

**Executive Committee Meeting Agenda**  
**February 24, 2020**  
**9:00 AM - 12:00 PM**  
**WSBA Offices**  
**Call 1.866.577.9294, 528100#**

1. Approve December 19, 2019 Executive Committee Minutes..... 2

2. WSBA Entities Mission & Performance Review

- a. Court Rules & Procedures Committee, Jefferson Coulter (Chair), Brian Tollefson (BOG Liaison), Nicole Gustine (Staff Liaison) ..... 4
- b. Council on Public Defense, Daryl Rodrigues (Chair), Kim Hunter (BOG Liaison), Diana Singleton (Staff Liaison)..... 7
- c. Continuing Legal Education Committee, Wil Miller (Chair), Kim Hunter (BOG Liaison), Shanthi Raghu (Staff Liaison)..... 15

3. Discussion Items

- a. Debrief of January Meeting ..... 19
- b. MBA/Diversity Committee Reception
- c. Developing a Reporting System for External Liaisons

4. Review March Draft Board of Governors Meeting Agenda ..... 32

5. Review Correspondence

# WASHINGTON STATE BAR ASSOCIATION

## EXECUTIVE COMMITTEE MEETING

### Minutes

Seattle, WA

December 16, 2019

The meeting of the Executive Committee of the Washington State Bar Association (WSBA) was called to order by President Rajeev D. Majumdar on Monday, December 16, 2019 at 10:00 AM at the offices of the Washington State Bar Association, Seattle, Washington. Governors in attendance were:

Alec Stephens  
Brian Tollefson  
Carla J. Higginson  
Dan Clark  
Kim Hunter  
Kyle D. Sciuchetti  
Peter J. Grabicki

Also in attendance were President Rajeev D. Majumdar, Immediate Past President William D. Pickett, Interim Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy, Director of Human Resources Felix Neals, Chief Communications and Outreach Officer Sara Niegowski, and Executive Administrator Shelly Bynum.

#### Debrief of November Meeting

The Committee debriefed the November BOG meeting, including a discussion of public comment. Pres. Majumdar indicated that for January public comment would be limited to 3 minutes/speaker and would be limited to the public comment period on the agenda and at the beginning of each agenda item prior.

#### Level of Detail in the Meeting Minutes

The Committee discussed the appropriate level of detail to capture in BOG meeting minutes. Pres. Majumdar requested that when documenting public comment, we should indicate who spoke, but not said the content of the remarks.

#### Revised Bylaw Proposals

Pres. Majumdar provided an update on revisions to the bylaw amendments proposed and discussed by the BOG at its November meeting. Discussion followed.

#### Proposed Amendments to APR 26 Re: Malpractice Insurance

Pres. Majumdar provided an update on a proposed amendment to APR 26 relating to mandatory malpractice insurance. He noted his intent to communicate the BOG's position on the issue to the Court and to create an ad hoc committee to further explore alternatives to mandatory malpractice insurance. Discussion followed. Pres. Majumdar indicated that the topic would be on the agenda for the January BOG meeting.

Process Policies

Interim Executive Director Nevitt presented a suggested BOG policy outlining a preferred process for individuals and external entities to submit requests and proposals to the BOG. Discussion followed. Pres. Majumdar indicated that the topic would be on the agenda for the January BOG meeting.

January BOG Meeting Draft Agenda

The draft agenda for the January BOG meeting was reviewed and revised. There was consensus to include some of the language in the annotated version on the public version.

Review Correspondence

The Committee reviewed and discussed correspondence for potential inclusion in the BOG meeting materials. Pres. Majumdar indicated that we would continue to distribute correspondence to the BOG on an ongoing basis and would not include it in the BOG meeting materials.

Review December Special Meeting

Pres. Majumdar provided a preview of the BOG Special Meeting following immediately after the Committee meeting at 12 PM.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 11:51 PM. Monday, December 16, 2019.

Respectfully submitted,

Terra Nevitt  
WSBA Interim Executive Director & Secretary

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 19: October 2018 – September 2019

<p><b>Court Rules and Procedures Committee</b></p> <p>Chair: Jefferson Coulter</p> <p>Staff Liaison: Nicole Gustine</p> <p>BOG Liaison: Brian Tollefson</p>	<p>Size of Committee: 28</p> <p>Direct expenses: FY18: \$4,000    FY19: \$2,000</p> <p>Indirect expenses: FY18: \$26,217    FY19: Not yet calculated</p> <p>Number of FY20 Applicants: 30</p>
<p><b>Background &amp; Purpose:</b></p> <p>The Court Rules and Procedure Committee (Committee) studies and develops suggested amendments to designated sets of Washington court rules on a regular cycle of review established by the Washington State Supreme Court. It occasionally responds to requests for comment from the Supreme Court on proposals developed by others. The Committee performs the rules-study function outlined in General Rule 9 and reports its recommendations to the BOG.</p>	
<p><b>Strategy to Fulfill Purpose:</b></p> <p>The Committee consists of several subcommittees that review the court rules and obtain input from stakeholders as to possible amendments. Evolution in case law, changes in statutes, or other new developments since last amendment drive amendments to rules. The subcommittees vet, draft, and discuss proposed amendments and submit them to the full Committee for discussion and approval. Proposed amendments approved by the Committee are forwarded to the BOG for approval. If the BOG approves, the proposed amendments are forwarded to the Supreme Court in accordance with General Rule 9.</p>	
<p><b>2018-2019 Accomplishments and Work in Progress:</b></p> <p>To continue to carefully vet new proposals. In 2018-2019 the Committee reviewed the Evidence Rules and the Infraction Rules for Courts of Limited Jurisdiction.</p>	
<p><b>2019-2020 Goals:</b></p> <p>According to the schedule for review, the Civil Rules for Superior Courts and Civil Rules for Courts of Limited Jurisdiction will be reviewed in 2019-2020.</p>	
<p><b>Please report how this committee/board is addressing diversity:</b></p> <p><i>1) Are you using any of the tools provided by WSBA and if so, how? 2) Have you sought out training or consultation from the Inclusion and Equity Specialist? 3) How have you elicited input from a variety of perspectives in your decision-making? 4) What have you done to promote a culture of inclusion within the board or committee? 5) What</i></p>	

*has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? 6) Other?*

- 1) The Committee is cognizant of diversity in selecting its members. It is an important factor in recruitment and consideration of applicants.
- 2) The Committee has received training from the Diversity Specialist.
- 3) The Committee seeks input from a wide variety of stakeholders before finalizing proposals, including reaching out to several minority bar associations. The Committee also reaches out to organizations that represent minority viewpoints that might not normally be aware of the Committee's work.
- 4) During the application period, the current Chair reached out to the leadership of several specialty and minority bar associations to encourage their membership to apply to be on the Committee.
- 5) The Committee is composed of members with a wide range of backgrounds, experiences, and identities.
- 6) The current chair has attempted to spread subcommittee chair assignments across the state to ensure broad, geographic representation.

**Please report how this committee/board is addressing professionalism:**

*1) Does the committee/board's work promote respect and civility within the legal community? 2) Does it seek to improve relationships between and among lawyers, judges, staff and clients? 3) Does it raise awareness about the causes and/or consequences of unprofessional behavior? 4) Other?*

- 1) The Committee seeks to engage members and the wider legal community in the process of studying and reviewing court rules. It promotes respect and civility by encouraging vigorous but civil debate even when members and/or stakeholders have strongly held but opposing views.
- 2) By engaging WSBA members and stakeholders outside of the Committee in the rule review process, the Committee's work seeks to improve relationships among lawyers and judges. The Committee includes three judges who serve as liaisons (non-voting), one each from the Superior Court, Court of Appeals, and District/Municipal Court. In addition, the Supreme Court Rules Committee seeks input from the WSBA Court Rules Committee, which furthers dialogue between WSBA lawyers and Justices of the state's highest court.
- 3) N/A

**Please report how this committee/board is integrating new and young lawyers into its work:**

*1) How have you brought new and young lawyers into your decision making process? 2) 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? 3) Other?*

- 1) The Committee does not have a minimum number of years of admission requirement to serve. Its lawyer members have a wide range of years of experience, including members who have only a few years of practice experience. The Committee often attracts applicants who are newer to the profession, some of whom are selected to serve.
- 2) The Committee provides opportunities for all members, including young lawyers, to chair subcommittees and the larger Committee. It provides opportunities for younger members to meet and be mentored by experienced members, as well as judges.

**Please report how this committee/board is addressing the needs of the public:**

*1) How is the public impacted by your work? 2) Has the committee/board sought input from the public, and/or communicated its work to the public? 3) Other?*

- 1) The committee vets and crafts rule language that impacts the justice system and the public accessing that system.
- 2) Pursuant to court order, the committee publicizes suggested rule changes for public comment before finalizing its recommendations. Members of the bar, bench, and public are encouraged to review these proposals and send comments to the committee.

**FY19 Demographics:**

- Gender (Female: Male: Not Listed): 13:14:0 (1 did not answer)
- Number of members self-identified with a racial/ethnic under-represented group: 3 (1 did not answer)
- Number of members self-identified as having a disability: 0 (3 did not answer)
- Number of members self-identified as LGBT: 3 (1 did not answer)

# WASHINGTON STATE BAR ASSOCIATION

## MEMO

**To:** Board of Governors Executive Committee

**From:** Daryl Rodrigues, Chair, Council on Public Defense  
Travis Stearns, Vice-Chair, Council on Public Defense

**Date:** February 3, 2020

**Re:** Update to FY 19 Annual Report

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You asked us to provide an update to our FY 19 Annual Report which is attached. Below is a summary of the progress we have made since we submitted the FY 19 Annual Report last summer.

### **Background & Purpose:**

The Council on Public Defense (CPD) was established in 2004 to implement recommendations of the Washington State Bar Association (WSBA) Blue Ribbon Panel on Criminal Defense for maintaining and improving constitutionally effective public defense services in Washington. The WSBA Board of Governors (BOG), finding that the CPD provided a unique and valuable forum for bringing together representatives across the criminal justice system, subsequently established the CPD. Attached is our current roster which shows the breadth and depth of perspectives our members bring.

The CPD currently has five committees which include the Pre-Trial Reform Committee, Legal Financial Obligations (LFO) Committee, Indigent Defense Standards Committee, Public Defense Independence Committee, and Public Defense Structure Committee.

### **FY 19 Accomplishments and Updates:**

- The Pre-Trial Reform Committee finalized the Defense Resource Guide and presented it to the BOG last fall. The BOG approved the guide which is now shared with public defenders across the state. It is available on the CPD webpage [here](#).
- The CPD proposed Guidelines for Criminal Appellate Performance Standards which were approved by the BOG in November. CPD and WSBA staff are in the process of preparing the GR 9 Cover Sheet and supporting materials to submit to the Supreme Court.
- The Public Defense Independence Committee is working to address how Washington should respond to the ABA's first principle of an effective public defense system - that

the public defense function be politically independent. The Public Defense Independence Committee drafted a new General Rule, amendments to Standard 18, and a new Standard 19 in the WSBA Standards for Indigent Defense Services. The Committee sought input from the Washington Defender Association and its members, the Office of Public Defense, and all levels of the judiciary. The Committee is currently reviewing the feedback and will present their draft proposal to the CPD in March 2020.

- The Public Defense Structure Committee is working to create a workload model which clearly defines the appropriate infrastructure necessary for a lawyer to be “fully supported” for purposes of caseload limits. A specific goal in creating a workload model is to assist public defense managers and funders by defining the qualifications of and necessary ratios of adjunct professionals such as social workers and investigators. In addition, the committee seeks to outline those services which must necessarily be available to defenders, such as medical, behavioral, and other forensic experts, so that a defender may meet performance standards.
- The Standards Committee is working on proposed persistent offender standards and will present its draft to CPD at the March meeting. Once the proposed persistent offender standards are submitted, this committee is scheduled to begin reevaluating the misdemeanor caseload standard. They are doing this in light of the availability of body-worn camera video from law enforcement as well as other electronically recorded data, which is significantly consuming far more defender and investigator resources than when the misdemeanor standards were adopted.
- In late 2019 the Washington Supreme Court asked the Office of Public Defense (OPD) the status of trial-level compliance with the Court’s adopted Standards for Indigent Defense. In response, OPD designed and conducted a study. OPD published a final report along with conclusions and recommendations in June 2019. The Court asked CPD to give input to OPD’s recommendations. Under the Court’s request, CPD and OPD are working together to refine recommendations.
- The CPD is participating with members of the ATJ Board and the Minority and Justice Commission to identify ways that the three entities can collaborate to address issues with a civil/criminal overlap. Opportunities for such collaboration continue to bloom with the passage of the New Hope Act in 2019 and other reentry/restoration laws that are before the legislature in 2020.
- The CPD regularly responds to requests and questions from practitioners and also seeks to explore new perspectives at their meetings. For example, at the February 2020 meeting, CPD will hear from the Whatcom County Public Defenders about conflict checks and caseload standards, and from the DSHS Ombudsman about access to justice for people who are determined to be not guilty by reason of insanity. At the March 2020 meeting, CPD will also hear from a public defender and a criminal defense attorney about



criminal defense practice in rural areas, focusing on difficulties rural jurisdictions have in recruiting, training, and qualifying new lawyers under the standards.

We look forward to meeting with you and happy to answer any questions at our meeting on February 24<sup>th</sup>. Thank you.

**WSBA COMMITTEE/BOARD ANNUAL REPORT FY 19: October 2018 – September 2019**

<p><b>Council on Public Defense (CPD)</b></p> <p>Chair: Daryl Rodrigues</p> <p>Staff Liaison: Diana Singleton, Bonnie Sterken</p> <p>BOG Liaison: Dan Bridges</p>	<p>Size of Committee: 23</p> <p>Direct expenses: FY18: \$8,400    FY19: \$7,000</p> <p>Indirect expenses: FY18: \$24,046    FY19: Not yet calculated</p> <p>Number of FY20 Applicants: 9</p>
<p><b>Background &amp; Purpose:</b></p> <p>The Council on Public Defense (CPD) was established in 2004 to implement recommendations of the Washington State Bar Association (WSBA) Blue Ribbon Panel on Criminal Defense for maintaining and improving constitutionally effective public defense services in Washington. The WSBA Board of Governors (BOG), finding that the CPD provided a unique and valuable forum for bringing together representatives across the criminal justice system, subsequently established the CPD.</p>	
<p><b>Strategy to Fulfill Purpose:</b></p> <p>The CPD unites members of the public and private defense bar, the bench, elected officials, prosecutors, and the public to address new and recurring issues impacting public defenders, the public defense system and the public that depends upon it. The CPD, after review of its Charter obligations, has recently been working on six issues in which it has the expertise to provide assistance to public defenders and formed the Pre-Trial Reform Committee, Legal Financial Obligations (LFO) Committee, Standards Committee, Mental Health/Involuntary Treatment Act Committee, Public Defense and Independence Committee, and Public Defense Structure Committee.</p>	
<p><b>2018-2019 Accomplishments and Work in Progress:</b></p> <ol style="list-style-type: none"> <li>1) The CPD completed work on the Mental Health Performance Guidelines, which have been submitted to the Court for adoption.</li> <li>2) The CPD will complete work of the Pre-Trial Reform Committee this summer. They will be distributing a Defender Resource Packet intended to help defenders in first appearance hearings.</li> <li>3) The CPD continues the work of the LFO Committee. Recently the committee contributed content to an LFO bench card that reflects recent changes to LFO laws and was distributed by the Minority and Justice Commission.</li> <li>4) The CPD recently submitted proposed changes to CrR 3.3.</li> </ol>	

- 5) The CPD continues to evaluate how to specifically incorporate the American Bar Association's First Principle of Public Defense-Independence into the WSBA Standards for Indigent Defense.
- 6) Significantly, the CPD formed two new committees, Public Defense Independence and Public Defense Structure. The independence committee intends to address how Washington should respond to the ABA's first principal of an effective public defense system, that it should be politically independent. The Public Defense Structure committee intends to create a workload model which clearly defines the appropriate infrastructure necessary for a lawyer to be "fully supported" for purposes of caseload limits, specifically defining the qualifications and availability of support staff, investigators, and facilities to better guide jurisdictions attempting to appropriately fund public defense services.
- 7) The CPD is participating with members of the ATJ Board and Minority and Justice Commission to identify ways that the three entities can collaborate to address issues with a civil/criminal overlap.

**2019-2020 Goals:**

- 1) The Pre-Trial Reform Committee will distribute and promote the Defender Resource Packet.
- 2) Guidelines for Criminal Appellate Performance will be advanced to the WSBA BOG for approval for submission to the WA Supreme Court.
- 3) The Council will continue the current work of its standing committees, including LFO Reform, Public Defense Independence, and Public Defense Structure.
- 4) The Council will continue to identify opportunities to collaborate with the ATJ Board and Minority and Justice Commission on bridging civil/criminal issues work which commenced at the last ATJ Conference in Spokane where CPD Chair and Committee members facilitated a crowdsourcing session with stakeholders to identify points of collaboration.
- 5) Finally, if work on persistent offender standards completes, the same committee will commence reevaluation of the misdemeanor caseload standard in light of the advent of body worn video.

**Please report how this committee/board is addressing diversity:**

- 1) *Are you using any of the tools provided by WSBA and if so, how? 2) Have you sought out training or consultation from the Inclusion and Equity Specialist? 3) How have you elicited input from a variety of perspectives in your decision-making? 4) What have you done to promote a culture of inclusion within the board or committee? 5) 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? 6) Other?*
- 1) The CPD Chairs will distribute the race equity planning tool developed by the WSBA for committee chairs to use in their project planning. The CPD is interested in learning what other tools are available for future use.

- 2) Robin Nussbaum, Inclusion and Equity Specialist, conducted a Diversity in Decision Making training in February.
- 3) As a product of this training the Chair and Vice Chair resolved as follows:
  - a. To Seek input from all CPD members not just those who volunteer input.
  - b. To be mindful of geographic, age, race and other factors in making recommendations for appointments to the CPD
  - c. To begin meetings with short centering exercises to enable participants to be more fully present for meetings
  - d. To continue to stream meetings to provide broader access to those who cannot attend in person
- 4) The Chair and Vice Chair have emphasized that during discussions all CPD members will be asked for their input, not only those who volunteer input.
- 5) The CPD pays attention to issues of diversity and inclusion as it relates to recruiting and filling positions. The CPD takes diversity, including geographic diversity, into account when making its recommendations about appointments. The CPD has continued to focus on bringing together a broad group of criminal justice system stakeholders.
- 6) The Chair and VC have discussed the lack of generational diversity in the Council, in part it is logical that experienced policy makers/practitioners are older, however on numerous occasions we experience a differing perspective when we seek and take input from more diverse participants. We will continue to seek participation from younger members.

**Please report how this committee/board is addressing professionalism:**

*1) Does the committee/board's work promote respect and civility within the legal community? 2) Does it seek to improve relationships between and among lawyers, judges, staff and clients? 3) Does it raise awareness about the causes and/or consequences of unprofessional behavior? 4) Other?*

- 1) The CPD unites diverse members of the legal community and public in a shared project of the WSBA to support work of public defenders to provide their clients with strong and accessible public defense services. The CPD has worked to include prosecutors and city attorneys as members in order to assure all voices and perspectives are at the table and engaged in the Council's discussions.
- 2) The CPD actively promotes professionalism so all members can express, debate, and consider competing views respectfully and productively to fulfill this shared WSBA mission.
- 3) The CPD makes an effort to have discussions about ethical practices, which includes professionalism.

**Please report how this committee/board is integrating new and young lawyers into its work:**

*1) How have you brought new and young lawyers into your decision making process? 2) 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? 3) Other?*

- 1) The CPD reaches out to younger members of the bar and law school students to participate in its work, both as active members and as interested parties. Some members, particularly those who teach at the Washington law schools, invite students and new and young lawyers to attend meetings. To the extent possible we encourage these individuals to attend meetings and always invite them to contribute to the conversation.
- 2) New and young lawyers are invited to attend meetings and find ways to get involved. New and Young Lawyers are encouraged to voice their opinions in meetings and actively participate in the work of the committees. Staff has presented to the New and Young Lawyers Committee about the work of the Council.
- 3) A major factor in non-participation from younger people is the fact that most younger lawyers are caseload carrying – and most Chief Defenders have little ability to provide caseload credit for participation and attendance. We are working with the larger PD offices to find ways to provide caseload relief so younger lawyers can participate actively.

**Please report how this committee/board is addressing the needs of the public:**

*1) How is the public impacted by your work? 2) Has the committee/board sought input from the public, and/or communicated its work to the public? 3) Other?*

- 1) Members of the public are all subject to being criminally charged. Our efforts raise the standards for public defense Statewide.
- 2) We have one membership position for the general public.
- 3) We release our work through public comment (court rules) proposed guidelines (standards) and materials (e.g., pretrial checklists)

**FY19 Demographics:**

- Gender (Female: Male: Not Listed): 8:8:0 (7 did not answer)
- Number of members self-identified with a racial/ethnic under-represented group: 4 (7 did not answer)
- Number of members self-identified as having a disability: 1 (10 did not answer)
- Number of members self-identified as LGBT: 2 (10 did not answer)

### Council on Public Defense FY20 Roster and Terms

	First Name	Last Name	Organization	Representative Type	Current Term Begin Date	Current Term End Date
1	Deborah	Ahrens	Seattle University School of Law	Seattle U School of Law Representative	10/1/2019	9/30/2021
2	Nicholas	Allen	Columbia Legal Services	Civil Legal Aid/ATJ Board Representative	10/1/2019	9/30/2021
3	Kimberly	Ambrose	University of Washington School of Law	UW School of Law Representative	10/1/2018	9/30/2020
4	Matt	Anderson	King County District Court	Former Prosecutor	10/15/2019	9/30/2020
5	Justin	Bingham	Spokane City Pros Ofc	Prosecutor	10/1/2019	9/30/2021
6	Jason	Bragg	Various	At-Large -Public Member	10/1/2019	9/30/2021
7	Rachel	Cortez	Law Office of Rachel Cortez	WDA Representative	5/25/2018	9/30/2020
8	Judge Patricia	Fassett	Cowlitz County Superior Court	SCJA Representative	10/1/2019	9/30/2021
9	Colin	Fieman	Federal Public Defender, West Dist of Washington	At-Large Public Defender	10/1/2018	9/30/2020
10	Louis	Frantz	Retired	At-Large	10/1/2019	9/30/2021
11	Jaime	Hawk	ACLU of Washington	At-Large Public Defender	10/1/2019	9/30/2021
12	Christie	Hedman	WA Defender Assoc.	Core - WDA Director	No term limit	
13	Judge Drew	Henke	Tacoma Municipal Court	DMCJA Representative	10/1/2019	9/30/2021
14	Eric	Hsu	Benton County Office of Public Defense	Local Gov/Public Defense Agency	10/1/2019	9/30/2021
15	Randy	Johnson	Clallam County Board of Commissioners	Local Gov/Public Defense Agency	10/1/2018	9/30/2020
16	Kathy	Kyle	Snohomish County Public Defender	Public Defender Rec'd by WDA	4/1/2018	9/30/2020
17	Justice Sheryl	Gordon McCloud	Washington Supreme Court	Supreme Court Representative	10/1/2018	9/30/2020
18	Joanne	Moore	Office Of Public Defense	Core - OPD Director	No term limit	
19	Abraham	Ritter	Gonzaga University School of Law	Gonzaga U School of Law Representative	10/1/2019	9/30/2021
20	Daryl	Rodrigues (chair)	Snohomish County Public Defender Association	WDA Representative	10/1/2018	9/30/2020
21	Travis	Stearns (vice chair)	Washington Appellate Project	At-Large Public Defender	10/1/2019	9/30/2021
22	Rebecca	Stith	Attorney at Law	At-Large	10/1/2018	9/30/2020
23	Natalie	Walton-Anderson	King County Prosecuting Attorney	Prosecutor	8/1/2019	9/30/2021
1	Robert	Boruchowitz	Seattle University School of Law	Emeritus	Emeritus members serve 1 year terms with no limit	
2	Ann	Christian	Clark County	Emeritus		
3	Eileen	Farley	Northwest Defenders Association	Emeritus		

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 19: October 2018 – September 2019

<p><b>Continuing Legal Education (CLE) Committee</b></p> <p>Chair: Douglas Miller</p> <p>Staff Liaison: Kevin Plachy</p> <p>BOG Liaison: Kim Hunter</p>	<p>Size of Committee: 18</p> <p>Direct expenses: FY18: \$500      FY19: \$500</p> <p>Indirect expenses: FY18: \$9,198    FY19: Not yet calculated</p> <p>Number of FY20 Applicants: 3</p>
<p><b>Background &amp; Purpose:</b></p> <p>The purpose of the Continuing Legal Education (CLE) Committee is to support the Washington State Bar Association’s (WSBA) development of continuing legal educational programming that ensures competent and qualified legal professionals, supports member transitions throughout the life of their practice, and helps to prepare members for the future with skills required for the 21<sup>st</sup> century practice of law.</p>	
<p><b>Strategy to Fulfill Purpose:</b></p> <p>The CLE Committee provides input to the WSBA CLE Team in fulfilling its mission of serving the ongoing education needs of Washington legal professionals. The CLE Committee maintained two subcommittees in FY19: Marketing Intelligence and Programming.</p>	
<p><b>2018-2019 Accomplishments and Work in Progress:</b></p> <p>The CLE Committee maintained the Programming and Marketing Intelligence Subcommittees. The Programming Subcommittee worked with the WSBA Presents Education Programs Lead to develop continuing legal education seminars that are useful and relevant to the members and align with the overall mission of WSBA. The Programming Subcommittee assisted in development of the following programs in FY19: Law Firm Transitions and Arbitration Skills. They also assisted in topics for prospective programs to be delivered in the balance of FY19 or early FY20 including better negotiation skills, a DUI boot camp program and effective and efficient communication practices. The subcommittee is also making ongoing recommendations for programming content. The Marketing Intelligence Subcommittee has worked with WSBA CLE in reviewing our attendee survey feedback documents. Each of the subcommittee members were sent a test feedback survey via Survey Monkey and went through the exercise of completing a mock survey form. The subcommittee members provided specific feedback on some areas of the survey but ultimately decided that the survey comported with best practices and captured the information relevant to WSBA CLE evaluation criteria. The subcommittee made some specific recommendations for changes to the Legal Lunchbox feedback survey, which were adopted. The changes included limiting the number of reasons for attendance in question #3 on the</p>	

survey and changing some of the reason types. This also brought the survey in line with the internal Return on Investment Dashboard that is being developed by an internal ROI workgroup at WSBA. The subcommittee is also working to develop a member wide survey to determine membership trends in consumption of continuing legal education programming (i.e. through on-demand, in person, webcast, etc.), what is working and what isn't in an effort to further inform a marketing strategy for WSBA CLE. This work is projected to be done in FY20 once there is more certainty around the future structure of the WSBA. The committee also provided input on the proposed rule changes to the Ethics requirements in APR11 to the MCLE Board.

**2019-2020 Goals:** The CLE Committee plans to maintain the Programming and Marketing Intelligence Subcommittees. The Programming Subcommittee will continue to work with the WSBA Presents Education Programs Lead to develop continuing legal education seminars that are useful and relevant to the members and align with the overall mission of WSBA. The Marketing Intelligence Subcommittee will work with WSBA CLE in the development of a customer feedback survey that will help inform how the membership prefers to obtain continuing legal education credit (i.e. through on-demand, in person, webcast, etc..) and further inform a marketing strategy for WSBA CLE. The committee will also discuss ways in which to further engage with the public.

**Please report how this committee/board is addressing diversity:**

*1) Are you using any of the tools provided by WSBA and if so, how? 2) Have you sought out training or consultation from the Inclusion and Equity Specialist? 3) How have you elicited input from a variety of perspectives in your decision-making? 4) What have you done to promote a culture of inclusion within the board or committee? 5) 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? 6) Other?*

- 1) The faculty database is an ongoing tool used by WSBA CLE staff in helping to ensure a diverse faculty pool for WSBA CLE.
- 2) The CLE Committee had training from the WSBA diversity specialist at the April, 2019 meeting which was well received by the committee members.
- 3) The CLE committee encourages WSBA CLE staff to engage with a wide range of stakeholders in program development. WSBA CLE engages with a wide range of stakeholders including the WSBA Practice Sections, the DMCJA, the WSBA Diversity Committee and Public Service Committees, the WYLC and a variety of outside nonprofit organizations and local and minority bar associations.
- 4) The CLE Committee works affirmatively to identify and recruit a diverse group of committee members.

**Please report how this committee/board is addressing professionalism:**

*1) Does the committee/board's work promote respect and civility within the legal community? 2) Does it seek to improve relationships between and among lawyers, judges,*



*staff and clients? 3) Does it raise awareness about the causes and/or consequences of unprofessional behavior? 4) Other?*

- 1) The CLE Committee continues to address professionalism throughout all of its work by ensuring the most timely and relevant legal education is delivered to Washington legal professionals. The Legal Lunchbox series offered by WSBA CLE continues to focus on many topics that promote professional and personal development which aids in civility and professionalism. WSBA CLE offers an annual Ethics, Professionalism and Civility program that directly deals with the topics of civility and professionalism along with ethics issues associated with those topics.
- 2) Many of the CLE programs that the CLE Committee supports specifically address relationships between lawyers and judges and professionalism in the legal profession. Law of Lawyering is an annual program that addresses these specific topics. This program was delivered in December, 2019 and is also available on-demand.
- 3) WSBA CLE delivers many programs that deal directly with the consequences of unprofessional or unethical behavior within the profession. In FY19 WSBA CLE delivered at least five seminars related to this specific topic including Ethical Dilemmas, Arbitrator Ethics, Ethics for Non-Attorneys, ALPS Ethics and Keeping Ethical in a Technical World.

**Please report how this committee/board is integrating new and young lawyers into its work:**

*1) How have you brought new and young lawyers into your decision making process? 2) 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? 3) Other?*

- 1) In conjunction with the WSBA New Lawyer Program, WSBA CLE develops a Trial Advocacy Program that specifically assists new lawyers in learning and developing trial skills. In FY19 there were 65 people in attendance at the two day TAP seminar and 16 people participated in the Mock Trial.
- 2) In association with the WSBA New Member Education, the CLE team develops a Practice Primer Series which take a substantive area of law and build out a full curriculum from introductory to more advanced topics over the course of three learning tracks and approximately 21 hours of education. The goal of this programming is to provide new members (or transitioning members) a foundational education to jump start their entry into the substantive area of practice. New Member programming is deeply discounted for members who have been licensed for less than five years. In FY19 the Practice Primer Series focused on the area of Employment Law. Attendance options for the Practice Primer Series are in person, via webcast, and they are also offered as an on-demand seminar for purchase on the WSBA CLE Store. The Employment Law Practice Primer Series was delivered in the months of April, May and June of 2019.

**Please report how this committee/board is addressing the needs of the public:**

*1) How is the public impacted by your work? 2) Has the committee/board sought input from the public, and/or communicated its work to the public? 3) Other?*

The mission of WSBA CLE is to ensure the competency of the profession through education. By providing education that is relevant, timely and in demand by the membership, WSBA CLE helps to protect the public by ensuring competent legal professionals. Aside from posting our meeting notices and posting our minutes which are available to the public, the committee has not done any specific outreach to the public. WSBA CLE does engage with various sectors of the public when developing various CLE programs because many of our faculty are non-WSBA members and members of the public.

**FY19 Demographics:**

- Gender (Female: Male: Not Listed): 5:12:0 (1 did not answer)
- Number of members self-identified with a racial/ethnic under-represented group: 1 (3 did not answer)
- Number of members self-identified as having a disability: 0 (2 did not answer)
- Number of members self-identified as LGBT: 6 (3 did not answer)



**Board of Governors Meeting  
WSBA Conference Center  
Seattle, WA  
January 16-17, 2020**

***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: dial 1.866.577.9294, access code 52810#

**THURSDAY, JANUARY 16, 2020**

**9:00 AM – CALL TO ORDER**

**CONSENT CALENDAR & STANDING REPORTS**

**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*.

- Review & Approval of November 22-23, 2019 BOG Meeting Minutes..... 7
- Review & Approval of December 16, 2019 BOG Meeting Minutes..... 15

**PRESIDENT’S REPORT**

**INTERIM EXECUTIVE DIRECTOR’S REPORT ..... 17**

**MEMBER AND PUBLIC COMMENTS (30 minutes reserved)**

Overall publiccomment is limited to 30 minutes and each speaker is limited to 3 minutes. The President will provide an opportunity for publiccomment for those in the room and participating remotely. Time will be kept on the clock above the webcast booth. Publiccomment will also be permitted at the beginning of each agenda item at the President’s discretion.

**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. Rajeev Majumdar, Chair
- APEX Awards Committee, Gov. Russell Knight, Chair
- Budget & Audit Committee, Treas. Dan Clark, Chair .....39, LM22, LM34
- Personnel Committee, Gov. Alec Stephens, Chair
- Legislative Committee, Gov. Kyle Sciuchetti, Chair
- Nominations Review Committee, Gov. Jean Kang & Pres-elect Kyle Sciuchetti, Co-Chairs
- Diversity Committee, Gov. Jean Kang, Co-Chair
- Long-Range Planning Committee, Gov. Paul Swegle, Chair
- Member Engagement Workgroup, Govs. Kim Hunter and Dan Clark, Co-Chairs

<b>SPECIAL REPORTS</b>
------------------------

- REPORTS OF TASK FORCES, WORK GROUPS, LIAISONS, AND OTHER WSBA ENTITIES**
  - ABA Mid-Year Meeting Preview, WSBA ABA Delegate Maureen Mitchell..... 49
  - Client Protection Fund (CPF) Annual Report, Acting Chair Carrie Umland..... 53
- GOVERNOR LIAISON REPORTS**  
This is an opportunity for Governors to make reports related to their liaison assignments.

<b>AGENDA ITEMS &amp; UNFINISHED BUSINESS</b>
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- PERSONNEL COMMITTEE MATTERS**, Gov. Alec Stephens, Chair and Director of Human Resources  
Felix Neals
  - SECOND READ: Partial Proposed Amendment To WSBA Bylaws Re: Executive Director Term Limit  
..... 90
- PROPOSED TECHNICAL AMENDMENTS TO APR 8(b) TO CORRECTLY IDENTIFY THE LEGAL OFFICES  
& SERVICES THAT ASSIST MILITARY PERSONNEL**, Chief Regulatory Counsel Jean McElroy..... 94

**12:00PM – LUNCH WITH LIAISONS AND OTHER GUESTS**

<b>AGENDA ITEMS &amp; UNFINISHED BUSINESS</b>
---

- LEGISLATIVE COMMITTEE MATTERS**, Gov. Kyle Sciuchetti and Outreach and Legislative Affairs  
Manager Sanjay Walkevar
  - Legislative Session Report ..... 99
  - Legislative Review Committee Policies & Procedures.....101
- APPOINTMENT TO CLIENT PROTECTION BOARD**, Pres-elect Kyle Sciuchetti .....LM3
- PROPOSED AMENDMENTS TO WSBA BYLAWS**
  - SECOND READ: Article II Re: Definition of Quorum.....130
  - SECOND READ: Articles IV & VI Re: Board Terms, Composition, and Elections
    - Report of Gov. Knight on the Form of the Proposal for a Bylaw re: Board Terms,  
Composition, and Elections .....106, 116, LM6
  - SECOND READ: Article VII Re: Executive Committee Composition.....135
  - SECOND READ: Article XI Re: Sections.....111, 137, LM6
    - Report of the Ad-Hoc Advisory Committee on the Form of the Proposal for a Bylaw re:  
Sections and Public Positions, Gov. Carla Higginson .....113
  - FIRST READ: Article III Re: Judicial Status, Gov. Kim Hunter and Chief Regulatory Counsel Jean  
McElroy .....141
- UPDATE ON MANDATORY MALPRACTICE INSURANCE**, Pres. Rajeev Majumdar .....232
- PRESENTATION ON OFFICE OF GENERAL COUNSEL’S ROLE IN DISCIPLINARY PROCEEDINGS**,  
General Counsel Julie Shankland.....234

**5:00PM – RECESS**

**9:00 AM – RESUME MEETING**

**AGENDA ITEMS & UNFINISHED BUSINESS**

- PROPOSED RULEMAKING RE: CIVIL ARRESTS IN CONNECTION WITH JUDICIAL PROCEEDINGS**
  - Brenda Rodriguez, Co-Director, Washington Immigrant Solidarity Network; Vanessa Torres Hernandez, Policy Director, Northwest Justice Project; Annie Benson, Senior Directing Attorney, Washington Defender Association; and Enoka Herat, Police Practices and Immigration Counsel, ACLU of Washington ..... 253, LM44
  - Committee on Professional Ethics Chair Don Curran, CPE Member Pamela H. Anderson, CPE Member Asel Neutze .....344
- PROPOSED POLICY RE PROCESS FOR BRINGING MATTERS TO THE BOG**, Interim Executive Director Terra Nevitt.....358

**NEW BUSINESS**

- GOVERNOR ROUNDTABLE** (Governors’ issues of interest)

**11:30PM – RECESS TO ATTEND THE KING COUNTY BAR ASSOCIATION REVEREND DR. MARTIN LUTHER KING, JR. ANNUAL LUNCHEON**

**1:45 PM – RESUME MEETING**

**EXECUTIVE SESSION**

- ANNOUNCE BASIS FOR EXECUTIVE SESSION PURSUANT TO RCW 42.30.110(1)(i) (if needed)**

**RESUME PUBLIC SESSION**

- LLLT CANDIDATE EDUCATION**

**4:00 PM – ADJOURN**

**INFORMATION**

- General Information.....369
- FY19 Audited Financial Statements.....377
- Monthly Financial Statements.....418
- WSBA Sections Annual Reports.....459
- WSBF FY19 Treasurer’s Report.....568

## **MARCH** (Olympia)

### Standing Agenda Items:

- ABA Mid-Year Meeting Report
- Legislative Report
- Committee on Professional Ethics Report
- Financials (Information)
- Supreme Court Meeting
- FY2020 Second Quarter Outreach & Perception Survey Update (ED Report)

## **APRIL** (Seattle)

### Standing Agenda Items:

- Financials (Information)
- Office of Disciplinary Counsel Report (ED Report)
- Continuing Legal Education Committee Report

## **MAY** (Bellingham)

### Standing Agenda Items:

- Legislative Report/Wrap-up
- Council on Public Defense Report
- Interview/Selection of WSBA At-Large Governor
- Interview/Selection of the WSBA President-elect
- WSBA APEX Awards Committee Recommendations
- Financials (Information)
- FY2020 Third Quarter Outreach & Perception Survey Update (ED Report)
- Office of Disciplinary Counsel Report (ED Report)

## **JULY** (Stevenson)

### Standing Agenda Items:

- Draft WSBA FY2021 Budget
- WSBA Treasurer Election
- Court Rules and Procedures Committee Report and Recommendations
- WSBA Committee and Board Chair Appointments
- BOG Retreat
- Financials (Information)
- Office of Disciplinary Counsel Report (ED Report)

## **AUGUST** (Spokane)

### Standing Agenda Items:

- Financials (Information)
- Diversity Committee Report
- Office of Disciplinary Counsel Report (ED Report)
- FY2020 Third Quarter Outreach & Perception Survey Update (ED Report)

**SEPTEMBER (Seattle)**

**Standing Agenda Items:**

- Final FY2021 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
- Editorial Advisory Committee Report
- Chief Hearing Officer Annual Report
- Professionalism Annual Report
- Report on Executive Director Evaluation
- Financials (Information)
- WSBA Annual Awards Dinner

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS MEETING

### Minutes

Seattle, WA

January 16-17, 2020

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Rajeev D. Majumdar on Thursday, January 16 at 9:00 AM at the offices of the Washington State Bar Association, Seattle, Washington. Governors in attendance were:

Hunter M. Abell

Sunitha Anjilvel

Daniel D. Clark

Peter J. Grabicki

Carla J. Higginson

Kim Hunter

Jean Y. Kang

Russell Knight

Bryn Peterson

Kyle D. Sciuchetti

Alec Stephens

Paul Swegle

Judge Brian Tollefson (ret.)

Also in attendance were Interim Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Financial Officer Jorge Perez, Director of Human Resources Felix Neals, Chief Communications and Outreach Officer Sara Niegowski, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy, Interim Director of Advancement Kevin Plachy, and Executive Administrator Shelly Bynum. Also present and signed in as attending were Nancy Hawkins (WSBA Family Law Executive Committee Liaison), Jennifer Ortega (LLLT Board), James E. Macpherson (Washington Defense Trial Lawyers), and Maureen Mitchell.

### Consent Calendar

Gov. Abell moved approval of the consent calendar. Motion passed unanimously. Gov. Higginson was not present for the vote.



### Executive Director's Report

Interim Executive Director Nevitt referred to her written report and took questions from the Board about utilization of the Keller deduction and the legal research tools WSBA offers as a free member benefit.

### President's Report

Pres. Majumdar reported on Board engagement with the members around the state, including dinner with QLaw the evening before.

### Member and Public Comments

The Board received public comment from James MacPherson, Kevin Whatley, and Jennifer Ortega.

### Reports of Standing or Ongoing BOG Committees

#### *Executive Committee*

Pres. Majumdar reported on the most recent Executive Committee meeting.

#### *APEX Awards Committee*

Gov. Knight reported that WSBA is seeking APEX Award nominations and the Committee is exploring a proposal to change the manner in which the awards are presented.

#### *Personnel Committee*

Gov. Stephens reported that the Personnel Committee is discussing the compensation system and the design of the evaluation for the Executive Director.

#### *Legislative Committee*

Gov. Sciuchetti reported on the joint meeting of the BOG Legislative Committee and the Legislative Review Committee. Discussion followed.

#### *Nominations Review Committee*

Gov. Sciuchetti reported on the Nominating Committee meeting held earlier in the day.

#### *Diversity Committee*

Gov. Kang reported that the Committee met yesterday and is discussing recruitment for the Committee, the Board of Governors, and sections. She also reported on the IL mentorship event the Committee recently completed as well as upcoming projects, including a Legal Lunchbox CLE and Beyond the Dialogue forum.

#### *Long-Range Planning Committee*

Gov. Swegle reported that the Committee has met and shared his vision for the Committee's work this year.

#### *Member Engagement Work Group*

Gov. Hunter reported that the Workgroup is examining its charter and the committee's vision for engaging with the members this year.

Gov. Stephens requested that we examine our most recent strategic plan with an eye toward developing a new strategic plan in the future. Pres. Majumdar asked that Gov. Swegle and the Long-Range Planning Committee consider that suggestion.

#### *Budget & Audit Committee*

Treas. Clark referred to his written report. Chief Financial Officer Perez presented on the financial audits and the budget reforecast processes. Discussion followed. CFO Perez also presented a budget request to purchase budgeting software. Pres. Majumdar set a special meeting for Friday, January 17, 2020, at 4PM to take up the budget request.

#### Reports of Task Forces, Work Groups and Liaisons

##### *ABA Mid-Year Meeting Preview*

WSBA ABA Delegate Maureen Mitchell reported on some of the issues the ABA House of Delegates has taken up in the past and provided a preview of issues that will be addressed at the upcoming meeting, including resolutions related to gun safety, voting rights, federal election security, regulation of unmanned vehicles, and the Violence Against Women's Act. Discussion followed.

##### *Client Protection Fund (CPF) Annual Report*

Acting Chair Carrie Umland presented the Client Protection Fund's annual report as provided in the materials. Umland and Assistant General Counsel Nicole Gustine took questions. Discussion followed.

#### Governor Liaison Reports

Gov. Abell reported that he has been in close contact with the Indian Law Section and passed on concerns about potential changes in the University of Washington Native American Law Center. Gov. Stephens reported that he participated in the Civil Rights Section's annual retreat.

#### Personnel Committee Matters

##### *Second Read: Partial Proposed Amendment to WSBA Bylaws*

Gov. Stephens presented the Bylaw proposal for second read as provided in the materials. The Board heard public comment from Jim MacPherson. Interim Executive Director Nevitt provided comment and then excused herself for the discussion. Discussion followed. Gov. Grabicki moved to table to proposal for the Personnel Committee to start over. Motion failed 8-5. Gov. Swegle moved to amend the proposal to add to Article IV, B.6 at end of the sentence: “No individual shall serve as Executive Director for more than ten years, except that the Board may extend the

contracts for the Executive Director past that period in its discretion by a 66% supermajority vote for increments of two-year periods.” Motion to amend passed 10-3. Gov. Swegle moved the proposal as amended. Motion passed 8-5.

#### Proposed Technical Amendments to APR 8(b)

Chief Regulatory Officer McElroy presented the proposed amendments to Admission to Practice Rule 8(b) as provided in the materials. Discussion followed. Gov. Abell moved for adoption. Motion passed unanimously.

#### Legislative Committee Matters

##### *Legislative Session Report*

Outreach and Legislative Affairs Manager Sanjay Walvekar provided a report on the current legislative session as provided in the materials. Walvekar took questions and discussion followed.

##### *Legislative Review Committee Policies & Procedures*

Gov. Sciuchetti presented the proposed changes to the Legislative Review Committee's policies and procedures as provided in the materials. Discussion followed. Gov. Sciuchetti moved for passage of the proposal as set forth in the materials. Motion passed unanimously.

#### Appointment to the Client Protection Board

Pres. Majumdar introduced the topic, noting that appointments are made by the President-Elect and approved by the Board. President-Elect Sciuchetti requested a motion. Gov. Swegle moved the appointment. Motion passed unanimously with Gov. Kang abstaining.

#### Proposed Amendments to WSBA Bylaws

##### *Second Read: Article II RE: Definition of Quorum*

Pres. Majumdar introduced the proposal as provided in the materials. Gov. Stephens moved for adoption. Motion passed unanimously.

##### *Second Read: Article IV & VI RE: Board Terms, Composition, and Elections*

Gov. Knight introduced the revised amendment as provided in the materials. The Board heard public comment from Jordon Couch, Jim MacPherson, Crystal Lambert (LLLT Board), Kevin Whatley, and Jean Cotton. Discussion followed. Gov. Knight moved to amend and adopt the proposal to change all references to "new and young lawyer" to "Young Lawyer," which is a defined term in the Bylaws and to add language to clarify that if the BOG adds names, the vote is still by only those members who are Young Lawyers and not the entire membership.

b. Young Lawyer At Large Governor: 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. If the Washington Young Lawyers Committee forwards less than three candidates the BOG 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.

Discussion followed. Gov. Abell moved to sever the question into three parts (1) term limits, (2) number and composition of board members, and (3) how at-large positions are filled. Motion passed 11-2.

The Board took up discussion of term limits and voted on the severed motion, which passed unanimously. Gov. Swegle was not present for the vote.

The Board took up the discussion of the number and composition of board members. Gov. Higginson called the question. Motion passed unanimously. The severed motion on this topic passed unanimously.

The Board took up the discussion of the at-large positions. The Board heard public comment from Jordan Couch, Jim MacPherson, and Kevin Whatley. Discussion followed. Gov. Higginson called the question. Motion passed 12-1. The severed motion on this topic passed 12-1.

*Second Read: Article VII RE: Executive Committee Composition*

Gov. Swegle moved the proposal as provided in the materials. Motion passed unanimously.

*Second Read: Article XI RE: Sections*

Gov. Higginson presented the recommendation of the Ad-Hoc Advisory Committee on the Form of the Proposal for a Bylaw Re: Sections and Public Positions that a Bylaw proposal is not required. Gov. Higginson presented her alternate proposed policy as provided in the materials. The Board took public comment from Nancy Hawkins and Jean Cotton. Discussion followed. Gov. Higginson moved that the policy be adopted as an initial draft to be submitted to the Legislative Committee, which will reach out to the Sections for input and report back to the Board. Motion was not seconded. Gov. Swegle moved to amend the policy where it details the basis for the GR 12 reasoning to merely state that the Section provide a good faith reason under GR 12. Motion was not seconded. Gov. Swegle moved to approve the policy. Motion was not seconded. Gov.

Stephens moved to refer the policy to the Legislative Committee for further work. Gov. Higginson offered a friendly amendment to approve the policy in the materials as a draft. Gov. Stephens did not accept. Gov. Peterson offered a friendly amendment that after the Legislative Committee reworks the draft, the policy be circulated to sections for feedback. This amendment was accepted. Motion passed unanimously. Gov. Swegle was not present for the vote. Pres. Majumdar directed that this item be put on the agenda for the March BOG Meeting.

*First Read: Article III Re: Judicial Status*

Gov. Hunter introduced the proposal as provided in the materials. Chief Regulatory Counsel McElroy provided further detail on the proposed amendments. Discussion followed. Pres. Majumdar noted that the matter was not on for action and would be taken up at the March meeting.

Update on Mandatory Malpractice Insurance

Pres. Majumdar presented his request for the Board's endorsement on his proposed approach as provided in the materials to addressing the proposed court rule related to mandatory malpractice insurance. The Board heard public comment from Kevin Whatley (Equal Justice Washington) and Jim MacPherson. Gov. Higginson moved the proposal. Motion passed unanimously.

Presentation on Office of General Counsel's Role in Disciplinary Proceedings

General Counsel Shankland presented on the Office of General Counsel's role in the Washington State legal discipline system.

Proposed Amendments to WSBA Bylaws (continued)

*Second Read: Article XI RE: Sections (continued)*

Pres. Majumdar introduced the bylaw change as provided in the materials. Gov. Swegle provided background on the reason for the moved the proposal. Motion passed unanimously.

Proposed Rulemaking Re: Civil Arrests in Connection with Judicial Proceedings

Vanessa Torres Hernandez, Director of Advocacy at the Northwest Justice Project, Annie Benson, Senior Directing Attorney at the Washington Defender Association, and Enoka Herat, Police Practices and Immigration Counsel of the ACLU of Washington provided the background and rationale for the proposed rulemaking.

Committee on Professional Ethics Chair Don Curran deferred to Committee Members Asel Neutze and Pamela Anderson to present the committee's position on the proposed rulemaking.

The Board heard public comment from Kevin Whatley. Discussion followed. It was pointed out that because both proposed rules are on an expedited 60-day comment period, the deadline for submission of comments is February 3. Gov. Swegle moved to recommend to the Court adoption of GR 38 as appearing on page 304 of the materials. Gov. Abell proposed that we request an extension for time to comment on the proposed amendment to Comment 4 to RPC 4.4. Pres. Majumdar indicated that there was already a motion on the table relating to GR 38, which the Board would resolve first. There was no second to Gov. Abell's proposal. The underlying motion passed 11-1. Gov. Peterson was not present for the vote.

Discussion followed regarding the proposed amendment to Comment 4 to RPC 4.4. Gov. Abell moved that WSBA request additional time from the Supreme Court to comment sufficient to encompass the next meeting of the Committee on Professional Ethics. Motion passed 9-4. Pres. Majumdar requested that the Committee consider meeting sooner to resolve the matter quickly so that the Board can comment before expiration of the February 3 deadline.

#### Proposed Policy Re: Process for Bringing Matters to the BOG

Interim Executive Director Nevitt presented the proposed policy as presented in the materials. Discussion followed. Gov. Abell moved for adoption. Gov. Knight moved to amend to add language that it doesn't limit President or any Governors authority under the bylaws to put things on the agenda. Motion passed unanimously. Underlying motion passed unanimously.

#### Governor Roundtable

Gov. Abell reported on efforts to move forward on the Rural Practice Initiative.

#### Announce Basis for Executive Session Pursuant to RCW 42.30.110(1)(i)

Pres. Majumdar announced that the Board will meet in Executive Session as permitted by RCW 42.30.110(i)-to discuss with legal counsel representing WSBA potential litigation to which WSBA is likely to become a party.

The Board recessed to executive session at 1:50 PM for advice from legal counsel about potential litigation and resumed the meeting at 2:30 PM.

#### LLLT Candidate Education

Interim Executive Director Nevitt introduced the proposal as provided in her Interim Executive Directors Report. The Board took public comment from Nancy Hawkins. Discussion followed. Gov. Higginson moved that the WSBA take no action to provide LLLT education at this time. Motion passed 11-1 with Gov. Stephens abstaining.

#### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:51 PM on Friday, January 17, 2020.

Respectfully submitted,

Terra Nevitt  
WSBA Interim Executive Director & Secretary

DRAFT



**Board of Governors Meeting  
Hotel RL  
Olympia, WA  
March 19-20, 2020**

***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: dial 1.866.577.9294, access code 528100#

**THURSDAY, March 19, 2020**

Times provided below are estimates and do not appear on the public agenda

**9:00 AM – CALL TO ORDER**

**CONSENT CALENDAR & STANDING REPORTS**

**9:00 AM WELCOME**

**9:05 AM 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*.

- Review & Approval of January 16-17, 2020 BOG Meeting Minutes..... XX
- Review & Approval of January 17, 2020 BOG Meeting Minutes..... XX
- Review & Approval of January 28, 2020 BOG Meeting Minutes..... XX
- Client Protection Board Gift Recommendations

**9:10 AM PRESIDENT'S REPORT**

**9:15 AM INTERIM EXECUTIVE DIRECTOR'S REPORT** ..... XX

**9:20 AM 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. Time will be kept on the clock above the webcast booth. Public comment will also be permitted at the beginning of each agenda item at the President's discretion.

**9:30 AM 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. Rajeev Majumdar, Chair
- APEX Awards Committee, Gov. Russell Knight, Chair
- Personnel Committee, Gov. Alec Stephens, Chair
- Legislative Committee, Gov. Kyle Sciuchetti, Chair
- Nominations Review Committee, Gov. Jean Kang & Pres-elect Kyle Sciuchetti, Co-Chairs
- Diversity Committee, Gov. Jean Kang, Co-Chair

The WSBA is committed to full access and participation by persons with disabilities to Board of Governors meetings. If you require accommodation for these meetings, please contact Shelly Bynum at shellyb@wsba.org 206.239.2125.



- Long-Range Planning Committee, Gov. Paul Swegle, Chair
- Member Engagement Workgroup, Govs. Kim Hunter and Dan Clark, Co-Chairs
- Budget & Audit Committee, Treas. Dan Clark, Chair ..... XX

**SPECIAL REPORTS**

- 10:00 AM REPORTS OF TASK FORCES, WORK GROUPS, LIAISONS, AND OTHER WSBA ENTITIES**
  - ABA Mid-Year Meeting Report ..... XX
- 10:50 AM GOVERNOR LIAISON REPORTS**  
This is an opportunity for Governors to make reports related to their liaison assignments.

**11:00AM – RECESS**

**12:30PM – LUNCH & PRESENTATION OF LOCAL HERO AWARDS**

All guests and liaisons are welcome at lunch

**AGENDA ITEMS & UNFINISHED BUSINESS**

- 1:45 PM BUDGET & AUDIT COMMITTEE MATTERS**, Treas. Dan Clark, Chair and Chief Communications Officer Sara Niegowski
  - Proposal to Sunset the APEX Awards Dinner ..... XX
- 2:15 PM PERSONNEL COMMITTEE MATTERS**, Gov. Alec Stephens, Chair and Director of Human Resources Felix Neals
  - Proposed Process for Evaluation of Interim Executive Director ..... XX
- 2:45 PM LEGISLATIVE COMMITTEE MATTERS**, Gov. Kyle Sciuchetti and Outreach and Legislative Affairs Manager Sanjay Walkevar
  - Legislative Session Report ..... XX
  - Recommendation Re: Proposed Policy Re: Legislative Activity of Sections ..... XX
- 3:15 PM PROPOSED AMENDMENTS TO WSBA BYLAWS**
  - SECOND READ: Article III Re: Judicial Status, Gov. Kim Hunter and Chief Regulatory Counsel Jean McElroy ..... XX
- 3:45 PM PROPOSED RULE CHANGE**, Council on Public Defense ..... XX

Commented [TN1]: Waiting for more information for title and who is presenting.

**5:00 PM – RECESS**

**FRIDAY, March 20, 2020**

**1:00 PM – RESUME MEETING**

- 1:00 PM PROPOSED COMMENT TO RPC 6.5 RE: NONPROFIT & COURT-ANNEXED LIMITED LEGAL SERVICE PROGRAMS**
  - Member Bonnie Aslagson and Co-Chair Nick Larson, Pro Bono & Public Service Committee; Executive Director Michael Heatherly, LAW Advocates of Whatcom County ..... XX

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- Member Bonnie Aslagson and Co-Chair Nick Larson, Pro Bono & Public Service Committee; Executive Director Michael Heatherly, LAW Advocates of Whatcom County ..... XX
- Brooks Holland, Committee on Professional Ethics ..... XX

Commented [TN2]: Note, this presenter cannot be moved to Thursday.

**NEW BUSINESS**

- 2:00 PM GOVERNOR ROUNDTABLE** (Governors’ issues of interest)
- ANNOUNCE BASIS FOR EXECUTIVE SESSION PURSUANT TO RCW 42.30.110(1)(i) (if needed)**

**5:00 PM – ADJOURN**

**INFORMATION**

- General Information ..... XX
- Monthly Financial Statements ..... XX

DRAFT

## 2019-2020 Board of Governors Meeting Issues

### APRIL (Seattle)

#### Standing Agenda Items:

- Financials (Information)
- Office of Disciplinary Counsel Report (ED Report)
- Editorial Advisory Committee Report

### MAY (Bellingham)

#### Standing Agenda Items:

- Legislative Report/Wrap-up
- Council on Public Defense Report
- Interview/Selection of WSBA At-Large Governor
- Interview/Selection of the WSBA President-elect
- WSBA APEX Awards Committee Recommendations
- Financials (Information)
- FY2020 Third Quarter Outreach & Perception Survey Update (ED Report)
- Office of Disciplinary Counsel Report (ED Report)

### JULY (Stevenson)

#### Standing Agenda Items:

- Draft WSBA FY2021 Budget
- WSBA Treasurer Election
- Court Rules and Procedures Committee Report and Recommendations
- WSBA Committee and Board Chair Appointments
- BOG Retreat
- Financials (Information)
- Office of Disciplinary Counsel Report (ED Report)

### AUGUST (Spokane)

#### Standing Agenda Items:

- Financials (Information)
- Diversity Committee Report
- Office of Disciplinary Counsel Report (ED Report)
- FY2020 Third Quarter Outreach & Perception Survey Update (ED Report)

### SEPTEMBER (Seattle)

#### Standing Agenda Items:

- Final FY2021 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
- Editorial Advisory Committee Report
- Chief Hearing Officer Annual Report
- Professionalism Annual Report
- Report on Executive Director Evaluation
- Financials (Information)
- WSBA Annual Awards Dinner

The WSBA is committed to full access and participation by persons with disabilities to Board of Governors meetings. If you require accommodation for these meetings, please contact Shelly Bynum at [shellyb@wsba.org](mailto:shellyb@wsba.org) 206.239.2125.