTION	PURPOSE	INTERRUPT SPEAKER?	SECOND NEEDED?	DEBATABLE?	AMENDABLE?	VOTE NEEDED
1. Fix the time to which to adjourn	Sets the time for a continued meeting	No	Yes	No ¹	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No ²	Yes	Majority
4. Raise a Question of Privilege	Asks urgent question regarding to rights	Yes	No	No	No	Rules by Chair
5. Call for orders of the day	Requires that the meeting follow the agenda	Yes	No	No	No	One member
6. Lay on the table	Puts the motion aside for later consideration	No	Yes	No	No	Majority
7. Previous question	Ends debate and moves directly to the vote	No	Yes	No	No	Two-thirds
8. Limit or extend limits of debate	Changes the debate limits	No	Yes	No	Yes	Two-thirds
9. Postpone to a certain time	Puts off the motion to a specific time	No	Yes	Yes	Yes	Majority ³
10. Commit or refer	Refers the motion to a committee	No	Yes	Yes	Yes	Majority
11. Amend an amendment (secondary amendment)	Proposes a change to an amendments	No	Yes	Yes ⁴	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes ⁴	Yes	Majority
13. Postpone indefinitely	Kills the motion	No	Yes	Yes	No	Majority
14. Main motion	Brings business before the assembly	No	Yes	Yes	Yes	Majority

1 Is debatable when another meeting is scheduled for the same or next day, or if the motion is made while no question is pending

2 Unless no question is pending

3 Majority, unless it makes question a special order

4 If the motion it is being applied to is debatable



Discussion Protocols Board of Governors Meetings

Philosophical Statement:

“We take serious our representational responsibilities and will try to inform ourselves on the subject matter before us by contact with constituents, stakeholders, WSBA staff and committees when possible and appropriate. In all deliberations and actions we will be courageous and keep in mind the need to represent and lead our membership and safeguard the public. In our actions, we will be mindful of both the call to action and the constraints placed upon the WSBA by GR 12 and other standards.”

Governor’s Commitments:

1. Tackle the problems presented; don’t make up new ones.
2. Keep perspective on long-term goals.
3. Actively listen to understand the issues and perspective of others before making the final decision or lobbying for an absolute.
4. Respect the speaker, the input and the Board’s decision.
5. Collect your thoughts and speak to the point – sparingly!
6. Foster interpersonal relationships between Board members outside Board events.
7. Listen and be courteous to speakers.
8. Speak only if you can shed light on the subject, don’t be repetitive.
9. Consider, respect and trust committee work but exercise the Board’s obligation to establish policy and insure that the committee work is consistent with that policy and the Board’s responsibility to the WSBA’s mission.
10. Seek the best decision through quality discussion and ample time (listen, don’t make assumptions, avoid sidebars, speak frankly, allow time before and during meetings to discuss important matters).
11. Don’t repeat points already made.
12. Everyone should have a chance to weigh in on discussion topics before persons are given a second opportunity.
13. No governor should commit the board to actions, opinions, or projects without consultation with the whole Board.
14. Use caution with e-mail: it can be a useful tool for debating, but e-mail is not confidential and does not easily involve all interests.
15. Maintain the strict confidentiality of executive session discussions and matters.



BOARD OF GOVERNORS

WSBA VALUES

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information



BOARD OF GOVERNORS

GUIDING COMMUNICATION PRINCIPLES

In each communication, I will assume the good intent of my fellow colleagues; earnestly and actively listen; encourage the expression of and seek to affirm the value of their differing perspectives, even where I may disagree; share my ideas and thoughts with compassion, clarity, and where appropriate confidentiality; and commit myself to the unwavering recognition, appreciation, and celebration of the humanity, skills, and talents that each of my fellow colleagues bring in the spirit and effort to work for the mission of the WSBA. Therefore, I commit myself to operating with the following norms:

- ◆ I will treat each person with courtesy and respect, valuing each individual.
- ◆ I will strive to be nonjudgmental, open-minded, and receptive to the ideas of others.
- ◆ I will assume the good intent of others.
- ◆ I will speak in ways that encourage others to speak.
- ◆ I will respect others' time, workload, and priorities.
- ◆ I will aspire to be honest and open in all communications.
- ◆ I will aim for clarity; be complete, yet concise.
- ◆ I will practice "active" listening and ask questions if I don't understand.
- ◆ I will use the appropriate communication method (face-to-face, email, phone, voicemail) for the message and situation.
- ◆ When dealing with material of a sensitive or confidential nature, I will seek and confirm that there is mutual agreement to the ground rules of confidentiality at the outset of the communication.
- ◆ I will avoid triangulation and go directly to the person with whom I need to communicate. (If there is a problem, I will go to the source for resolution rather than discussing it with or complaining to others.)
- ◆ I will focus on reaching understanding and finding solutions to problems.
- ◆ I will be mindful of information that affects, or might be of interest or value to, others, and pass it along; err on the side of over-communication.
- ◆ I will maintain a sense of perspective and respectful humor.



BOARD OF GOVERNORS

Anthony David Gipe
President

phone: 206.386.4721
e-mail: adgipeWSBA@gmail.com

November 2014

BEST PRACTICES AND EXPECTATIONS

❖ Attributes of the Board

- Competence
- Respect
- Trust
- Commitment
- Humor

❖ Accountability by Individual Governors

- Assume Good Intent
- Participation/Preparation
- Communication
- Relevancy and Reporting

❖ Team of Professionals

- Foster an atmosphere of teamwork
 - Between Board Members
 - The Board with the Officers
 - The Board and Officers with the Staff
 - The Board, Officers, and Staff with the Volunteers

- We all have common loyalty to the success of WSBA

❖ Work Hard and Have Fun Doing It

Working Together to Champion Justice

WASHINGTON STATE
B A R A S S O C I A T I O N

Financial Reports

(Unaudited)

Year to Date May 31, 2021

Prepared by Maggie Yu, Controller
Submitted by
Jorge Perez, Chief Financial Officer
June 23, 2021

Washington State Bar Association Financial Summary
Compared to Fiscal Year 2021 Budget
For the Period from May 1, 2021 to May 31, 2021

Category	Actual Revenues	Reforecasted Revenues	Actual Indirect Expenses	Reforecasted Indirect Expenses	Actual Direct Expenses	Reforecasted Direct Expenses	Actual Total Expenses	Reforecasted Total Expenses	Actual Net Result	Reforecasted Net Result
Access to Justice	-	-	147,239	212,533	9,992	53,204	157,231	265,737	(157,231)	(265,737)
Administration	3,575	6,786	726,768	1,099,780	7,454	15,140	734,222	1,114,920	(730,648)	(1,108,134)
Admissions/Bar Exam	1,060,010	1,115,296	538,911	843,354	73,746	268,696	612,657	1,112,050	447,353	3,246
Advancement FTE	-	-	156,703	239,496	-	-	156,703	239,496	(156,703)	(239,496)
Bar News	373,961	457,200	230,026	353,019	277,486	447,864	507,512	800,883	(133,551)	(343,683)
Board of Governors	-	-	140,777	215,830	44,144	199,698	184,921	415,528	(184,921)	(415,528)
Communications Strategies	-	-	300,427	461,876	17,613	71,302	318,040	533,177	(318,040)	(533,177)
Communications Strategies FTE	-	-	147,381	224,154	-	-	147,381	224,154	(147,381)	(224,154)
Covid 19	-	-	-	-	(945)	-	(945)	-	945	-
Discipline	93,965	96,337	3,802,220	5,757,972	71,455	149,655	3,873,675	5,907,627	(3,779,710)	(5,811,290)
Diversity	135,000	135,374	180,187	278,750	1,517	22,440	181,704	301,190	(46,704)	(165,816)
Foundation	-	-	81,575	125,210	3,100.00	5,000	84,675	130,210	(84,675)	(130,210)
Human Resources	-	-	327,414	385,934	-	-	327,414	385,934	(327,414)	(385,934)
Law Clerk Program	183,109	213,668	66,801	108,864	29	1,374	66,831	110,238	116,278	103,430
Legislative	-	-	73,120	121,266	23,658	28,767	96,778	150,033	(96,778)	(150,033)
Licensing and Membership Records	314,166	352,086	390,426	592,011	21,873	23,909	412,298	615,920	(98,132)	(263,834)
Licensing Fees	11,210,003	16,318,268	-	-	-	-	-	-	11,210,003	16,318,268
Limited License Legal Technician	27,604	28,054	70,522	126,595	1,412.50	7,825	71,935	134,420	(44,331)	(106,367)
Limited Practice Officers	144,469	200,770	39,640	78,920	8,108	15,089	47,747	94,010	96,722	106,760
Mandatory CLE	692,909	839,250	302,600	511,743	122,085	147,237	424,685	658,980	268,224	180,271
Member Assistance Program	7,926	9,000	60,951	127,000	1,051.00	1,075	62,002	128,075	(54,076)	(119,075)
Member Benefits	5,586	13,000	88,531	141,432	141,587	185,996	230,119	327,428	(224,533)	(314,428)
Member Services & Engagement	68,266	67,250	289,646	462,869	2,046	23,907	291,693	486,776	(223,427)	(419,526)
Office of General Counsel	747	27.00	587,075.19	906,308	10,563.79	23,813.82	597,638.98	930,122	(596,892)	(930,095)
Office of the Executive Director	-	-	420,007	637,848	191	100,465	420,197	738,313	(420,197)	(738,313)
OGC-Disciplinary Board	-	-	111,064	168,809	52,799	130,133	163,862	298,942	(163,862)	(298,942)
Outreach and Engagement	-	-	159,850	257,936	522	33,454	160,372	291,390	(160,372)	(291,390)
Practice of Law Board	-	-	25,532	61,823	-	7,825	25,532	69,649	(25,532)	(69,649)
Professional Responsibility Program	-	-	191,628	291,439	640	5,736	192,267	297,175	(192,267)	(297,175)
Public Service Programs	103,000	103,000	86,554	135,981	115,893	237,993	202,446	373,974	(99,446)	(270,974)
Publication and Design Services	-	-	65,664	100,900	4,300	5,069	69,964	105,969	(69,964)	(105,969)
Regulatory Services FTE	-	-	258,954	405,650	-	-	258,954	405,650	(258,954)	(405,650)
Sections Administration	281,336	272,000	187,158	291,946	6,353	7,620	193,511	299,566	87,825	(27,566)
Service Center	-	-	455,827	674,133	2,927	8,500	458,754	682,633	(458,754)	(682,633)
Technology	-	-	1,210,606	1,711,290	2,475.00	-	1,213,081	1,711,290	(1,213,081)	(1,711,290)
Subtotal General Fund	14,705,631	20,227,365	11,921,782	18,112,672	1,024,075	2,228,785	12,945,857	20,341,457	1,759,773.68	(114,092)
Expenses using reserve funds	-	-	-	-	-	-	12,945,857	-	-	-
Total General Fund - Net Result from Operations									1,759,773.68	(114,092)
Percentage of Budget	72.70%		65.82%		45.95%		63.64%			
CLE-Seminars and Products	838,304	1,212,529	673,061	1,012,798	64,464	264,864	737,524	1,277,662	100,779	(65,133)
CLE - Deskbooks	107,361	140,500	144,043	220,190	99,990	111,939	244,033	332,129	(136,672)	(191,629)
Total CLE	945,665	1,353,029	817,104	1,232,988	164,453	376,803	981,557	1,609,791	(35,892)	(256,762)
Percentage of Budget	69.89%		66.27%		43.64%		60.97%			
Total All Sections	593,289	585,779	-	-	323,840	865,167	323,840	865,167	269,449	(279,388)
Client Protection Fund-Restricted	414,241	533,402	102,848	158,569	57,478	493,353	160,326	651,922	253,915	(118,520)
Totals	16,658,826	22,699,575	12,841,734	19,504,229	1,569,846	3,964,108	14,411,580	23,468,336	2,247,246	(768,761)
Percentage of Budget	73.39%		65.84%		39.60%		61.41%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2020	2021 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	4,193,130	4,074,610	4,447,045
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	469,241	212,479	433,349
Section Funds	1,210,209	930,821	1,479,658
Board-Designated Funds (General Fund):			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	550,000	550,000	550,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	3,478,234	3,364,142	5,238,008
Total General Fund Balance	5,528,234	5,414,142	7,288,008
Net Change in general Fund Balance		(114,092)	1,759,774
Total Fund Balance	11,400,814.00	10,632,053	13,648,060
Net Change in Fund Balance		(768,761)	2,247,245.82

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LICENSE FEES									
REVENUE:									
LICENSE FEES	1,318,211.48	1,379,614.42	61,402.94	11,155,381.12	11,210,003.47	54,622.35	16,318,267.73	5,108,264.26	68.70%
TOTAL REVENUE:	1,318,211	1,379,614	61,403	11,155,381	11,210,003	54,622	16,318,268	5,108,264	68.70%

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ACCESS TO JUSTICE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
ATJ BOARD RETREAT	-	-	-	-	-	-	2,000	2,000	0.00%
LEADERSHIP TRAINING	250	973	(723)	1,000	973	27	2,000	1,027	48.65%
ATJ BOARD EXPENSE	2,250	39	2,211	9,000	9,018	(18)	18,000	8,982	50.10%
PUBLIC DEFENSE	550	-	550	2,200	0	2,200	4,400	4,400	0.01%
CONFERENCE/INSTITUTE EXPENSE	3,350	-	3,350	13,402	0	13,402	26,804	26,804	0.00%
TOTAL DIRECT EXPENSES:	6,400	1,012	5,389	25,602	9,992	15,611	53,204	43,212	18.78%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.60 FTE)	9,657	13,015	(3,358)	79,467	88,669	(9,202)	118,095	29,426	75.08%
BENEFITS EXPENSE	3,748	3,698	50	29,161	29,149	11	44,212	15,063	65.93%
OTHER INDIRECT EXPENSE	3,839	3,649	190	32,367	29,421	2,946	50,225	20,804	58.58%
TOTAL INDIRECT EXPENSES:	17,245	20,362	(3,118)	140,995	147,239	(6,244)	212,533	65,294	69.28%
TOTAL ALL EXPENSES:	23,645	21,374	2,271	166,597	157,231	9,366	265,737	108,506	59.17%
NET INCOME (LOSS):	(23,645)	(21,374)	2,271	(166,597)	(157,231)	9,366	(265,737)	(108,506)	59.17%

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADMINISTRATION									
REVENUE:									
INTEREST INCOME	500	685	185	4,786	3,575	(1,212)	6,786	3,212	52.67%
TOTAL REVENUE:	500	685	185	4,786	3,575	(1,212)	6,786	3,212	52.67%
DIRECT EXPENSES:									
CONSULTING SERVICES	-	-	-	5,392	6,088	(696)	11,000	4,913	55.34%
STAFF TRAVEL/PARKING	350	26	324	2,740	1,366	1,374	4,140	2,774	33.01%
TOTAL DIRECT EXPENSES:	350	26	324	8,132	7,454	678	15,140	7,686	49.23%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.92 FTE)	55,095	53,370	1,725	461,057	465,947	(4,890)	681,430.99	215,484	68.38%
BENEFITS EXPENSE	16,996	16,935	62	132,607	132,993	(386)	200,848	67,855	66.22%
OTHER INDIRECT EXPENSE	16,605	15,855	750	140,263	127,828	12,435	217,501	89,673	58.77%
TOTAL INDIRECT EXPENSES:	88,696	86,159	2,537	733,927	726,768	7,159	1,099,780	373,012	66.08%
TOTAL ALL EXPENSES:	89,046	86,185	2,861	742,059	734,222	7,837	1,114,920	380,698	65.85%
NET INCOME (LOSS):	(88,546)	(85,501)	3,045	(737,272)	(730,648)	6,625	(1,108,134)	(377,486)	65.93%

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADMISSIONS									
REVENUE:									
BAR EXAM FEES	59,581	62,825	3,244	1,059,321	1,013,490	(45,831)	1,059,321	45,831	95.67%
RULE 9/LEGAL INTERN FEES	4,770	2,800	(1,970)	11,192	8,200	(2,992)	11,192	2,992	73.27%
RPC BOOKLETS	-	-	-	-	5	5	-	(5)	
SPECIAL ADMISSIONS	1,452	1,205	(247)	44,783	38,315	(6,468)	44,783	6,468	85.56%
TOTAL REVENUE:	65,804	66,830	1,026	1,115,296	1,060,010	(55,286)	1,115,296	55,286	95.04%
DIRECT EXPENSES:									
POSTAGE	150	-	150	619	369	250	1,219	850	30.26%
STAFF TRAVEL/PARKING	-	-	-	288	473	(186)	2,500	2,027	18.94%
STAFF MEMBERSHIP DUES	-	-	-	400	-	400	800	800	0.00%
SUPPLIES	83	-	83	1,273	940	333	1,607	667	58.51%
FACILITY, PARKING, FOOD	-	-	-	6,969	5,202	1,766	20,000	14,798	26.01%
EXAMINER FEES	-	-	-	10,000	10,000	-	26,000	16,000	38.46%
UBE EXMINATIONS	-	-	-	26,000	25,901	99	121,000	95,099	21.41%
BAR EXAM PROCTORS	-	283	(283)	(133)	150	(283)	(133)	(283)	-113.08%
CHARACTER & FITNESS BOARD	-	-	-	1,000	-	1,000	1,000	1,000	0.00%
DISABILITY ACCOMMODATIONS	1,491	-	1,491	4,491	2,985	1,505	9,491	6,505	31.45%
CHARACTER & FITNESS INVESTIGATIONS	100	-	100	256	6	250	306	300	2.01%
LAW SCHOOL VISITS	-	-	-	-	-	-	750	750	0.00%
ILG EXAM FEES	-	-	-	10,500	10,450	50	50,000	39,550	20.90%
COURT REPORTERS	1,250	1,049	201	8,711	6,766	1,945	13,711	6,945	49.35%
DEPRECIATION-SOFTWARE	1,898	1,627	271	9,358	8,273	1,085	16,950	8,677	48.81%
ONLINE LEGAL RESEARCH	304	307	(3)	2,129	2,141	(12)	3,345	1,204	64.01%
LAW LIBRARY	13	11	2	97	89	8	150	61	59.08%
TOTAL DIRECT EXPENSES:	5,289	3,277	2,012	81,957	73,746	8,211	268,696	194,950	27.45%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.55 FTE)	39,776	40,466	(690)	304,682	304,083	599	463,780	159,697	65.57%
BENEFITS EXPENSE	14,716	14,544	172	113,608	114,102	(493)	172,719	58,617	66.06%
OTHER INDIRECT EXPENSE	15,957	14,974	983	132,631	120,726	11,905	206,855	86,129	58.36%
TOTAL INDIRECT EXPENSES:	70,449	69,984	465	550,921	538,911	12,010	843,354	304,443	63.90%
TOTAL ALL EXPENSES:	75,738	73,261	2,477	632,878	612,657	20,221	1,112,050	499,393	55.09%
NET INCOME (LOSS):	(9,935)	(6,431)	3,504	482,418	447,353	(35,065)	3,246	(444,107)	13781.02%

Washington State Bar Association

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For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADVANCEMENT FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.15 FTE)	13,398	12,973	425	108,002	107,794	208	161,593	53,799	66.71%
BENEFITS EXPENSE	3,546	3,571	(25)	27,503	27,604	(102)	41,728	14,124	66.15%
OTHER INDIRECT EXPENSE	2,760	2,642	117	23,339	21,305	2,034	36,175	14,870	58.89%
TOTAL INDIRECT EXPENSES:	19,703	19,186	517	158,843	156,703	2,140	239,496	82,793	65.43%
NET INCOME (LOSS):	(19,703)	(19,186)	517	(158,843)	(156,703)	2,140	(239,496)	(82,793)	65.43%

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
BAR NEWS									
REVENUE:									
ROYALTIES	92	-	(92)	1,631	1,262	(369)	2,000	738	63.09%
DISPLAY ADVERTISING	-	-	-	209,361	240,566	31,205	300,000	59,434	80.19%
SUBSCRIPT/SINGLE ISSUES	-	-	-	118	72	(46)	200	128	36.06%
CLASSIFIED ADVERTISING	212	212	212	4,223	1,437	(2,786)	7,500	6,063	19.16%
GEN ANNOUNCEMENTS	-	-	-	4,425	4,223	(203)	7,500	3,278	56.30%
PROF ANNOUNCEMENTS	-	-	-	12,968	12,997	29	20,000	7,003	64.99%
JOB TARGET ADVERTISING	-	19,299	19,299	79,253	113,404	34,151	120,000	6,596	94.50%
TOTAL REVENUE:	92	19,511	19,419	311,979	373,961	61,982	457,200	83,239	81.79%
DIRECT EXPENSES:									
BAD DEBT EXPENSE	63	-	63	250	-	250	500	500	0.00%
POSTAGE	-	-	-	62,871	62,669	202	95,000	32,331	65.97%
PRINTING, COPYING & MAILING	-	-	-	161,802	147,949	13,852	250,000	102,050	59.18%
DIGITAL/ONLINE DEVELOPMENT	1,044	850	194	6,825	7,449	(624)	11,000	3,551	67.72%
GRAPHICS/ARTWORK	31	-	31	125	-	125	250	250	0.00%
OUTSIDE SALES EXPENSE	-	-	-	64,334	59,419	4,915	90,000	30,581	66.02%
EDITORIAL ADVISORY COMMITTEE	63	-	63	250	-	250	500	500	0.00%
STAFF MEMBERSHIP DUES	123	-	123	123	-	123	615	615	0.00%
TOTAL DIRECT EXPENSES:	1,323	850	473	296,579	277,486	19,092	447,864	170,378	61.96%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.83 FTE)	16,744	16,727	17	135,783	137,031	(1,248)	202,757	65,726	67.58%
BENEFITS EXPENSE	5,188	5,178	10	40,547	40,748	(201)	61,402	20,654	66.36%
OTHER INDIRECT EXPENSE	6,783	6,480	303	57,310	52,247	5,063	88,860	36,613	58.80%
TOTAL INDIRECT EXPENSES:	28,714	28,385	330	233,640	230,026	3,614	353,019	122,993	65.16%
TOTAL ALL EXPENSES:	30,037	29,235	803	530,219	507,512	22,707	800,883	293,371	63.37%
NET INCOME (LOSS):	(29,945)	(9,724)	20,221	(218,240)	(133,551)	84,689	(343,683)	(210,132)	38.86%

Washington State Bar Association

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
BOARD OF GOVERNOR									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
BOG MEETINGS	16,000	9,001	6,999	27,114	11,047	16,066	89,114	78,066	12.40%
BOG COMMITTEES' EXPENSES	40	0	40	95	8	87	4,635	4,627	0.18%
BOG RETREAT	-	94	(94)	253	563	(310)	15,253	14,690	3.69%
BOG CONFERENCE ATTENDANCE	-	-	-	1,988	497	1,491	6,988	6,491	7.11%
BOG TRAVEL & OUTREACH	1,325	-	1,325	6,236	2,210	4,026	11,535	9,325	19.16%
LEADERSHIP TRAINING	4,167	-	4,167	16,667	1,665	15,002	33,333	31,668	5.00%
BOG ELECTIONS	5,000	334	4,666	28,840	28,154	686	28,840	686	97.62%
PRESIDENT'S DINNER	-	-	-	-	-	-	10,000	10,000	0.00%
TOTAL DIRECT EXPENSES:	26,531	9,429	17,102	81,192	44,144	37,048	199,698	155,554	22.11%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.75 FTE)	9,783	9,772	11	80,246	81,096	(851)	119,377	38,281	67.93%
BENEFITS EXPENSE	3,511	3,477	34	27,397	27,470	(73)	41,504	14,034	66.19%
OTHER INDIRECT EXPENSE	4,199	3,995	204	35,416	32,211	3,206	54,949	22,738	58.62%
TOTAL INDIRECT EXPENSES:	17,493	17,244	249	143,058	140,777	2,282	215,830	75,053	65.23%
TOTAL ALL EXPENSES:	44,024	26,673	17,351	224,251	184,921	39,330	415,528	230,607	44.50%
NET INCOME (LOSS):	(44,024)	(26,673)	17,351	(224,251)	(184,921)	39,330	(415,528)	(230,607)	44.50%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
CONTINUING LEGAL EDUCATION (CLE)									
REVENUE:									
SEMINAR REGISTRATIONS	66,923	73,976	7,053	382,705	490,056	107,351	650,398	160,342	75.35%
SEMINAR-EXHIB/SPNSR/ETC	-	2,150	2,150	517	2,150	1,633	5,000	2,850	43.00%
SHIPPING & HANDLING	83	36	(47)	408	182	(225)	741	559	24.60%
COURSEBOOK SALES	362	515	153	2,553	2,452	(101)	4,000	1,548	61.30%
MP3 AND VIDEO SALES	109,421	74,646	(34,774)	373,338	343,464	(29,874)	552,390	208,926	62.18%
TOTAL REVENUE:	176,789	151,324	(25,465)	759,520	838,304	78,784	1,212,529	374,225	69.14%
DIRECT EXPENSES:									
COURSEBOOK PRODUCTION	63	-	63	250	-	250	500	500	0.00%
POSTAGE - FLIERS/CATALOGS	70	-	70	1,218	-	1,218	1,500	1,500	0.00%
DEPRECIATION	313	109	204	3,188	2,750	438	3,188	438	86.25%
ONLINE EXPENSES	4,000	4,128	(128)	30,559	30,883	(324)	46,559	15,676	66.33%
ACCREDITATION FEES	-	(60)	60	2,772	2,496	276	2,772	276	90.04%
FACILITIES	4,800	4,000	800	23,200	21,600	1,600	64,700	43,100	33.38%
TRANSACTION SERVICES	176	-	176	797	270	527	1,500	1,230	18.01%
SPEAKERS & PROGRAM DEVELOP	200	273	(73)	1,126	742	385	6,026	5,285	12.30%
SPLITS TO SECTIONS	-	6,071	(6,071)	115,000	3,611	111,389	115,000	111,389	3.14%
HONORARIA	838	-	838	3,350	-	3,350	6,700	6,700	0.00%
CLE SEMINAR COMMITTEE	13	-	13	50	-	50	100	100	0.00%
BAD DEBT EXPENSE	54	-	54	217	-	217	433	433	0.00%
STAFF TRAVEL/PARKING	1,250	-	1,250	5,073	73	5,000	10,073	10,000	0.73%
STAFF MEMBERSHIP DUES	121	-	121	1,820	1,336	484	2,305	969	57.97%
SUBSCRIPTIONS	-	334	(334)	-	334	(334)	-	(334)	
SUPPLIES	83	-	83	333	-	333	667	667	0.00%
CONFERENCE CALLS	4	-	4	17	-	17	33	33	0.00%
COST OF SALES - COURSEBOOKS	125	29	96	569	168	400	1,069	900	15.75%
A/V DEVELOP COSTS (RECORDING)	167	-	167	667	-	667	1,333	1,333	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	42	24	18	238	201	38	405	204	49.54%
TOTAL DIRECT EXPENSES:	12,317	14,908	(2,591)	190,445	64,464	125,982	264,864	200,401	24.34%
INDIRECT EXPENSES:									
SALARY EXPENSE (8.42 FTE)	44,513.56	44,399	114	371,830	375,712	(3,882)	551,283	175,571	68.15%
BENEFITS EXPENSE	17,431	17,257	174	139,683	142,130	(2,447)	210,621	68,491	67.48%
OTHER INDIRECT EXPENSE	18,683	19,252	(569)	163,123	155,220	7,903	250,895	95,675	61.87%
TOTAL INDIRECT EXPENSES:	80,627	80,909	(281)	674,635	673,061	1,574	1,012,798	339,737	66.46%
TOTAL ALL EXPENSES:	92,944	95,816	(2,872)	865,080	737,524	127,556	1,277,662	540,138	57.72%
NET INCOME (LOSS):	83,845	55,507	(28,337)	(105,560)	100,779	206,340	(65,133)	(165,913)	-154.73%

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
COMMUNICATION STRATEGIES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	392	-	392	2,557	2,086	471	4,123	2,037	50.59%
STAFF MEMBERSHIP DUES	99	-	99	774	380	394	1,169	789	32.52%
SUBSCRIPTIONS	254	367	(113)	1,734	2,447	(713)	2,751	304	88.94%
DIGITAL/ONLINE DEVELOPMENT	67	-	67	267	545	(278)	533	(12)	102.20%
APEX DINNER	-	-	-	837	837	-	25,000	24,163	3.35%
50 YEAR MEMBER TRIBUTE LUNCH	1,875	-	1,875	7,500	-	7,500	15,000	15,000	0.00%
COMMUNICATIONS OUTREACH	2,083	7,252	(5,169)	10,298	10,348	(49)	18,632	8,284	55.54%
TELEPHONE	25	88	(63)	459	711	(252)	559	(152)	127.22%
CONFERENCE CALLS	25	-	25	101	-	101	201	201	0.00%
MISCELLANEOUS	417	-	417	1,667	260	1,407	3,333	3,073	7.80%
TOTAL DIRECT EXPENSES:	5,236	7,707	(2,471)	26,193	17,613	8,579	71,302	53,688	24.70%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.80 FTE)	21,355	21,332	23	174,752	175,714	(962)	260,171	84,457	67.54%
BENEFITS EXPENSE	6,940	6,907	32	54,386	54,712	(326)	82,285	27,573	66.49%
OTHER INDIRECT EXPENSE	9,126	8,682	444	76,969	70,001	6,968	119,420	49,419	58.62%
TOTAL INDIRECT EXPENSES:	37,421	36,922	499	306,107	300,427	5,680	461,876	161,449	65.04%
TOTAL ALL EXPENSES:	42,658	44,629	(1,971)	332,299	318,040	14,259	533,177	215,137	59.65%
NET INCOME (LOSS):	(42,658)	(44,629)	(1,971)	(332,299)	(318,040)	14,259	(533,177)	(215,137)	59.65%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
COMMUNICATION STRATEGIES FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	12,463	12,457	6	100,063	100,654	(591)	149912.82	49,259	67.14%
BENEFITS EXPENSE	3,656	3,658	(3)	28,130	28,212	(81)	42,790	14,578	65.93%
OTHER INDIRECT EXPENSE	2,400	2,296	103	20,289	18,515	1,775	31,451	12,936	58.87%
TOTAL INDIRECT EXPENSES:	18,518	18,411	107	148,483	147,381	1,103	224,154	76,773	65.75%
NET INCOME (LOSS):	(18,518)	(18,411)	107	(148,483)	(147,381)	1,103	(224,154)	(76,773)	65.75%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
CLIENT PROTECTION FUND									
REVENUE:									
CPF RESTITUTION	311	1,341	1,030	9,295	56,994	47,699	9,662	(47,332)	589.89%
CPF MEMBER ASSESSMENTS	24,700	2,130	(22,570)	416,740	353,900	(62,840)	515,540	161,640	68.65%
INTEREST INCOME	833	366	(467)	4,867	3,347	(1,520)	8,200	4,853	40.81%
TOTAL REVENUE:	25,844	3,837	(22,007)	430,902	414,241	(16,661)	533,402	119,161	77.66%
DIRECT EXPENSES:									
BANK FEES - WELLS FARGO	131	142	(11)	1,291	1,364	(74)	1,395	31	97.77%
GIFTS TO INJURED CLIENTS	58,151	31,050	27,101	79,253	56,065	23,189	490,880	434,815	11.42%
CPF BOARD EXPENSES	26	-	26	595	49	546	877	828	5.61%
STAFF MEMBERSHIP DUES	-	-	-	200	-	200	200	200	0.00%
TOTAL DIRECT EXPENSES:	58,308	31,192	27,115	81,339	57,478	23,861	493,353	435,874	11.65%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.23 FTE)	7,092	7,084	8	57,380	57,696	(316)	85,746	28,049	67.29%
BENEFITS EXPENSE	2,904	2,859	46	22,571	22,579	(8)	34,234	11,655	65.96%
OTHER INDIRECT EXPENSE	2,951	2,800	152	24,861	22,573	2,288	38,589	16,017	58.49%
TOTAL INDIRECT EXPENSES:	12,948	12,743	205	104,812	102,848	1,964	158,569	55,721	64.86%
TOTAL ALL EXPENSES:	71,255	43,935	27,320	186,151	160,326	25,825	651,922	491,596	24.59%
NET INCOME (LOSS):	(45,411)	(40,098)	5,313	244,752	253,915	9,163	(118,520)	(372,435)	-214.24%

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DESKBOOKS											
REVENUE:											
LEXIS/NEXIS ROYALTIES	1,500	-	(1,500)	6,000	#	-	#	(6,000)	12,000	12,000	0.00%
FASTCASE ROYALTIES	250	-	(250)	1,000	#	-	#	(1,000)	2,000	2,000	0.00%
SHIPPING & HANDLING	97	-	(97)	2,113		2,122		9	2,500	378	84.87%
DESKBOOK SALES	1,812	-	(1,812)	66,751		74,032		7,282	74,000	(32)	100.04%
SECTION PUBLICATION SALES	189	-	(189)	9,245		9,890		645	10,000	110	98.90%
CASEMAKER ROYALTIES	2,335	-	(2,335)	30,659		21,317		(9,341)	40,000	18,683	53.29%
TOTAL REVENUE:	6,183	-	(6,183)	115,767		107,361		(8,406)	140,500	33,139	76.41%
DIRECT EXPENSES:											
COST OF SALES - DESKBOOKS	2,226	3,679	(1,453)	39,971		40,979		(1,008)	48,875	7,896	83.85%
COST OF SALES - SECTION PUBLICATION	36	-	36	2,656		3,003		(347)	2,800	(203)	107.26%
SPLITS TO SECTIONS	715	-	715	4,641		3,844		797	7,500	3,656	51.25%
DESKBOOK ROYALTIES	45	-	45	319		199		120	500	301	39.87%
POSTAGE & DELIVER-DESKBOOKS	127	7,050	(6,923)	2,493		10,034		(7,541)	3,000	(7,034)	334.47%
FLIERS/CATALOGS	(0)	-	(0)	2,507		2,507		(0)	2,507	(0)	100.01%
ONLINE LEGAL RESEARCH	171	154	17	989		1,071		(82)	1,672	601	64.03%
POSTAGE - FLIERS/CATALOGS	117	-	117	469		936		(468)	937	1	99.92%
OBSOLETE INVENTORY	2,945	581	2,364	23,562		32,781		(9,219)	35,343	2,562	92.75%
BAD DEBT EXPENSE	13	-	13	50		-		50	100	100	0.00%
RECORDS STORAGE - OFF SITE	625	(7,050)	7,675	5,600		4,450		1,150	8,100	3,650	54.94%
STAFF MEMBERSHIP DUES	44	-	44	44		-		44	220	220	0.00%
MISCELLANEOUS	25	-	25	100		-		100	200	200	0.00%
SUBSCRIPTIONS	-	-	-	185		185		-	185	0	99.98%
TOTAL DIRECT EXPENSES:	7,088	4,414	2,675	83,586		99,990		(16,404)	111,939	11,949	89.33%
INDIRECT EXPENSES:											
SALARY EXPENSE (1.52 FTE)	10,473	10,463	9	85,854		86,365		(510)	127,743.6	41,379	67.61%
BENEFITS EXPENSE	3,774	3,737	37	29,483		29,526		(43)	44,636	15,110	66.15%
OTHER INDIRECT EXPENSE	3,647	3,492	156	30,845		28,153		2,692	47,810	19,658	58.88%
TOTAL INDIRECT EXPENSES:	17,894	17,693	202	146,182		144,043		2,139	220,190	76,147	65.42%
TOTAL ALL EXPENSES:	24,982	22,106	2,876	229,768		244,033		(14,265)	332,129	88,096	73.48%
NET INCOME (LOSS):	(18,799)	(22,106)	(3,307)	(114,001)		(136,672)		(22,671)	(191,629)	(54,957)	71.32%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
DISCIPLINE									
REVENUE:									
COPY FEES	-	-	-	60	-	(60)	60	60	0.00%
AUDIT REVENUE	107	-	(107)	851	739	(112)	1,277	538	57.85%
RECOVERY OF DISCIPLINE COSTS	6,278	4,040	(2,238)	54,888	80,761	25,873	80,000	(761)	100.95%
DISCIPLINE HISTORY SUMMARY	1,166	1,680	1,680	10,335	12,465	2,130	15,000	2,535	83.10%
TOTAL REVENUE:	7,551	5,720	(664)	66,134	93,965	27,831	96,337	2,372	97.54%
DIRECT EXPENSES:									
PUBLICATIONS PRODUCTION	31	-	31	125	181	(56)	250	69	72.24%
STAFF TRAVEL/PARKING	250	-	250	11,587	8,730	2,857	20,587	11,857	42.41%
STAFF MEMBERSHIP DUES	250	410	(160)	4,080	3,840	240	5,080	1,240	75.59%
TELEPHONE	185	165	21	1,459	1,434	24	2,200	766	65.19%
COURT REPORTERS	2,765	3,549	(783)	16,439	12,021	4,417	27,500	15,479	43.71%
OUTSIDE COUNSEL/AIC	375	-	375	1,500	500	1,000	3,000	2,500	16.67%
LITIGATION EXPENSES	1,972	1,279	693	9,612	4,984	4,628	17,500	12,516	28.48%
DISABILITY EXPENSES	938	-	938	3,750	4,900	(1,150)	7,500	2,600	65.33%
ONLINE LEGAL RESEARCH	5,006	4,456	550	33,264	31,088	2,176	53,288	22,200	58.34%
LAW LIBRARY	1,138	209	929	7,447	3,278	4,169	12,000	8,722	27.32%
TRANSLATION SERVICES	94	-	94	375	500	(125)	750	250	66.67%
TOTAL DIRECT EXPENSES:	13,004	10,068	2,937	89,637	71,455	18,182	149,655	78,199	47.75%
INDIRECT EXPENSES:									
SALARY EXPENSE (37.00 FTE)	286,972	292,545	(5,573)	2,379,260	2,411,009	(31,749)	3,571,125	1,160,116	67.51%
BENEFITS EXPENSE	86,480	86,627	(147)	698,640	708,448	(9,808)	1,057,652	349,203	66.98%
OTHER INDIRECT EXPENSE	82,785	84,684	(1,899)	728,184	682,763	45,421	1,129,195	446,432	60.46%
TOTAL INDIRECT EXPENSES:	456,237	463,856	(7,619)	3,806,083	3,802,220	3,863	5,757,972	1,955,752	66.03%
TOTAL ALL EXPENSES:	469,241	473,923	(4,682)	3,895,720	3,873,675	22,045	5,907,627	2,033,952	65.57%
NET INCOME (LOSS):	(461,690)	(468,203)	(6,513)	(3,829,586)	(3,779,710)	49,876	(5,811,290)	(2,031,580)	65.04%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
DIVERSITY									
REVENUE:									
DONATIONS	(1,250)	-	1,250	130,000	135,000	5,000	125,000	(10,000)	108.00%
WORK STUDY GRANTS	1,297	-	(1,297)	5,187	-	(5,187)	10,374	10,374	0.00%
TOTAL REVENUE:	47	-	(47)	135,187	135,000	(187)	135,374	374	99.72%
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	58	-	58	58	-	58	290	290	0.00%
COMMITTEE FOR DIVERSITY	610	-	610	2,458	17	2,441	4,900	4,883	0.35%
DIVERSITY EVENTS & PROJECTS	2,063	-	2,063	9,000	1,500	7,500	17,250	15,750	8.70%
TOTAL DIRECT EXPENSES:	2,731	-	2,731	11,516	1,517	9,999	22,440	20,923	6.76%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.46 FTE)	15,200	20,751	(5,550)	89,722	94,843	(5,122)	150,814	55,970	62.89%
BENEFITS EXPENSE	5,530	5,460	71	37,209	39,944	(2,736)	59,610	19,665	67.01%
OTHER INDIRECT EXPENSE	5,543	5,631	(88)	42,344	45,399	(3,055)	68,326	22,927	66.44%
TOTAL INDIRECT EXPENSES:	26,274	31,841	(5,567)	169,274	180,187	(10,913)	278,750	98,563	64.64%
TOTAL ALL EXPENSES:	29,005	31,841	(2,837)	180,791	181,704	(913)	301,190	119,486	60.33%
NET INCOME (LOSS):	(28,958)	(31,841)	(2,883)	(45,604)	(46,704)	(1,100)	(165,816)	(119,112)	28.17%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
FOUNDATION									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
CONSULTING SERVICES	-	-	-	3,000	3,000	-	3,000	-	100.00%
PRINTING & COPYING	-	-	-	-	-	-	450	450	0.00%
STAFF TRAVEL/PARKING	-	-	-	-	-	-	100	100	0.00%
SUPPLIES	-	-	-	-	-	-	150	150	0.00%
SPECIAL EVENTS	-	-	-	-	50	(50)	-	(50)	
BOARD OF TRUSTEES	-	-	-	-	50	(50)	1,000	950	5.00%
POSTAGE	-	-	-	-	-	-	300	300	0.00%
TOTAL DIRECT EXPENSES:	-	-	-	3,000	3,100	(100)	5,000	1,900	62.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,444	6,438	6	52,180	52,471	(290)	77,954	25,483	67.31%
BENEFITS EXPENSE	1,329	1,364	(35)	10,450	10,589	(139)	15,805	5,216	67.00%
OTHER INDIRECT EXPENSE	2,400	2,296	103	20,289	18,515	1,775	31,451	12,936	58.87%
TOTAL INDIRECT EXPENSES:	10,173	10,098	75	82,920	81,575	1,345	125,210	43,635	65.15%
TOTAL ALL EXPENSES:	10,173	10,098	75	85,920	84,675	1,245	130,210	45,535	65.03%
NET INCOME (LOSS):	(10,173)	(10,098)	75	(85,920)	(84,675)	1,245	(130,210)	(45,535)	65.03%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
HUMAN RESOURCES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	-	-	-	594	-	594	697	697	0.00%
STAFF MEMBERSHIP DUES	-	-	-	-	-	-	193	193	0.00%
SUBSCRIPTIONS	-	-	-	2,419	173	2,246	3,399	3,226	5.08%
STAFF TRAINING- GENERAL	-	-	-	209	1,474	(1,265)	25,000	23,526	5.90%
RECRUITING AND ADVERTISING	583	211	372	16,247	17,622	(1,376)	18,580	958	94.85%
PAYROLL PROCESSING	4,081	-	4,081	32,674	29,166	3,508	49,000	19,834	59.52%
SALARY SURVEYS	242	-	242	967	-	967	1,933	1,933	0.00%
CONSULTING SERVICES	-	-	-	23,200	57,283	(34,083)	112,500	55,217	50.92%
CONFERENCE CALLS	-	-	-	-	13	(13)	-	(13)	
TRANSFER TO INDIRECT EXPENSE	(4,906)	(211)	(4,695)	(76,309)	(105,732)	29,422	(211,302)	(105,571)	50.04%
TOTAL DIRECT EXPENSES:	-	-	-	0	-	0.01	-	-	
INDIRECT EXPENSES:									
SALARY EXPENSE (3.00 FTE)	22,352	24,782	(2,430)	130,119	213,380	(83,261)	219,525	6,145	97.20%
BENEFITS EXPENSE	8,489	8,384	105	52,892	58,744	(5,852)	86,960	28,216	67.55%
OTHER INDIRECT EXPENSE	6,859	6,858	1	49,507	55,291	(5,784)	79,450	24,159	69.59%
TOTAL INDIRECT EXPENSES:	37,700	40,023	(2,323)	232,517	327,414	(94,897)	385,934	58,520	84.84%
TOTAL ALL EXPENSES:	37,700	40,023	(2,323)	232,517	327,414	(94,897)	385,934	58,520	84.84%
NET INCOME (LOSS):	(37,700)	(40,023)	(2,323)	(232,517)	(327,414)	(94,897)	(385,934)	(58,520)	84.84%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LAW CLERK PROGRAM									
REVENUE:									
LAW CLERK FEES	10,000	9,794	(206)	185,782	181,009	(4,773)	209,637	28,628	86.34%
LAW CLERK APPLICATION FEES	1,000	100	(900)	2,900	2,100	(800)	4,031	1,931	52.10%
TOTAL REVENUE:	11,000	9,894	(1,106)	188,682	183,109	(5,573)	213,668	30,559	85.70%
DIRECT EXPENSES:									
SUBSCRIPTIONS	-	-	-	-	-	-	250	250	0.00%
CHARACTER & FITNESS INVESTIGATIONS	20	-	20	20	-	20	100	100	0.00%
LAW CLERK BOARD EXPENSE	-	2	(2)	24	29	(6)	624	594	4.68%
STAFF TRAVEL/PARKING	52	-	52	92	-	92	300	300	0.00%
LAW CLERK OUTREACH	-	-	-	-	-	-	100	100	0.00%
TOTAL DIRECT EXPENSES:	72	2	70	135	29	106	1,374	1,344	2.13%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.90 FTE)	5,283	4,592	691	39,235	37,361	1,874	60,364	23,004	61.89%
BENEFITS EXPENSE	1,861	1,844	17	13,185	12,955	230	20,663	7,708	62.70%
OTHER INDIRECT EXPENSE	2,160	2,045	115	17,791	16,486	1,305	27,837	11,351	59.22%
TOTAL INDIRECT EXPENSES:	9,303	8,481	822	70,211	66,801	3,410	108,864	42,063	61.36%
TOTAL ALL EXPENSES:	9,375	8,483	892	70,346	66,831	3,516	110,238	43,407	60.62%
NET INCOME (LOSS):	1,625	1,411	(214)	118,336	116,278	(2,057)	103,430	(12,848)	112.42%

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LEGISLATIVE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	100	-	100	300	-	300	400	400	0.00%
SUBSCRIPTIONS	-	-	-	1,982	1,982	-	1,982	-	100.00%
CONTRACT LOBBYIST	4,333	8,667	(4,333)	21,667	21,667	-	26,000	4,333	83.33%
LEGISLATIVE COMMITTEE	-	-	-	10	10	-	260	250	3.77%
BOG LEGISLATIVE COMMITTEE	25	-	25	25	-	25	125	125	0.00%
TOTAL DIRECT EXPENSES:	4,458	8,667	(4,208)	23,983	23,658	325	28,767	5,108	82.24%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,546	5,219	1,327	41,358	36,229	5,129	66,209	29,980	54.72%
BENEFITS EXPENSE	2,657	2,617	40	16,297	18,376	(2,079)	26,705	8,329	68.81%
OTHER INDIRECT EXPENSE	2,400	2,296	103	17,191	18,515	(1,324)	28,353	9,838	65.30%
TOTAL INDIRECT EXPENSES:	11,602	10,132	1,471	74,846	73,120	1,726	121,266	48,146	60.30%
TOTAL ALL EXPENSES:	16,061	18,798	(2,738)	98,829	96,778	2,051	150,033	53,255	64.50%
NET INCOME (LOSS):	(16,061)	(18,798)	(2,738)	(98,829)	(96,778)	2,051	(150,033)	(53,255)	64.50%

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LICENSING & MEMBERSHIP RECORDS									
REVENUE:									
STATUS CERTIFICATE FEES	1,700	1,925	225	19,314	20,855	1,540	26,115	5,260	79.86%
INVESTIGATION FEES	1,986	2,800	814	14,454	14,800	346	22,399	7,599	66.07%
PRO HAC VICE	22,900	36,182	13,282	207,474	274,342	66,868	299,074	24,732	91.73%
MEMBER CONTACT INFORMATION	-	250	250	1,853	3,978	2,124	4,211	234	94.45%
PHOTO BAR CARD SALES	29	48	19	154	192	38	286	94	67.10%
TOTAL REVENUE:	26,615	41,205	14,590	243,250	314,166	70,916	352,086	37,919	89.23%
DIRECT EXPENSES:									
DEPRECIATION	-	-	-	1,151	1,151	-	1,151	0	99.98%
POSTAGE	1,168	1,466	(298)	15,243	17,877	(2,634)	19,913	2,036	89.77%
LICENSING FORMS	-	-	-	2,845	2,845	-	2,845	-	100.00%
TOTAL DIRECT EXPENSES:	1,168	1,466	(298)	19,239	21,873	(2,634)	23,909	2,036	91.48%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.80 FTE)	27,863	27,840	23	235,329	237,262	(1,933)	346,778	109,515	68.42%
BENEFITS EXPENSE	10,668	10,513	154	83,305	83,162	143	125,888	42,726	66.06%
OTHER INDIRECT EXPENSE	9,564	8,682	881	80,494	70,001	10,493	119,345	49,344	58.65%
TOTAL INDIRECT EXPENSES:	48,094	47,035	1,059	399,128	390,426	8,702	592,011	201,585	65.95%
TOTAL ALL EXPENSES:	49,262	48,501	761	418,367	412,298	6,069	615,920	203,621	66.94%
NET INCOME (LOSS):	(22,646)	(7,296)	15,350	(175,117)	(98,132)	76,984	(263,834)	(165,702)	37.19%

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LIMITED LICENSE LEGAL TECHNICIAN PROGRAM									
REVENUE:									
SEMINAR REGISTRATIONS	282	-	(282)	1,191	796	(395)	2,319	1,523	34.33%
LLLT LICENSE FEES	858	892	33	6,551	5,883	(668)	9,985	4,102	58.92%
LLLT LATE LICENSE FEES	-	-	-	-	275	275	-	(275)	
INVESTIGATION FEES	20	-	(20)	20	-	(20)	100	100	0.00%
LLLT EXAM FEES	-	1,750	1,750	15,650	20,350	4,700	15,650	(4,700)	130.03%
LLLT WAIVER FEES	-	-	-	-	300	300	-	(300)	
TOTAL REVENUE:	1,160	2,642	1,482	23,413	27,604	4,191	28,054	449	98.40%
DIRECT EXPENSES:									
LLLT BOARD	-	-	-	-	-	-	2,450	2,450	0.00%
LLLT EXAM WRITING	-	-	-	-	1,413	(1,413)	5,375	3,963	26.28%
TOTAL DIRECT EXPENSES:	-	-	-	-	1,413	(1,413)	7,825	6,413	18.05%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	7,126	5,117	2,009	43,013	35,259	7,754	71,517	36,258	49.30%
BENEFITS EXPENSE	2,628	2,604	24	16,521	16,749	(228)	27,070	10,321	61.87%
OTHER INDIRECT EXPENSE	2,280	2,296	(17)	17,405	18,515	(1,110)	28,009	9,494	66.10%
TOTAL INDIRECT EXPENSES:	12,034	10,017	2,017	76,939	70,522	6,417	126,595	56,073	55.71%
TOTAL ALL EXPENSES:	12,034	10,017	2,017	76,939	71,935	5,004	134,420	62,486	53.51%
NET INCOME (LOSS):	(10,874)	(7,376)	3,498	(53,526)	(44,331)	9,196	(106,367)	(62,036)	41.68%

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LIMITED PRACTICE OFFICERS									
REVENUE:									
INVESTIGATION FEES	80	100	20	680	1,000	320	1,000	-	100.00%
LPO EXAMINATION FEES	-	1,200	1,200	23,700	26,900	3,200	23,700	(3,200)	113.50%
LPO LICENSE FEES	14,279	14,582	303	115,319	112,759	(2,560)	172,435	59,676	65.39%
LPO LATE LICENSE FEES	727	30	(697)	727	3,810	3,083	3,635	(175)	104.83%
TOTAL REVENUE:	15,086	15,912	826	140,425	144,469	4,043	200,770	56,301	71.96%
DIRECT EXPENSES:									
EXAM WRITING	-	-	-	4,875	4,875	-	9,750	4,875	50.00%
ONLINE LEGAL RESEARCH	171	154	17	989	1,071	(82)	1,672	601	64.03%
LAW LIBRARY	439	268	170	1,909	2,158	(249)	3,663	1,505	58.90%
LPO BOARD	-	-	-	4	4	-	4	-	100.00%
TOTAL DIRECT EXPENSES:	609	422	187	7,777	8,108	(331)	15,089	6,982	53.73%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.50 FTE)	4,305	3,667	638	25,486	21,709	3,777	42,705	20,996	50.83%
BENEFITS EXPENSE	1,720	1,672	48	9,518	8,800	717	16,426	7,626	53.58%
OTHER INDIRECT EXPENSE	1,800	1,133	667	11,418	9,131	2,287	19,789	10,658	46.14%
TOTAL INDIRECT EXPENSES:	7,825	6,471	1,354	46,421	39,640	6,782	78,920	39,281	50.23%
TOTAL ALL EXPENSES:	8,434	6,893	1,541	54,198	47,747	6,451	94,010	46,262	50.79%
NET INCOME (LOSS):	6,652	9,019	2,367	86,227	96,722	10,495	106,760	10,038	90.60%

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MEMBER ASSISTANCE PROGRAM									
REVENUE:									
DIVERSIONS	744	750	6	5,282	7,926	2,644	9,000	1,074	88.07%
TOTAL REVENUE:	744	750	6	5,282	7,926	2,644	9,000	1,074	88.07%
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	225	226	(1)	225	226	(1)	225	(1)	100.44%
PROF LIAB INSURANCE	106	-	106	425	825	(400)	850	25	97.06%
TOTAL DIRECT EXPENSES:	331	226	105	650	1,051	(401)	1,075	24	97.77%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.50 FTE)	4,394	4,391	3	35,586	35,789	(203)	70,680	34,890	50.64%
BENEFITS EXPENSE	2,062	2,018	44	16,084	16,031	53	31,862	15,831	50.31%
OTHER INDIRECT EXPENSE	1,200	1,132	67	10,084	9,131	954	24,459	15,328	37.33%
TOTAL INDIRECT EXPENSES:	7,656	7,541	114	61,755	60,951	804	127,000	66,049	47.99%
TOTAL ALL EXPENSES:	7,987	7,767	220	62,405	62,002	403	128,075	66,073	48.41%
NET INCOME (LOSS):	(7,243)	(7,017)	226	(57,123)	(54,076)	3,047	(119,075)	(64,999)	45.41%

Washington State Bar Association

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MEMBERSHIP BENEFITS									
REVENUE:									
SPONSORSHIPS	375	-	(375)	1,500	-	(1,500)	3,000	3,000	0.00%
INTERNET SALES	539	343	(196)	4,510	3,724	(786)	6,667	2,943	55.86%
MP3 SALES	288	147	(141)	2,181	1,862	(319)	3,333	1,471	55.87%
TOTAL REVENUE:	1,202	490	(712)	8,191	5,586	(2,605)	13,000	7,414	42.97%
DIRECT EXPENSES:									
TRANSCRIPTION SERVICES	300	-	300	300	-	300	1,500	1,500	0.00%
CONFERENCE CALLS	63	-	63	250	-	250	500	500	0.00%
LEGAL LUNCHBOX SPEAKERS & PROGRAM	125	-	125	500	1,321	(821)	1,000	(321)	132.12%
WSBA CONNECTS	3,395	-	3,395	32,980	31,040	1,940	46,560	15,520	66.67%
CASEMAKER & FASTCASE	5,432	-	5,432	114,707	109,226	5,481	136,436	27,210	80.06%
TOTAL DIRECT EXPENSES:	9,315	-	9,315	148,737	141,587	7,150	185,996	44,409	76.12%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.16 FTE)	6,655	6,648	7	52,871	52,077	794	80,368	28,291	64.80%
BENEFITS EXPENSE	2,027	2,025	3	15,332	15,149	182	24,064	8,915	62.95%
OTHER INDIRECT EXPENSE	2,784	2,642	141	23,454	21,305	2,149	36,999	15,695	57.58%
TOTAL INDIRECT EXPENSES:	11,466	11,315	151	91,656	88,531	3,125	141,432	52,901	62.60%
TOTAL ALL EXPENSES:	20,781	11,315	9,465	240,393	230,119	10,275	327,428	97,310	70.28%
NET INCOME (LOSS):	(19,578)	(10,825)	8,753	(232,203)	(224,533)	7,670	(314,428)	(89,896)	71.41%

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MANDATORY CONTINUING LEGAL EDUCATION									
REVENUE:									
ACCREDITED PROGRAM FEES	40,000	55,200	15,200	337,600	391,800	54,200	497,600	105,800	78.74%
FORM 1 LATE FEES	12,500	21,400	8,900	131,200	162,000	30,800	190,200	28,200	85.17%
MEMBER LATE FEES	150	-	(150)	2,400	3,046	646	2,700	(346)	112.82%
ANNUAL ACCREDITED SPONSOR FEES	(63)	250	313	42,000	42,750	750	41,750	(1,000)	102.40%
ATTENDANCE LATE FEES	6,667	8,900	2,233	68,167	80,650	12,483	94,000	13,350	85.80%
COMITY CERTIFICATES	1,500	750	(750)	12,587	12,662	75	13,000	338	97.40%
TOTAL REVENUE:	60,754	86,500	25,746	593,954	692,909	98,955	839,250	146,342	82.56%
DIRECT EXPENSES:									
DEPRECIATION	7,447	5,532	1,915	113,256	120,926	(7,670)	143,045	22,119	84.54%
STAFF MEMBERSHIP DUES	-	-	-	500	-	500	500	500	0.00%
ONLINE LEGAL RESEARCH	152	154	(2)	1,065	1,071	(6)	1,672	601	64.03%
LAW LIBRARY	13	11	2	97	89	8	150	61	59.09%
MCLE BOARD	-	-	-	-	-	-	650	650	0.00%
STAFF TRAVEL/PARKING	6	-	6	25	-	25	50	50	0.00%
STAFF TRAINING	-	-	-	1,170	-	1,170	1,170	1,170	0.00%
TOTAL DIRECT EXPENSES:	7,619	5,697	1,922	116,112	122,085	(5,973)	147,237	25,152	82.92%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.80 FTE)	24,132	19,936	4,196	173,235	166,966	6,269	269,761	102,795	61.89%
BENEFITS EXPENSE	10,067	9,812	255	65,734	65,634	100	106,179	40,545	61.81%
OTHER INDIRECT EXPENSE	11,518	8,682	2,836	82,227	70,001	12,226	135,803	65,802	51.55%
TOTAL INDIRECT EXPENSES:	45,717	38,430	7,287	321,196	302,600	18,596	511,743	209,142	59.13%
TOTAL ALL EXPENSES:	53,336	44,127	9,209	437,308	424,685	12,623	658,980	234,295	64.45%
NET INCOME (LOSS):	7,418	42,373	34,955	156,646	268,224	111,578	180,271	(87,953)	148.79%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MEMBER SERVICES & ENGAGEMENT									
REVENUE:									
ROYALTIES	3,940.01	15,163.16	11,223.15	33,489.95	51,307.84	17,817.89	49,250.00	(2,057.84)	104.18%
NMP PRODUCT SALES	1,435	5,055	3,619	12,260	16,933	4,673	18,000	1,067	94.07%
SEMINAR REGISTRATIONS	(910)	-	910	3,639	25	(3,614)	-	(25)	
TOTAL REVENUE:	4,465	20,218	15,752	49,389	68,266	18,877	67,250	(1,016)	101.51%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	-	-	-	-	-	-	1,000	1,000	0.00%
SUBSCRIPTIONS	24	17	7	155	125	30	250	125	49.84%
TRANSCRIPTION SERVICES	188	-	188	750	750	-	1,500	750	50.00%
CONFERENCE CALLS	13	-	13	50	-	50	100	100	0.00%
YLL SECTION PROGRAM	-	-	-	805	800	5	1,500	700	53.33%
WYLC CLE COMPS	-	-	-	-	-	-	1,000	1,000	0.00%
WYLC OUTREACH EVENTS	-	-	-	-	-	-	1,500	1,500	0.00%
WYL COMMITTEE	-	-	-	-	-	-	8,000	8,000	0.00%
TRIAL ADVOCACY EXPENSES	-	-	-	900	-	900	900	900	0.00%
RECEPTION/FORUM EXPENSE	-	-	-	367	67	300	667	600	9.99%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	-	-	-	-	-	-	5,000	5,000	0.00%
STAFF MEMBERSHIP DUES	61	150	(89)	245	225	20	490	265	45.92%
LENDING LIBRARY	10	10	-	80	80	-	2,000	1,920	4.00%
TOTAL DIRECT EXPENSES:	295	177	118	3,352	2,046	1,305	23,907	21,860	8.56%
INDIRECT EXPENSES:									
SALARY EXPENSE (4.13 FTE)	22,517	21,695	822	156,820	154,796	2,024	250,160	95,364	61.88%
BENEFITS EXPENSE	7,839	7,798	40	56,837	58,762	(1,925)	90,502	31,740	64.93%
OTHER INDIRECT EXPENSE	9,286	9,437	(151)	76,778	76,088	690	122,207	46,119	62.26%
TOTAL INDIRECT EXPENSES:	39,642	38,930	711	290,435	289,646	789	462,869	173,223	62.58%
TOTAL ALL EXPENSES:	39,937	39,107	830	293,787	291,693	2,094	486,776	195,083	59.92%
NET INCOME (LOSS):	(35,471)	(18,889)	16,582	(244,398)	(223,427)	20,971	(419,526)	(196,099)	53.26%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OFFICE OF THE EXECUTIVE DIRECTOR									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
WASHINGTON LEADERSHIP INSTITUTE	11,000	-	11,000	44,000	-	44,000	88,000	88,000	0.00%
ABA DELEGATES	417	-	417	1,667	-	1,667	3,334	3,334	0.00%
SECTION/COMMITTEE CHAIR MTGS	-	-	-	-	-	-	500	500	0.00%
VOLUNTEER SUPPORT	-	-	-	-	-	-	5,000	5,000	0.00%
ED TRAVEL & OUTREACH	417	-	417	1,667	16	1,651	3,333	3,317	0.48%
LAW LIBRARY	27	11	16	150	89	61	150	61	59.09%
STAFF TRAVEL/PARKING	-	36	(36)	98	36	62	98	62	36.59%
STAFF MEMBERSHIP DUES	-	-	-	50	50	-	50	-	100.00%
TOTAL DIRECT EXPENSES:	11,860	47	11,813	47,632	191	47,441	100,465	100,275	0.19%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.00 FTE)	34,908	34,890	18	278,917	280,486	(1,570)	418,546	138,059	67.01%
BENEFITS EXPENSE	11,064	12,295	(1,231)	82,151	84,230	(2,079)	125,070	40,840	67.35%
OTHER INDIRECT EXPENSE	7,199	6,858	341	60,748	55,291	5,457	94,232	38,942	58.67%
TOTAL INDIRECT EXPENSES:	53,170	54,042	(872)	421,815	420,007	1,808	637,848	217,841	65.85%
TOTAL ALL EXPENSES:	65,030	54,089	10,941	469,447	420,197	49,250	738,313	318,116	56.91%
NET INCOME (LOSS):	(65,030)	(54,089)	10,941	(469,447)	(420,197)	49,250	(738,313)	(318,116)	56.91%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OFFICE OF GENERAL COUNSEL									
REVENUE:									
COPY FEES	-	-	-	27	117	90	27	(90)	432.78%
RECORDS REQUEST FEES	-	30	30	-	630	630	-	(630)	
TOTAL REVENUE:	-	30	30	27	747	720	27	(720)	100.00%
DIRECT EXPENSES:									
DEPRECIATION	139	-	139	556	-	556	1,112	1,112	0.00%
STAFF TRAVEL/PARKING	8	-	8	384	-	384	417	417	0.00%
STAFF MEMBERSHIP DUES	-	-	-	1,525	25	1,500	1,525	1,500	1.64%
ONLINE LEGAL RESEARCH	912	922	(10)	6,387	6,423	(36)	10,034	3,611	64.02%
LAW LIBRARY	-	22	(22)	1,780	1,870	(90)	1,780	(90)	105.07%
COURT RULES COMMITTEE	0	25	(25)	11	56	(45)	1,195	1,139	4.68%
DISCIPLINE ADVISORY ROUNDTABLE	-	-	-	-	-	-	375	375	0.00%
CUSTODIANSHIPS	1,444	-	1,444	4,873	2,189	2,684	7,209	5,020	30.37%
LITIGATION EXPENSES	21	-	21	83	-	83	167	167	0.00%
TOTAL DIRECT EXPENSES:	2,524	969	1,556	15,600	10,564	5,036	23,814	13,250	44.36%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.38 FTE)	45,039	42,957	2,083	352,936	360,159	(7,223)	547,919	187,760	65.73%
BENEFITS EXPENSE	14,516	14,529	(13)	108,038	109,233	(1,195)	172,844	63,611	63.20%
OTHER INDIRECT EXPENSE	13,304	14,596	(1,293)	118,082	117,683	399	185,545	67,862	63.43%
TOTAL INDIRECT EXPENSES:	72,859	72,082	777	579,056	587,075	(8,019)	906,308	319,233	64.78%
TOTAL ALL EXPENSES:	75,383	73,050	2,333	594,656	597,639	(2,983)	930,122	332,483	64.25%
NET INCOME (LOSS):	(75,383)	(73,020)	2,363	(594,629)	(596,892)	(2,263)	(930,095)	(333,203)	64.18%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	-	-	-	100	-	100	100	100	0.00%
LAW LIBRARY	81	67	14	586	536	50	909	374	58.91%
DISCIPLINARY BOARD EXPENSES	40	71	(31)	238	263	(25)	1,274	1,011	20.64%
CHIEF HEARING OFFICER	2,619	2,500	119	20,476	20,000	476	32,524	12,524	61.49%
HEARING OFFICER EXPENSES	5,715	-	5,715	17,145	-	17,145	40,005	40,005	0.00%
HEARING OFFICER TRAINING	-	-	-	-	-	-	321	321	0.00%
OUTSIDE COUNSEL	4,366	4,000	366	33,718	32,000	1,718	55,000	23,000	58.18%
TOTAL DIRECT EXPENSES:	12,821	6,638	6,183	72,263	52,799	19,464	130,133	77,334	40.57%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.30 FTE)	7,840	8,831	(990)	64,315	65,665	(1,350)	95,676	30,011	68.63%
BENEFITS EXPENSE	2,736	2,714	22	21,244	21,305	(61)	32,235	10,930	66.09%
OTHER INDIRECT EXPENSE	3,119	2,988	131	26,388	24,094	2,294	40,898	16,804	58.91%
TOTAL INDIRECT EXPENSES:	13,696	14,533	(838)	111,947	111,064	883	168,809	57,745	65.79%
TOTAL ALL EXPENSES:	26,516	21,171	5,346	184,210	163,862	20,348	298,942	135,079	54.81%
NET INCOME (LOSS):	(26,516)	(21,171)	5,346	(184,210)	(163,862)	20,348	(298,942)	(135,079)	54.81%

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OUTREACH & ENGAGEMENT									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	117	-	117	233	-	233	700	700	0.00%
STAFF MEMBERSHIP DUES	230	-	230	230	-	230	1,152	1,152	0.00%
ABA DELEGATES	741	-	741	2,637	-	2,637	5,600	5,600	0.00%
ANNUAL CHAIR MEETINGS	40	-	40	40	-	40	200	200	0.00%
JUDICIAL RECOMMENDATIONS COMMITTEE	438	-	438	1,750	-	1,750	3,500	3,500	0.00%
BAR OUTREACH	2,723	-	2,723	11,412	522	10,890	22,302	21,780	2.34%
TOTAL DIRECT EXPENSES:	4,288	-	4,288	16,303	522	15,781	33,454	32,932	1.56%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.00 FTE)	13,193	9,683	3,511	95,188	88,182	7,006	146,626	58,444	60.14%
BENEFITS EXPENSE	4,762	4,714	48	32,760	34,893	(2,133)	51,627	16,734	67.59%
OTHER INDIRECT EXPENSE	4,799	4,561	238	37,360	36,776	584	59,683	22,907	61.62%
TOTAL INDIRECT EXPENSES:	22,755	18,958	3,796	165,308	159,850	5,458	257,936	98,086	61.97%
TOTAL ALL EXPENSES:	27,042	18,958	8,084	181,611	160,372	21,238	291,390	131,018	55.04%
NET INCOME (LOSS):	(27,042)	(18,958)	8,084	(181,611)	(160,372)	21,238	(291,390)	(131,018)	55.04%

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PRACTICE OF LAW BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
PRACTICE OF LAW BOARD	107	-	107	1,673	-	1,673	7,825	7,825	0.00%
TOTAL DIRECT EXPENSES:	107	-	107	1,673	-	1,673	7,825	7,825	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.15 FTE)	3,747	2,199	1,548	23,781	17,698	6,084	38,767	21,069	45.65%
BENEFITS EXPENSE	1,120	1,089	31	6,284	5,044	1,240	10,782	5,737	46.79%
OTHER INDIRECT EXPENSE	1,160	346	814	6,880	2,790	4,090	12,274	9,484	22.73%
TOTAL INDIRECT EXPENSES:	6,026	3,634	2,392	36,946	25,532	11,414	61,823	36,291	41.30%
TOTAL ALL EXPENSES:	6,133	3,634	2,499	38,619	25,532	13,087	69,649	44,117	36.66%
NET INCOME (LOSS):	(6,133)	(3,634)	2,499	(38,619)	(25,532)	13,087	(69,649)	(44,117)	36.66%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PROFESSIONAL RESPONSIBILITY PROGRAM									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	250	-	250	1,000	-	1,000	2,000	2,000	0.00%
STAFF MEMBERSHIP DUES	31	-	31	375	250	125	500	250	50.00%
LAW LIBRARY	54	45	9	392	358	34	608	250	58.92%
CPE COMMITTEE	50	-	50	933	31	902	2,627	2,596	1.19%
TOTAL DIRECT EXPENSES:	386	45	341	2,701	640	2,061	5,736	5,096	11.15%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.69 FTE)	14,269	14,259	10	115,445	117,524	(2,080)	172,521	54,997	68.12%
BENEFITS EXPENSE	5,615	5,536	79	43,230	42,907	323	65,754	22,847	65.25%
OTHER INDIRECT EXPENSE	4,061	3,869	192	34,273	31,196	3,077	53,164	21,968	58.68%
TOTAL INDIRECT EXPENSES:	23,946	23,665	281	192,948	191,628	1,320	291,439	99,811	65.75%
TOTAL ALL EXPENSES:	24,331	23,709	622	195,649	192,267	3,381	297,175	104,907	64.70%
NET INCOME (LOSS):	(24,331)	(23,709)	622	(195,649)	(192,267)	3,381	(297,175)	(104,907)	64.70%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PUBLIC SERVICE PROGRAMS									
REVENUE:									
DONATIONS & GRANTS	-	-	-	103,000.00	103,000.00	-	103,000.00	-	100.00%
TOTAL REVENUE:	-	-	-	103,000	103,000	-	103,000	-	100.00%
DIRECT EXPENSES:									
DONATIONS/SPONSORSHIPS/GRANTS	29,024	-	29,024	116,097	115,847	250	232,193	116,347	49.89%
PRO BONO & PUBLIC SERVICE COMMITTEE	246	-	246	1,014	46	968	2,000	1,954	2.30%
PRO BONO CERTIFICATES	475	-	475	1,900	-	1,900	3,800	3,800	0.00%
TOTAL DIRECT EXPENSES:	29,746	-	29,746	119,011	115,893	3,118	237,993	122,100	48.70%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,704	7,234	(530)	49,530	50,409	(879)	76,345	25,935	66.03%
BENEFITS EXPENSE	2,615	2,571	44	17,343	17,630	(287)	27,845	10,215	63.31%
OTHER INDIRECT EXPENSE	2,640	2,296	343	19,514	18,515	999	31,792	13,277	58.24%
TOTAL INDIRECT EXPENSES:	11,959	12,102	(143)	86,387	86,554	(167)	135,981	49,427	63.65%
TOTAL ALL EXPENSES:	41,704	12,102	29,602	205,397	202,446	2,951	373,974	171,527	54.13%
NET INCOME (LOSS):	(41,704)	(12,102)	29,602	(102,397)	(99,446)	2,951	(270,974)	(171,527)	36.70%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PUBLICATION & DESIGN SERVICES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
EQUIPMENT, HARDWARE & SOFTWARE	25	-	25	100	-	100	200	200	0.00%
SUBSCRIPTIONS	17	-	17	267	200	67	333	133	60.00%
SUPPLIES	13	-	13	50	-	50	100	100	0.00%
IMAGE LIBRARY	-	-	-	4,100	4,100	-	4,436	336	92.43%
TOTAL DIRECT EXPENSES:	54	-	54	4,517	4,300	217	5,069	769	84.83%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.87 FTE)	4,529	4,524	5	36,673	37,229	(556)	54,789	17,560	67.95%
BENEFITS EXPENSE	1,591	1,577	14	12,414	12,457	(43)	18,811	6,354	66.22%
OTHER INDIRECT EXPENSE	2,088	1,982	106	17,590	15,978	1,612	27,301	11,322	58.53%
TOTAL INDIRECT EXPENSES:	8,208	8,083	125	66,677	65,664	1,013	100,900	35,236	65.08%
TOTAL ALL EXPENSES:	8,262	8,083	179	71,193	69,964	1,229	105,969	36,005	66.02%
NET INCOME (LOSS):	(8,262)	(8,083)	179	(71,193)	(69,964)	1,229	(105,969)	(36,005)	66.02%

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66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
REGULATORY SERVICES FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (2.70 FTE)	21,864	18,441	3,423	158,555	148,979	9,576	246007.48	97,029	60.56%
BENEFITS EXPENSE	6,876	6,882	(5)	56,370	60,265	(3,894)	83,964	23,700	71.77%
OTHER INDIRECT EXPENSE	5,759	6,166	(407)	48,891	49,711	(819)	75,679	25,968	65.69%
TOTAL INDIRECT EXPENSES:	34,499	31,488	3,010	263,817	258,954	4,863	405,650	146,696	63.84%
NET INCOME (LOSS):	(34,499)	(31,488)	3,010	(263,817)	(258,954)	4,863	(405,650)	(146,696)	63.84%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
SERVICE CENTER									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
TRANSLATION SERVICES	801	32	770	5,295	2,927	2,368	8,500	5,573	34.43%
TOTAL DIRECT EXPENSES:	801	32	770	5,295	2,927	2,368	8,500	5,573	34.43%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.71 FTE)	27,737	27,702	35	233,096	233,042	54	344,039	110,997	67.74%
BENEFITS EXPENSE	11,555	11,461	94	95,503	99,015	(3,512)	141,933	42,919	69.76%
OTHER INDIRECT EXPENSE	13,702	15,351	(1,650)	124,429	123,770	659	188,161	64,391	65.78%
TOTAL INDIRECT EXPENSES:	52,993	54,514	(1,521)	453,028	455,827	(2,799)	674,133	218,306	67.62%
TOTAL ALL EXPENSES:	53,794	54,545	(751)	458,323	458,754	(431)	682,633	223,879	67.20%
NET INCOME (LOSS):	(53,794)	(54,545)	(751)	(458,323)	(458,754)	(431)	(682,633)	(223,879)	67.20%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
SECTIONS ADMINISTRATION									
REVENUE:									
REIMBURSEMENTS FROM SECTIONS	3,385	1,291	(2,094)	258,460	281,336	22,875	272,000	(9,336)	103.43%
TOTAL REVENUE:	3,385	1,291	(2,094)	258,460	281,336	22,875	272,000	(9,336)	103.43%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	-	-	-	-	-	-	500	500	0.00%
SUBSCRIPTIONS	-	-	-	410	410	-	410	-	100.00%
CONFERENCE CALLS	11	-	11	54	8	46	100	92	8.42%
MISCELLANEOUS	60	-	60	60	-	60	300	300	0.00%
SECTION/COMMITTEE CHAIR MTGS	-	-	-	250	-	250	250	250	0.00%
DUES STATEMENTS	-	-	-	5,935	5,935	-	5,935	-	100.00%
STAFF MEMBERSHIP DUES	25	-	25	25	-	25	125	125	0.00%
TOTAL DIRECT EXPENSES:	96	-	96	6,734	6,353	381	7,620	1,267	83.38%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.68 FTE)	13,310	11,938	1,372	103,988	104,667	(680)	157,225	52,557	66.57%
BENEFITS EXPENSE	5,128	5,063	65	33,061	33,033	28	53,672	20,639	61.55%
OTHER INDIRECT EXPENSE	6,431	6,134	297	51,136	49,457	1,679	81,049	31,592	61.02%
TOTAL INDIRECT EXPENSES:	24,868	23,135	1,734	188,185	187,158	1,028	291,946	104,788	64.11%
TOTAL ALL EXPENSES:	24,965	23,135	1,830	194,919	193,511	1,409	299,566	106,055	64.60%
NET INCOME (LOSS):	(21,580)	(21,844)	(264)	63,541	87,825	24,284	(27,566)	(115,391)	-318.60%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
SECTIONS OPERATIONS									
REVENUE:									
SECTION DUES	1,875.06	2,170.00	294.94	403,473.99	440,572.94	37,098.95	439,445.00	(1,127.94)	100.26%
SEMINAR PROFIT SHARE	721	6,071	5,351	72,471	114,811	42,340	98,364	(16,447)	116.72%
INTEREST INCOME	13	-	(13)	107	-	(107)	1,470	1,470	0.00%
PUBLICATIONS REVENUE	-	-	-	2,075	4,627	2,552	6,000	1,373	77.11%
OTHER	1,363	599	(764)	24,036	33,279	9,242	40,500	7,221	82.17%
TOTAL REVENUE:	3,972	8,840	4,868	502,162	593,289	91,127	585,779	(7,510)	101.28%
DIRECT EXPENSES:									
DIRECT EXPENSES OF SECTION ACTIVITIES	16,723	12,363	4,360	170,799	42,504	128,295	584,594	542,090	7.27%
REIMBURSEMENT TO WSBA FOR INDIRECT I	1,163	1,291	(128)	258,047	281,336	(23,288)	280,573	(763)	100.27%
TOTAL DIRECT EXPENSES:	17,887	13,654	4,233	428,846	323,840	105,006	865,167	541,327	37.43%
NET INCOME (LOSS):	(13,915)	(4,813)	9,101	73,316	269,449	196,133	(279,388)	(548,837)	-96.44%

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TECHNOLOGY									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
CONSULTING SERVICES	10,905	18,067	(7,162)	66,381	71,200	(4,819)	110,000	38,800	64.73%
STAFF TRAVEL/PARKING	208	-	208	833	-	833	1,667	1,667	0.00%
STAFF MEMBERSHIP DUES	-	-	-	-	-	-	450	450	0.00%
TELEPHONE	2,320	1,403	917	12,722	10,374	2,348	22,000	11,626	47.15%
COMPUTER HARDWARE	7,465	105	7,361	30,139	36,560	(6,421)	60,000	23,440	60.93%
COMPUTER SOFTWARE	6,978	73	6,905	52,087	64,033	(11,946)	80,000	15,967	80.04%
HARDWARE SERVICE & WARRANTIES	4,257	-	4,257	22,972	20,480	2,491	40,000	19,520	51.20%
SOFTWARE MAINTENANCE & LICENSING	25,620	80,427	(54,807)	263,521	277,470	(13,949)	366,000	88,530	75.81%
TELEPHONE HARDWARE & MAINTENANCE	1,382	322	1,060	1,473	994	479	7,000	6,006	14.20%
COMPUTER SUPPLIES	1,127	197	930	5,491	1,179	4,312	10,000	8,821	11.79%
THIRD PARTY SERVICES	14,010	18,255	(4,245)	73,961	79,314	(5,353)	130,000	50,686	61.01%
TRANSFER TO INDIRECT EXPENSES	(74,272)	(116,374)	42,102	(529,581)	(559,130)	29,549	(827,117)	(267,987)	67.60%
TOTAL DIRECT EXPENSES:	-	2,475	(2,475)	(0)	2,475	(2,475)	-	(2,475)	
INDIRECT EXPENSES:									
SALARY EXPENSE (12.00 FTE)	95,651	88,965	6,686	708,972	700,197	8,775	1,118,256	418,059	62.62%
BENEFITS EXPENSE	30,960	30,776	183	231,002	235,164	(4,162)	366,046	130,882	64.24%
CAPITAL LABOR & OVERHEAD	(28,681)	(8,433)	(20,248)	(15,277)	53,574	(68,852)	(130,000)	(183,575)	-41.21%
OTHER INDIRECT EXPENSE	27,435	27,494	(60)	227,235	221,670	5,566	356,988	135,318	62.09%
TOTAL INDIRECT EXPENSES:	125,364	138,802	(13,438)	1,151,932	1,210,606	(58,674)	1,711,290	500,684	70.74%
TOTAL ALL EXPENSES:	125,364	141,277	(15,913)	1,151,932	1,213,081	(61,149)	1,711,290	498,209	70.89%
NET INCOME (LOSS):	(125,364)	(141,277)	(15,913)	(1,151,932)	(1,213,081)	(61,149)	(1,711,290)	(498,209)	70.89%

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INDIRECT EXPENSES:									
SALARIES	961785.72	956,374	5,412	7,572,384	7,692,259	(119,875)	11,495,260	3,803,001	66.92%
TEMPORARY SALARIES	7,975	924	7,051	65,672	41,890	23,783	127,971	86,081	32.73%
CAPITAL LABOR & OVERHEAD	(28,681)	(8,433)	(20,248)	(15,277)	53,574	(68,852)	(130,000)	(183,575)	-41.21%
EMPLOYEE ASSISTANCE PLAN	472	1,200	(728)	3,488	4,000	(512)	5,376	1,376	74.40%
EMPLOYEE SERVICE AWARDS	228	-	228	910	-	910	1,820	1,820	0.00%
FICA (EMPLOYER PORTION)	59,579	70,405	(10,826)	500,244	546,084	(45,840)	741,809	195,725	73.62%
L&I INSURANCE	-	-	-	23,688	21,676	2,012	50,169	28,493	43.21%
WA STATE FAMILY MEDICAL LEAVE (EMPLC	1,464	1,380	84	11,015	10,610	405	16,871	6,262	62.89%
FFCRA LEAVE (EMPLOYER PORTION)	-	-	-	-	(1,456)	1,456	-	1,456	-
MEDICAL (EMPLOYER PORTION)	127,336	120,001	7,335	940,224	931,327	8,897	1,473,510	542,183	63.20%
PARKING BENEFITS	3,000	1,695	1,305	21,112	15,614	5,498	24,112	8,498	64.76%
RETIREMENT (EMPLOYER PORTION)	124,636	120,742	3,894	951,383	937,685	13,698	1,459,748	522,063	64.24%
TRANSPORTATION ALLOWANCE	-	-	-	(23,777)	8,398	(32,175)	(23,777)	(32,175)	-35.32%
UNEMPLOYMENT INSURANCE	7,572	8,343	(771)	49,497	43,807	5,689	68,766	24,958	63.71%
STAFF DEVELOPMENT-GENERAL	525	414	111	2,100	414	1,686	4,200	3,786	9.86%
TOTAL SALARY & BENEFITS EXPENSE:	1,265,891	1,273,045	(7,154)	10,102,662	10,305,882	(203,220)	15,315,834	5,009,952	67.29%
WORKPLACE BENEFITS	3,250	605	2,645	14,748	7,254	7,494	27,748	20,494	26.14%
HUMAN RESOURCES POOLED EXP	6,210	211	5,999	78,917	105,732	(26,815)	219,125	113,394	48.25%
MEETING SUPPORT EXPENSES	100	465	(365)	1,635	1,652	(17)	5,485	3,833	30.12%
RENT	150,669	149,729	940	1,372,658	1,303,887	68,772	1,975,334	671,448	66.01%
PERSONAL PROP TAXES-WSBA	534	527	7	6,985	4,444	2,541	9,121	4,677	48.72%
FURNITURE, MAINT, LH IMP	561	-	561	4,176	4,786	(610)	30,000	25,214	15.95%
OFFICE SUPPLIES & EQUIPMENT	5,031	1,157	3,874	23,878	12,465	11,413	44,000	31,535	28.33%
FURN & OFFICE EQUIP DEPRECIATION	4,294	4,236	58	35,108	36,216	(1,109)	52,285	16,069	69.27%
COMPUTER HARDWARE DEPRECIATION	4,315	2,949	1,366	29,513	24,050	5,463	46,773	22,724	51.42%
COMPUTER SOFTWARE DEPRECIATION	11,091	7,067	4,024	87,562	81,521	6,041	131,925	50,404	61.79%
INSURANCE	18,810	18,810	0	150,478	149,548	931	225,718	76,171	66.25%
PROFESSIONAL FEES-AUDIT	-	-	-	32,000	32,000	-	32,000	-	100.00%
PROFESSIONAL FEES-LEGAL	23,183	(300)	23,482	157,270	78,127	79,143	250,000	171,873	31.25%
TELEPHONE & INTERNET	5,428	8,451	(3,023)	41,287	51,531	(10,243)	63,000	11,470	81.79%
POSTAGE - GENERAL	2,333	572	1,761	14,254	9,547	4,708	23,586	14,040	40.48%
RECORDS STORAGE	2,500	-	2,500	16,504	14,739	1,764	26,504	11,764	55.61%
STAFF TRAINING	2,724	768	1,956	26,675	11,248	15,427	45,772	34,524	24.57%
BANK FEES	4,708	2,452	2,256	43,419	38,094	5,325	62,251	24,157	61.19%
PRODUCTION MAINTENANCE & SUPPLIES	1,696	91	1,605	11,274	5,883	5,390	18,056	12,173	32.58%
COMPUTER POOLED EXPENSES	83,685	116,374	(32,689)	564,521	563,129	1,392	899,711	336,582	62.59%
TOTAL OTHER INDIRECT EXPENSES:	331,122	314,163	16,959	2,712,860	2,535,852	177,008	4,188,395	1,652,542	60.54%
TOTAL INDIRECT EXPENSES:	1,597,013	1,587,208	9,806	12,815,522	12,841,734	(26,212)	19,504,229	6,662,494	65.84%

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
COVID 19									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
COVID 19	-	-	-	-	(945)	945	-	945	
TOTAL DIRECT EXPENSES:	-	-	-	-	(945)	945	-	945	
INDIRECT EXPENSES:									
TOTAL INDIRECT EXPENSES:	-	-	-	-	-	-	-	-	
TOTAL ALL EXPENSES:	-	-	-	-	(945)	945	-	945	
NET INCOME (LOSS):	-	-	-	-	945	945	-	(945)	

Washington State Bar Association

Statement of Activities

For the Period from May 1, 2021 to May 31, 2021

66.67% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON	
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR
ACCESS TO JUSTICE	(23,645)	(21,374)	2,271	(166,597)	(157,231)	9,366	(265,737)	(108,506)
ADMINISTRATION	(88,546)	(85,501)	3,045	(737,272)	(730,648)	6,625	(1,108,134)	(377,486)
ADMISSIONS/BAR EXAM	(9,935)	(6,431)	3,504	482,418	447,353	(35,065)	3,246	(444,107)
ADVANCEMENT FTE	(19,703)	(19,186)	517	(158,843)	(156,703)	2,140	(239,496)	(82,793)
BAR NEWS	(29,945)	(9,724)	20,221	(218,240)	(133,551)	84,689	(343,683)	(210,132)
BOARD OF GOVERNORS	(44,024)	(26,673)	17,351	(224,251)	(184,921)	39,330	(415,528)	(230,607)
CLE - PRODUCTS	90,502	56,648	(33,855)	222,648	195,589	(27,059)	324,958	129,369
CLE - SEMINARS	(6,658)	(1,140)	5,517	(328,209)	(94,810)	233,399	(390,091)	(295,281)
CLIENT PROTECTION FUND	(45,411)	(40,098)	5,313	244,752	253,915	9,163	(118,520)	(372,435)
COMMUNICATIONS	(42,658)	(44,629)	(1,971)	(332,299)	(318,040)	14,259	(533,177)	(215,137)
COMMUNICATIONS FTE	(18,518)	(18,411)	107	(148,483)	(147,381)	1,103	(224,154)	(76,773)
DESKBOOKS	(18,799)	(22,106)	(3,307)	(114,001)	(136,672)	(22,671)	(191,629)	(54,957)
DISCIPLINE	(461,690)	(468,203)	(6,513)	(3,829,586)	(3,779,710)	49,876	(5,811,290)	(2,031,580)
DIVERSITY	(28,958)	(31,841)	(2,883)	(45,604)	(46,704)	(1,100)	(165,816)	(119,112)
FOUNDATION	(10,173)	(10,098)	75	(85,920)	(84,675)	1,245	(130,210)	(45,535)
HUMAN RESOURCES	(37,700)	(40,023)	(2,323)	(232,517)	(327,414)	(94,897)	(385,934)	(58,520)
LAW CLERK PROGRAM	1,625	1,411	(214)	118,336	116,278	(2,057)	103,430	(12,848)
LEGISLATIVE	(16,061)	(18,798)	(2,738)	(98,829)	(96,778)	2,051	(150,033)	(53,255)
LICENSE FEES	1,318,211	1,379,614	61,403	11,155,381	11,210,003	54,622	16,318,268	5,108,264
LICENSING AND MEMBERSHIP	(22,646)	(7,296)	15,350	(175,117)	(98,132)	76,984	(263,834)	(165,702)
LIMITED LICENSE LEGAL TECHNICIAN	(10,874)	(7,376)	3,498	(53,526)	(44,331)	9,196	(106,367)	(62,036)
LIMITED PRACTICE OFFICERS	6,652	9,019	2,367	86,227	96,722	10,495	106,760	10,038
MANDATORY CLE ADMINISTRATION	7,418	42,373	34,955	156,646	268,224	111,578	180,271	(87,953)
MEMBER ASSISTANCE PROGRAM	(7,243)	(7,017)	226	(57,123)	(54,076)	3,047	(119,075)	(64,999)
MEMBER BENEFITS	(19,578)	(10,825)	8,753	(232,203)	(224,533)	7,670	(314,428)	(89,896)
MEMBER SERVICES & ENGAGEMENT	(35,471)	(18,889)	16,582	(244,398)	(223,427)	20,971	(419,526)	(196,099)
OFFICE OF GENERAL COUNSEL	(75,383)	(73,020)	2,363	(594,629)	(596,892)	(2,263)	(930,095)	(333,203)
OFFICE OF THE EXECUTIVE DIRECTOR	(65,030)	(54,089)	10,941	(469,447)	(420,197)	49,250	(738,313)	(318,116)
OGC-DISCIPLINARY BOARD	(26,516)	(21,171)	5,346	(184,210)	(163,862)	20,348	(298,942)	(135,079)
OUTREACH & ENGAGEMENT	(27,042)	(18,958)	8,084	(181,611)	(160,372)	21,238	(291,390)	(131,018)
PRACTICE OF LAW BOARD	(6,133)	(3,634)	2,499	(38,619)	(25,532)	13,087	(69,649)	(44,117)
PROFESSIONAL RESPONSIBILITY PROGRAM	(24,331)	(23,709)	622	(195,649)	(192,267)	3,381	(297,175)	(104,907)
PUBLIC SERVICE PROGRAMS	(41,704)	(12,102)	29,602	(102,397)	(99,446)	2,951	(270,974)	(171,527)
PUBLICATION & DESIGN SERVICES	(8,262)	(8,083)	179	(71,193)	(69,964)	1,229	(105,969)	(36,005)
REGULATORY SERVICES FTE	(34,499)	(31,488)	3,010	(263,817)	(258,954)	4,863	(405,650)	(146,696)
SECTIONS ADMINISTRATION	(21,580)	(21,844)	(264)	63,541	87,825	24,284	(27,566)	(115,391)
SECTIONS OPERATIONS	(13,915)	(4,813)	9,101	73,316	269,449	196,133	(279,388)	(548,837)
SERVICE CENTER	(53,794)	(54,545)	(751)	(458,323)	(458,754)	(431)	(682,633)	(223,879)
TECHNOLOGY	(125,364)	(141,277)	(15,913)	(1,151,932)	(1,213,081)	(61,149)	(1,711,290)	(498,209)
COVID 19	-	-	-	-	945	945	-	(945)
INDIRECT EXPENSES	(1,597,013)	(1,587,208)	9,806	(12,815,522)	(12,841,734)	(26,212)	(19,504,229)	(6,662,494)
TOTAL OF ALL	(1,694,396)	(1,482,520)	211,876	(11,407,100)	(10,594,488)	812,612	(20,272,990)	(9,678,501)
NET INCOME (LOSS)	(97,383)	104,688	202,071	1,408,422	2,247,246	838,824	(768,761)	(3,016,007)

**Washington State Bar Association
Analysis of Cash Investments
As of May 31, 2021**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 798,656

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.00%	\$ 12,777,053
UBS Financial Money Market	0.00%	\$ 1,081,131
Morgan Stanley Money Market	0.00%	\$ 3,353,936
Merrill Lynch Money Market	0.00%	\$ 1,983,423

General Fund Total \$ 19,994,199

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 261,817

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.00%	\$ 4,407,023
Morgan Stanley Money Market	0.00%	\$ 106,911

Client Protection Fund Total \$ 4,775,751

Grand Total Cash & Investments \$ 24,769,950