

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

Board of Governors Meeting
Late Meeting Materials

January 13-14, 2022
WSBA Conference Center
Seattle, WA
Zoom and Teleconference

BOARD OF GOVERNORS MEETING Late Materials January 13-14, 2022 WSBA Conference Center, Seattle, WA Zoom and Teleconference	
Description	Page Number
Member Engagement Survey	LM-3
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LGBTQ+ Training Materials	LM-74
POLB Annual Report to the BOG	LM-191

TO: WSBA Board of Governors

FROM: Bryn Peterson, Co-Chair Member Engagement Workgroup
Francis Adewale, Co-Chair Member Engagement Workgroup
Sara Niegowski, Chief Communication Officer

DATE: January 10, 2022

RE: **Member Engagement Survey Results – FY21 Quarter One**

Attached please find the results of the Member Engagement Survey conducted by National Business Research Institute (NBRI).

We will be briefly discussing the results during the Board Committee updates at the Board meeting.

Sincerely,

Bryn Peterson, Co-Chair Member Engagement Workgroup
Francis Adewale, Co-Chair Member Engagement Workgroup
Sara Niegowski, Chief Communication Officer

Attachments: Member Engagement Survey Results from NBRI



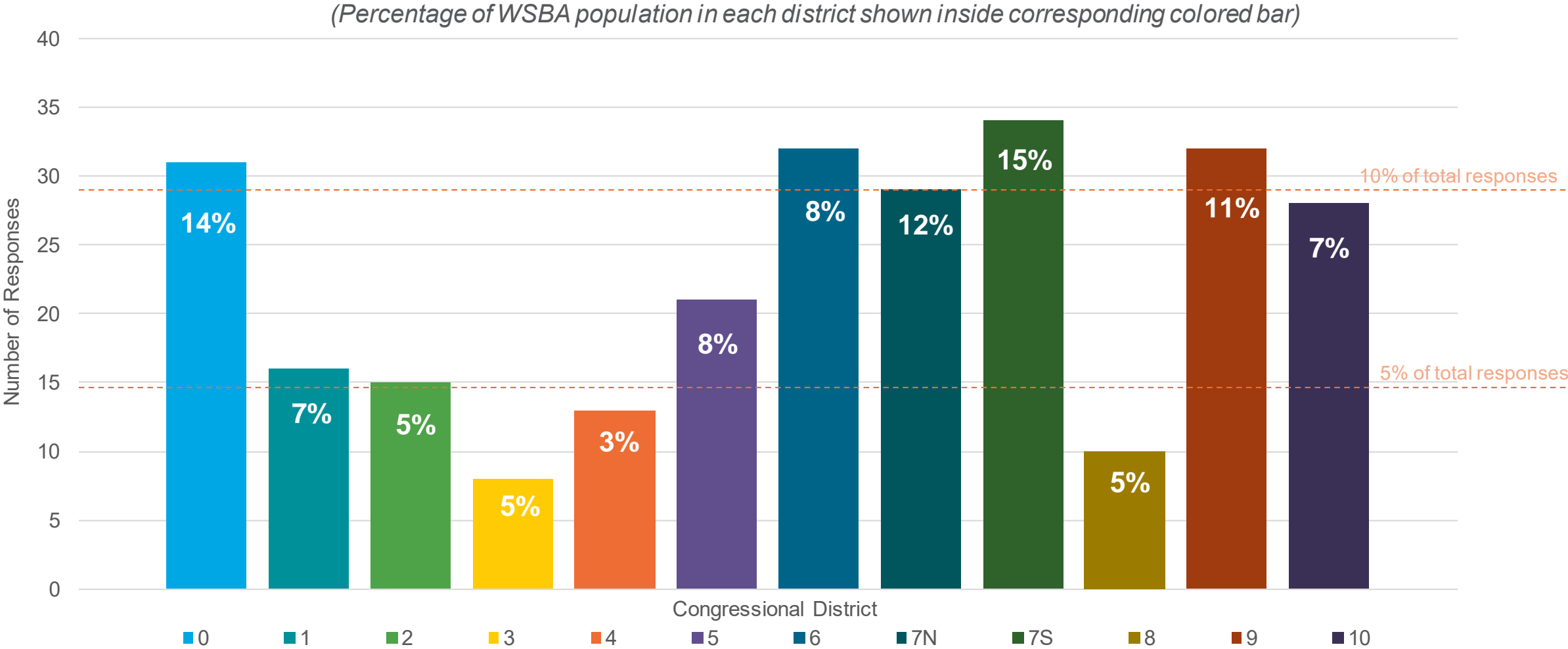
MEMBER ENGAGEMENT SURVEY

FY2021-21 Quarter 1

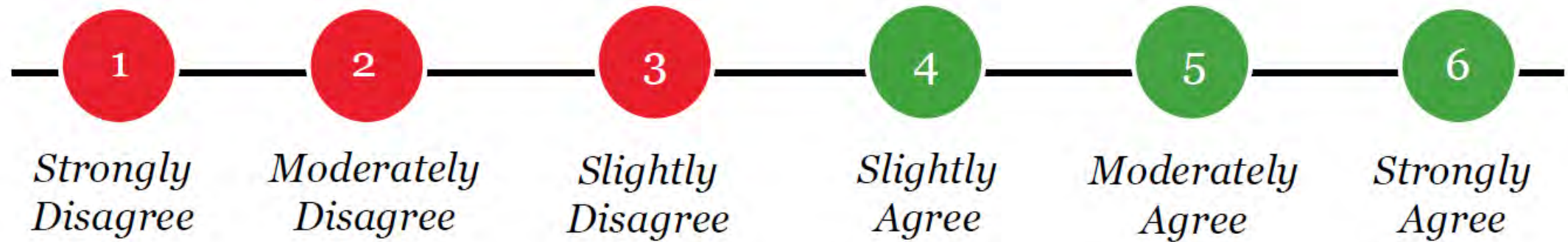
OVERVIEW AND RESPONSE RATE

- **Conducted by National Business Research Institute (NBRI)**
 - 3,000 surveys sent between Nov. 1 and Dec. 1, 2021
 - Invitations sent proportionally to Congressional Districts based on percentage of total WSBA population
 - NBRI selected randomized sample and sent invitations to ensure anonymity; WSBA received no identifying information
- **We achieved a 91.4% confidence level**
 - 269 responses representing an 8.97% response rate
 - 5% sampling error
 - Surpasses the minimum standard for confidently performing a data analysis (80%↑ confidence level, 5%↓ margin of error)

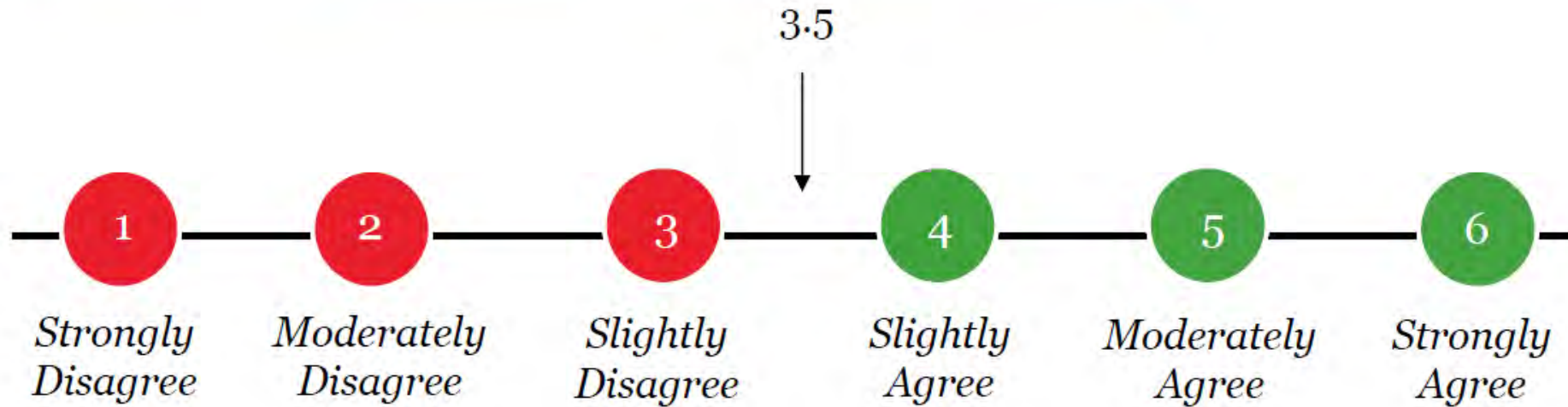
296 TOTAL RESPONSES



The Six Point Scale



The Mean Score



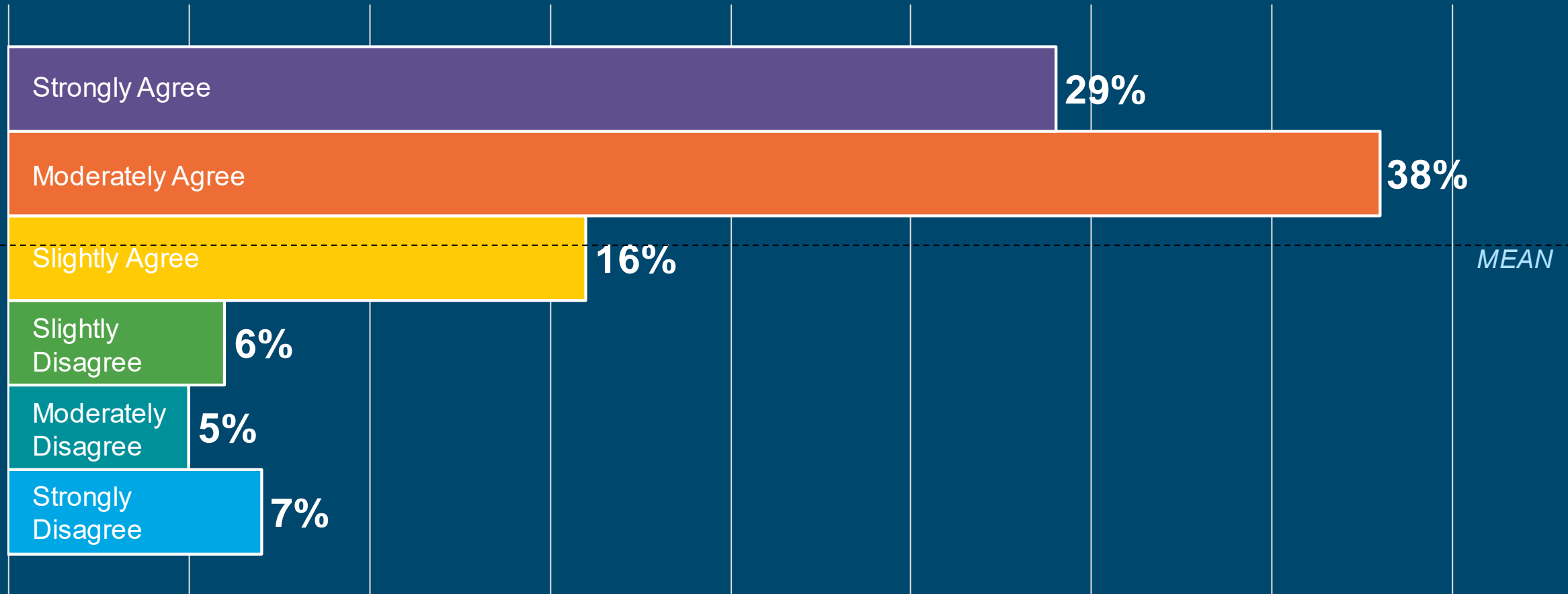
- A Mean Score is the “Average,” or a measure of central tendency.
- The Mean Score is computed by taking the sum of all scores and dividing by the total number of responses.
- The Mean of a 6-point scale = 3.5

QUESTIONS



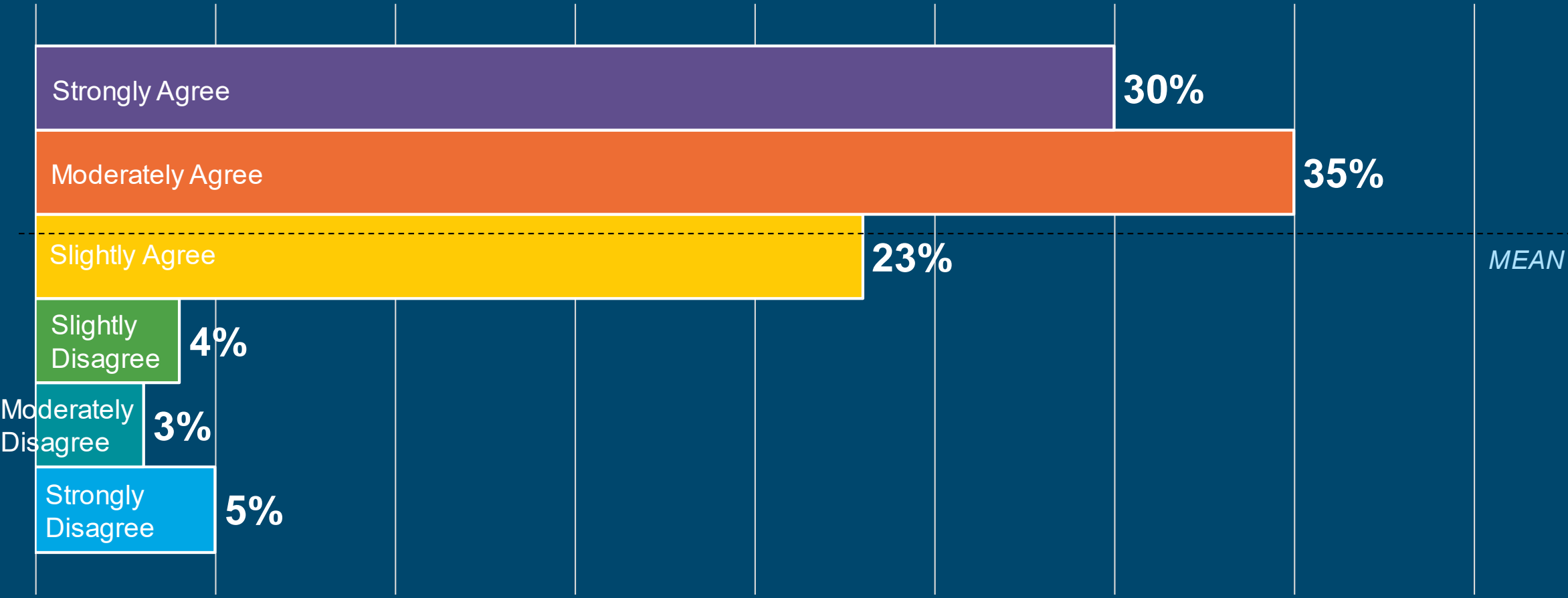
COMPANY IMAGE

The WSBA upholds high quality standards for Washington's legal profession



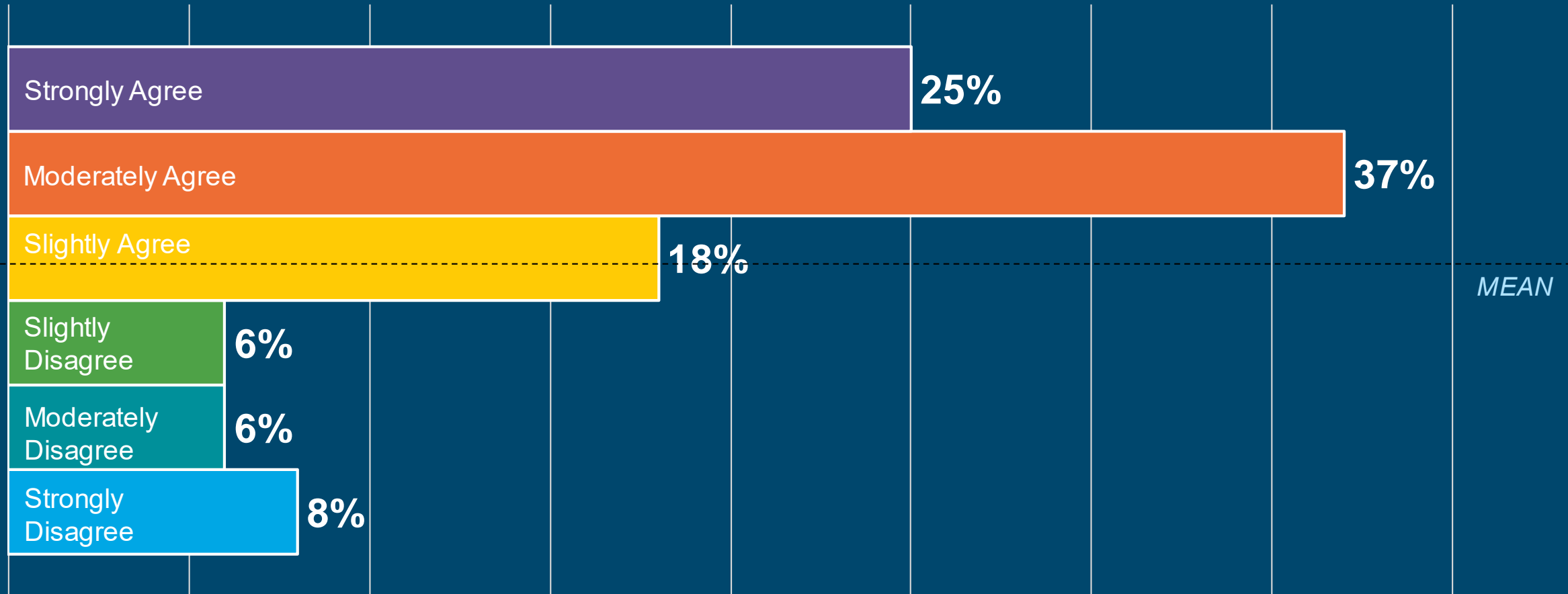
CUSTOMER SATISFACTION

It is easy to work with the WSBA: Staff are responsive and knowledgeable



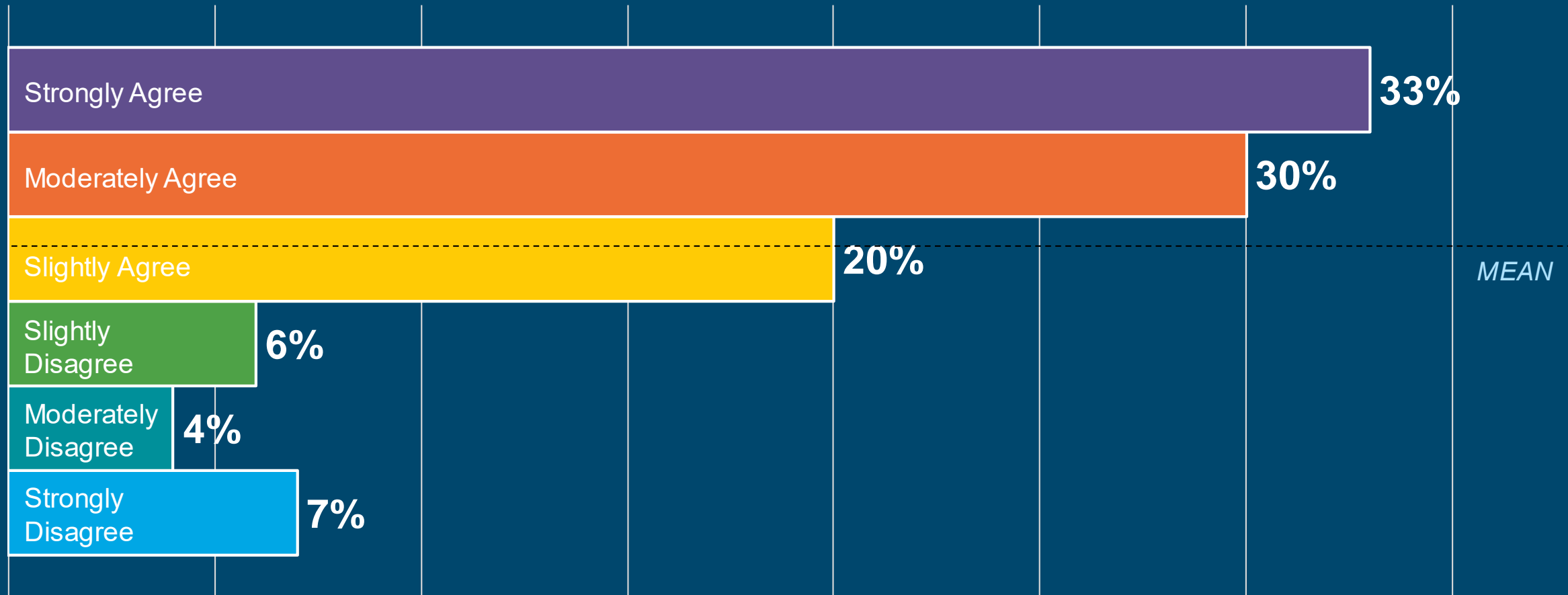
CUSTOMER SATISFACTION

My overall experience with the WSBA has been satisfactory



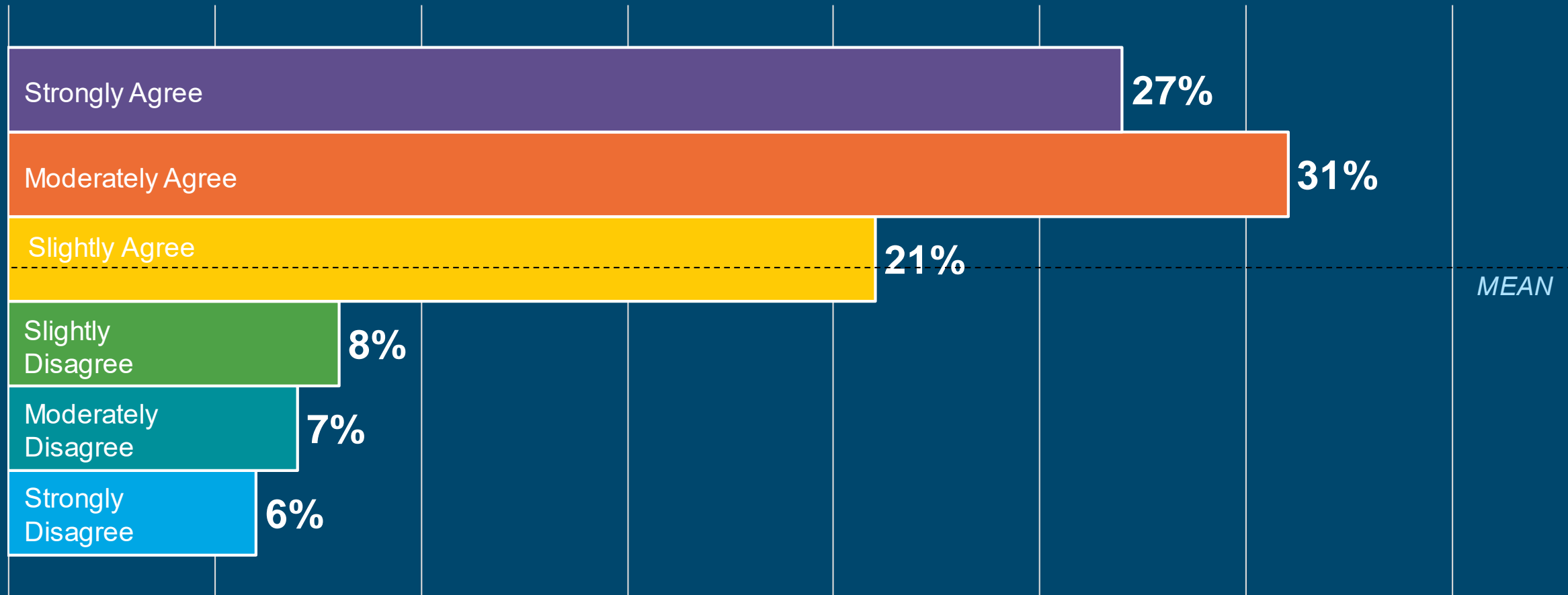
DIVERSITY AND INCLUSION

The WSBA upholds the values of diversity, inclusion, and equity in the courts and legal profession, especially for members who are underrepresented



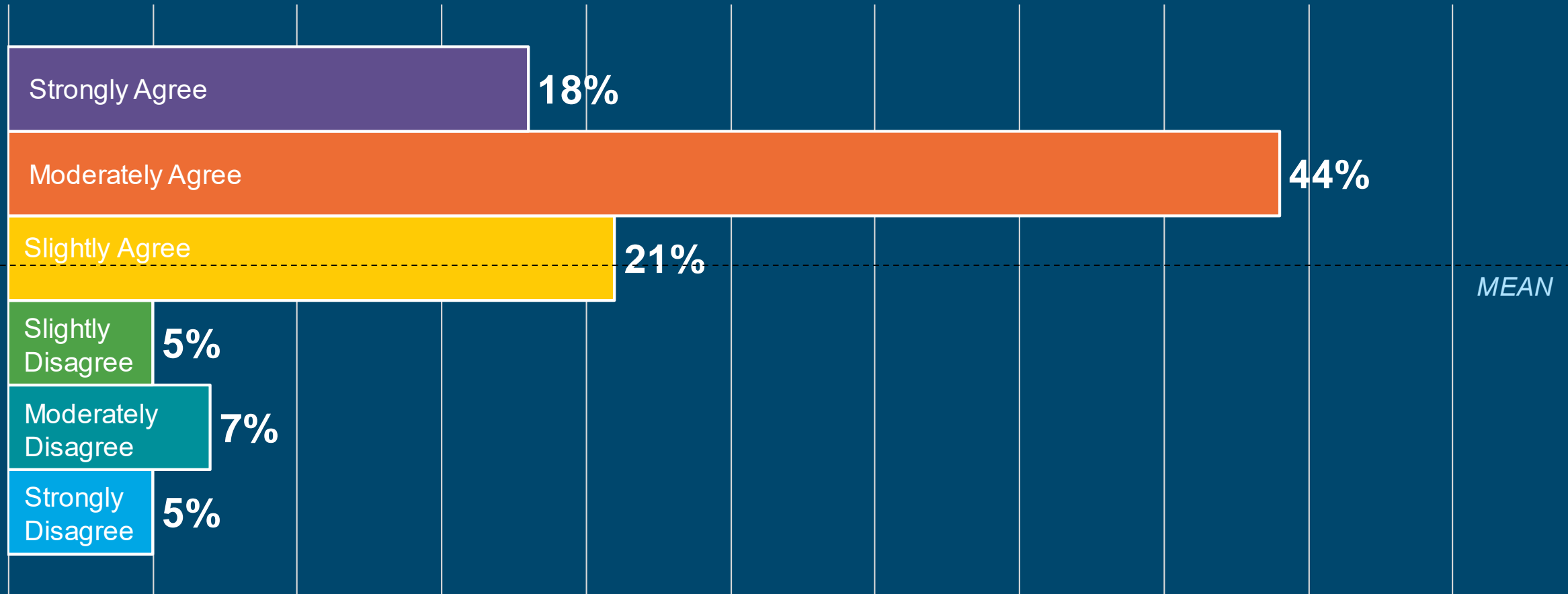
DIVERSITY AND INCLUSION

The WSBA provides opportunities for members from all different backgrounds and experiences



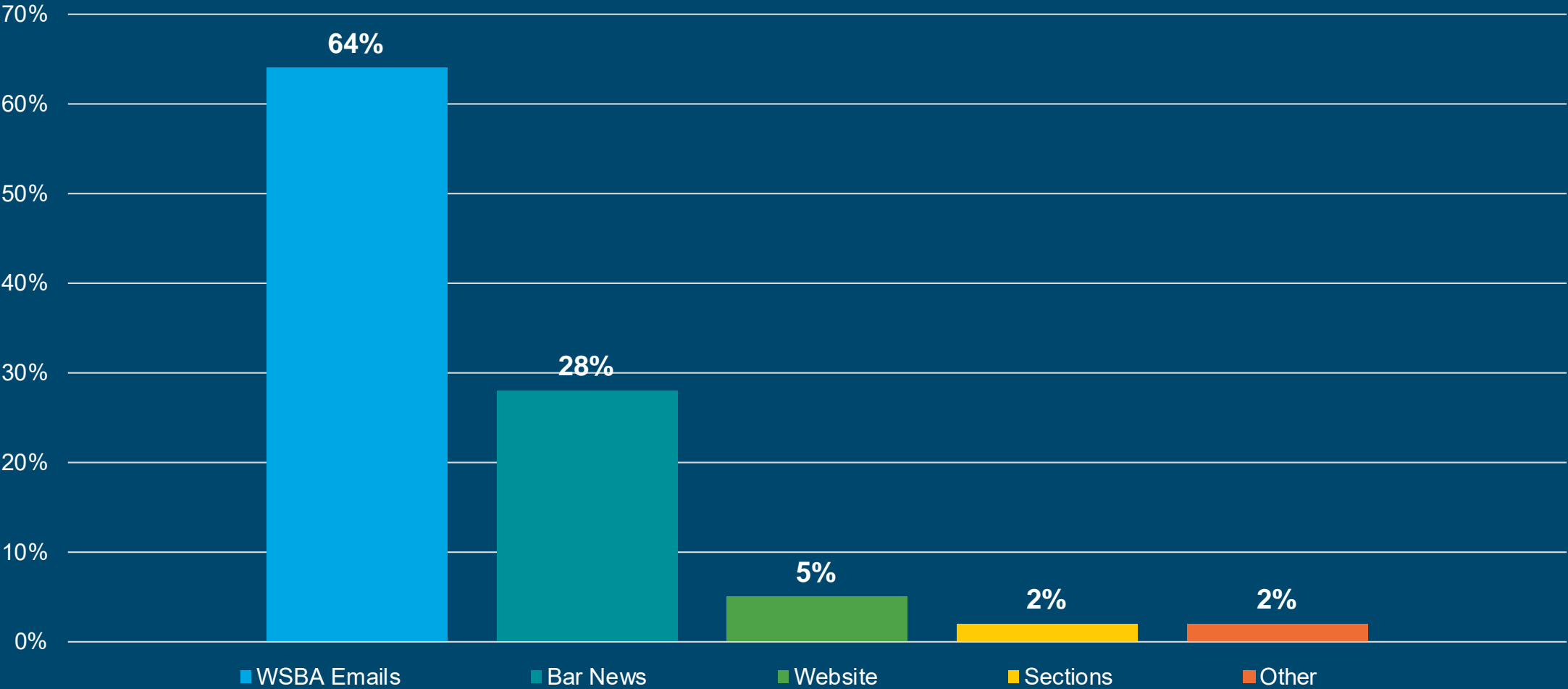
COMMUNICATION

WSBA communications keep me well informed



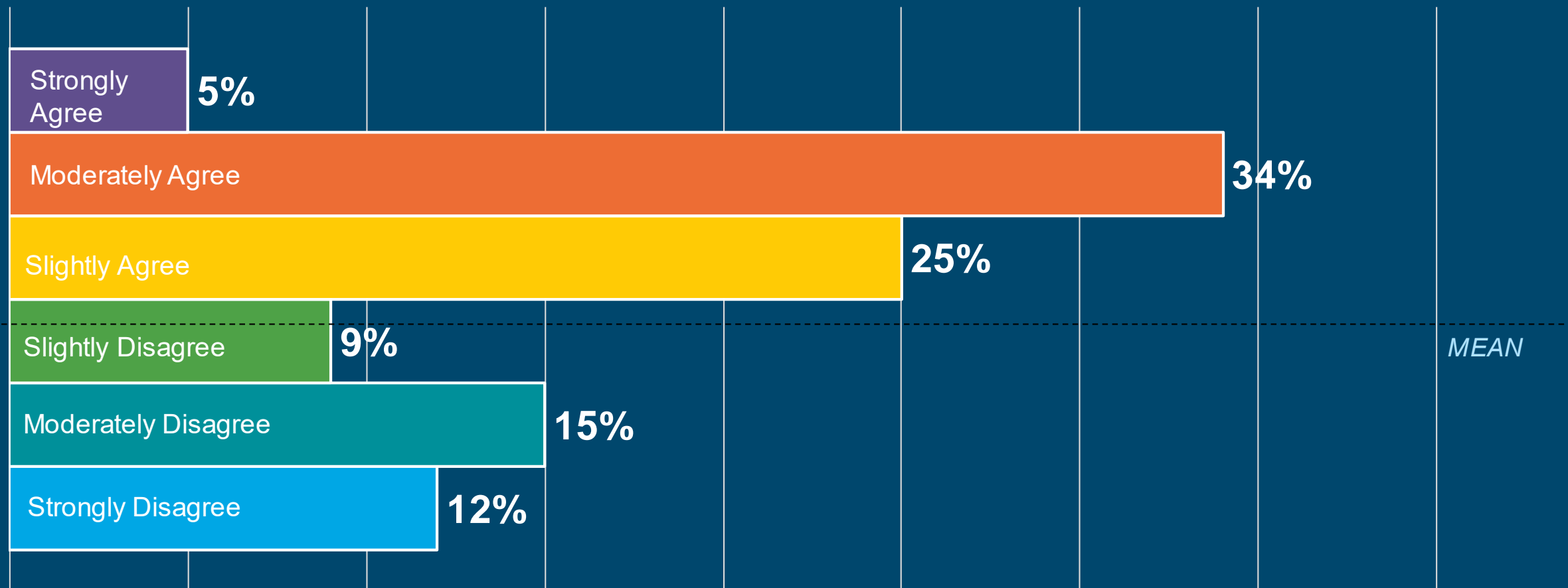
COMMUNICATION

What is your main source of information about the WSBA?



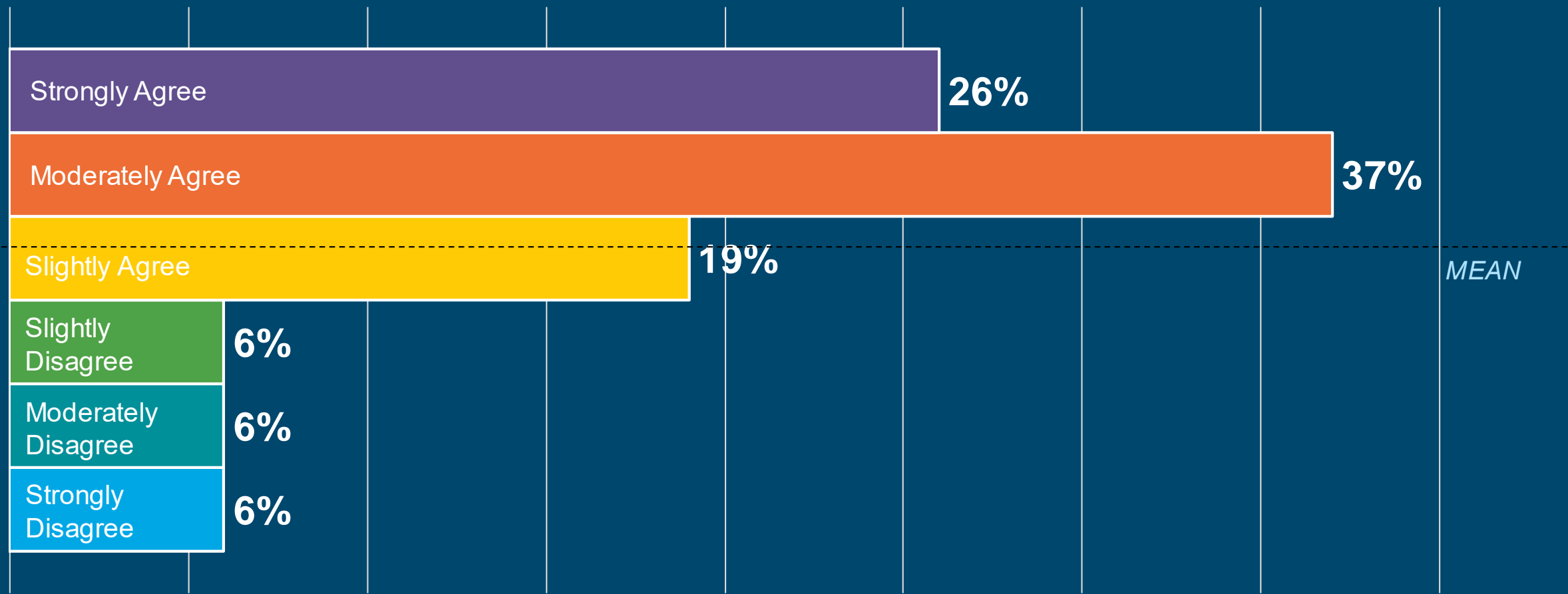
COMMUNICATION

The WSBA listens to its members



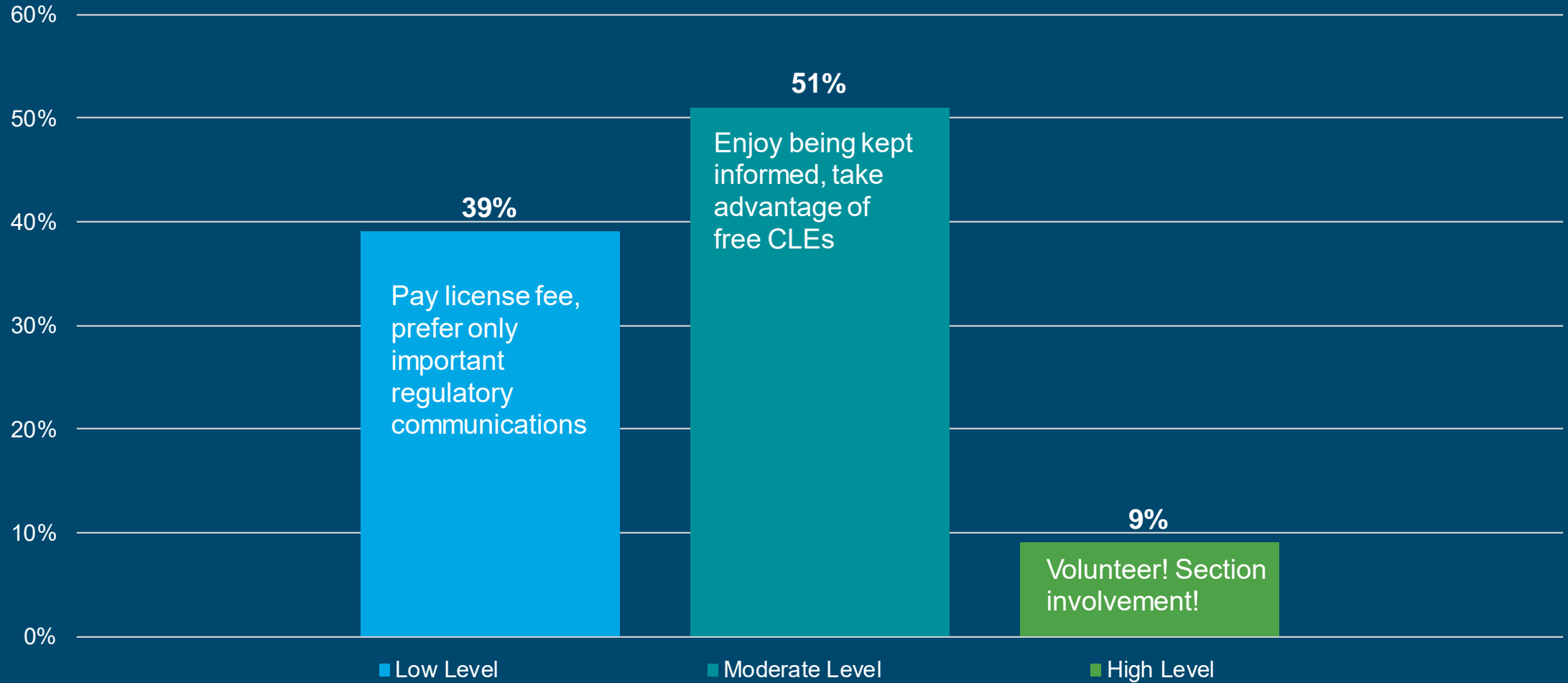
INVOLVEMENT

I know how I can get involved with the WSBA



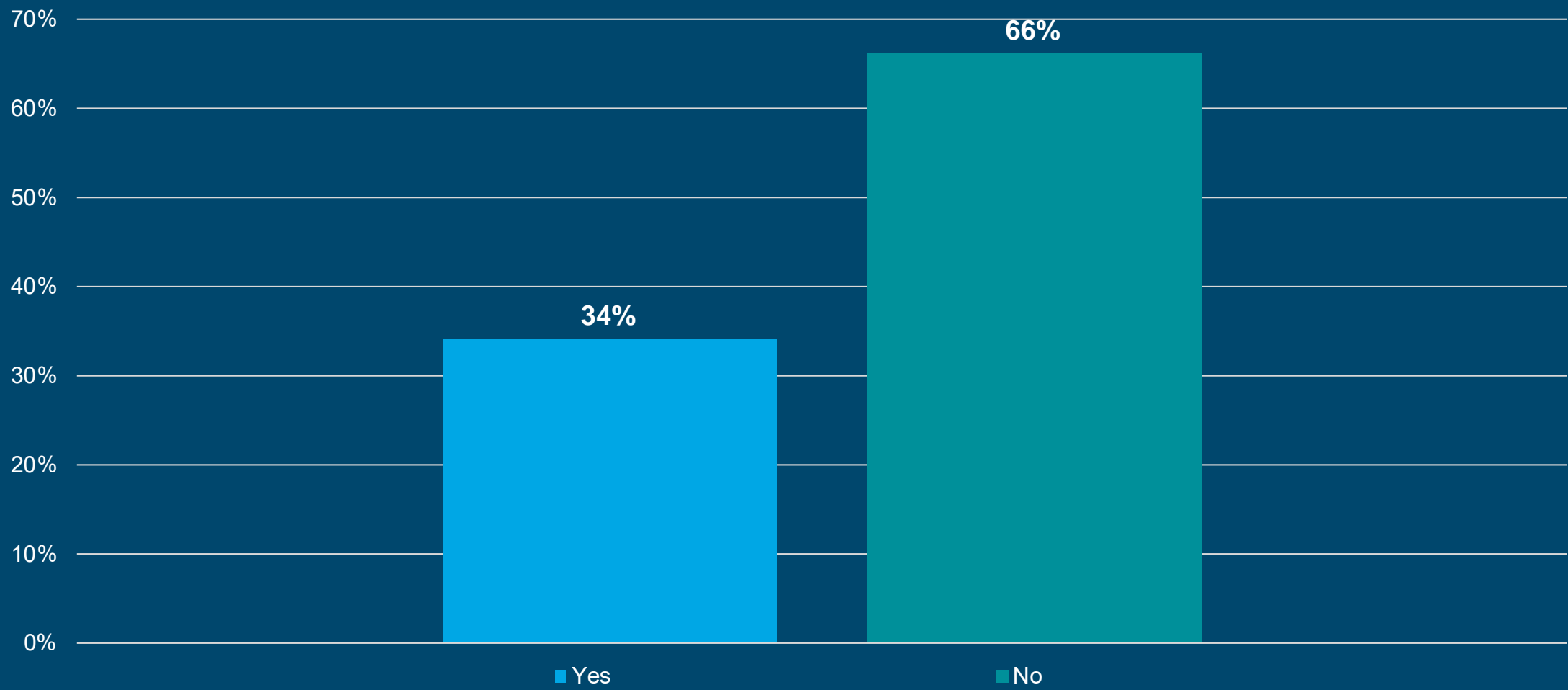
INVOLVEMENT

My preferred level of involvement with the WSBA is:



INVOLVEMENT

Do you participate in WSBA Sections?



I **DO** PARTICIPATE IN SECTIONS BECAUSE ...

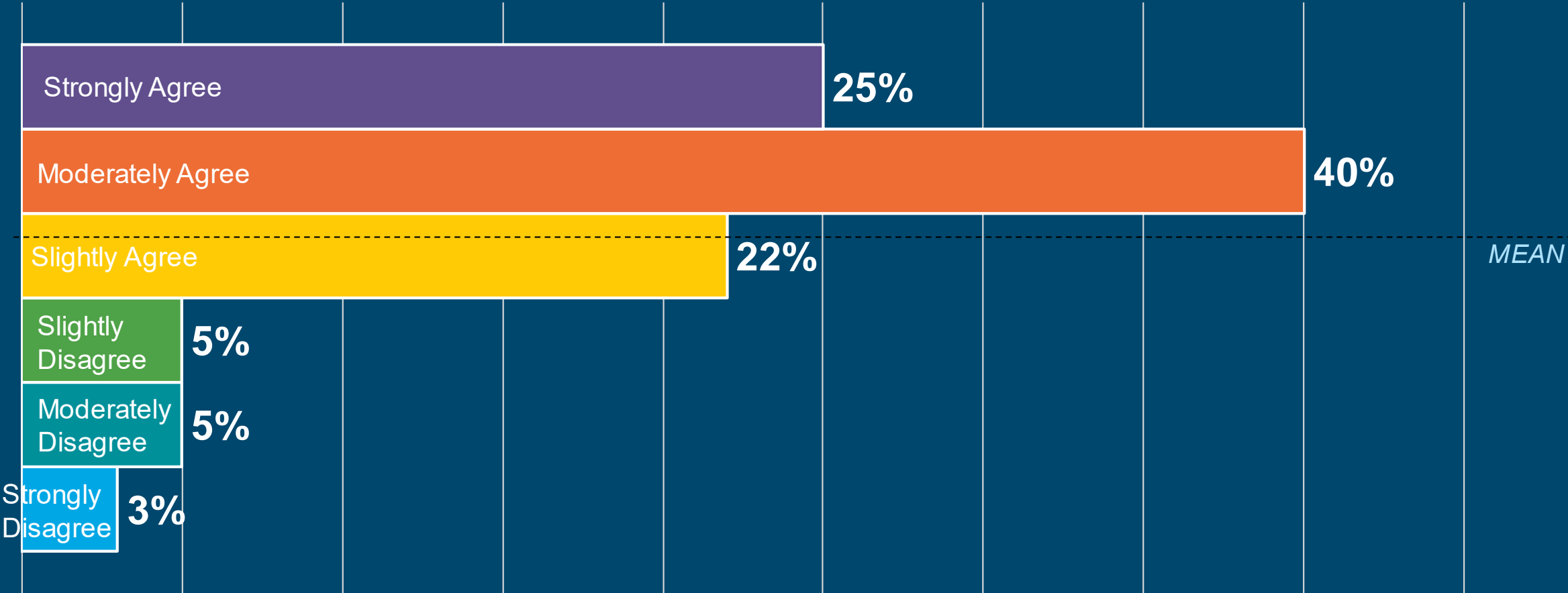
Reason	Percent
Keeping up to date on changes in my practice area	92%
Networking and social connections	36%
Discounted and free section-specific CLEs	35%
Legislative engagement	11%
Other	4%
Resume building	2%

I DO NOT PARTICIPATE IN SECTIONS BECAUSE ...

Reason	Percent
I find more helpful or current information about my practice area elsewhere	34%
I don't have time	24%
There are other groups and associations more relevant to my practice area	23%
Other	23%
Cost	17%
I do not feel affiliation with section members	16%

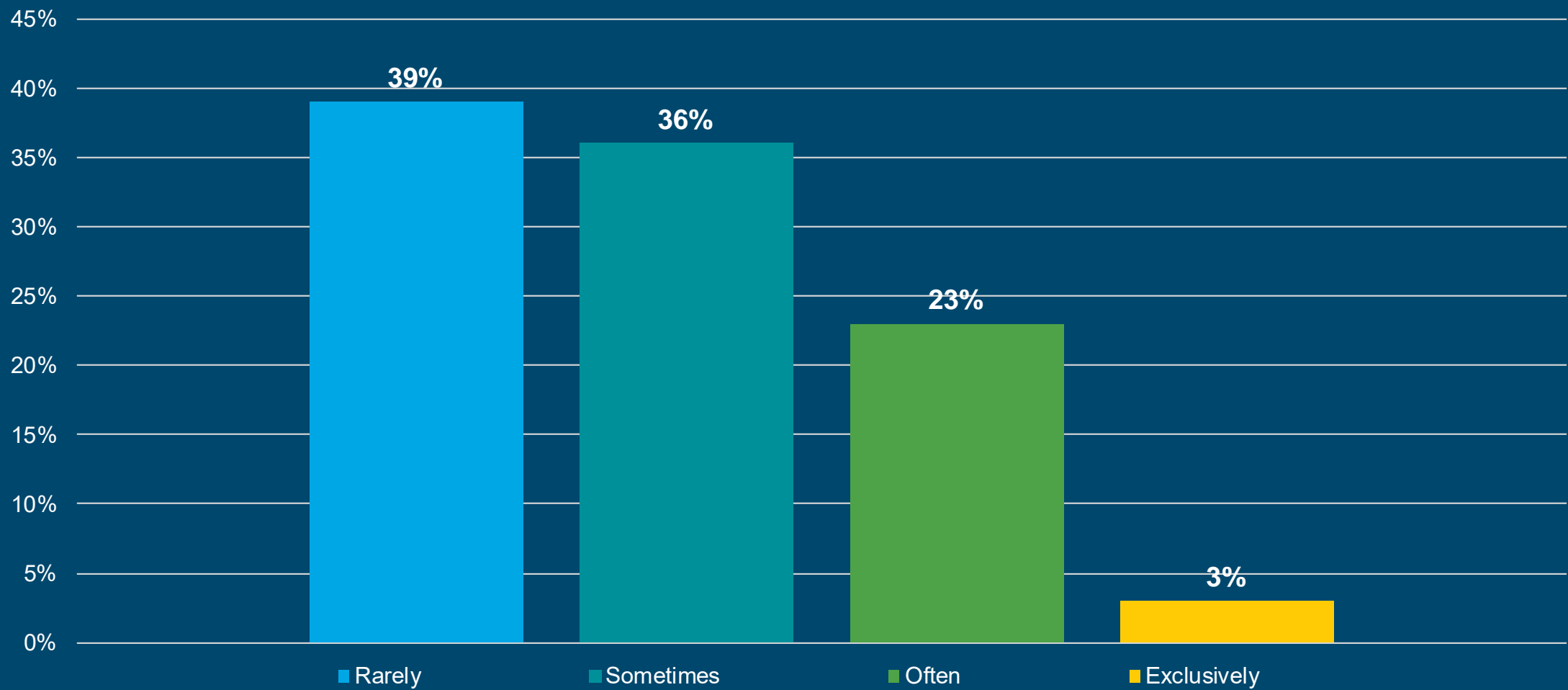
SERVICES

The WSBA provides high quality live and on-demand CLEs



SERVICES

I attend WSBA-provided CLEs:



MEAN RANK: MEMBER BENEFITS AND RESOURCES

Resource / Benefit	Mean Rank	Not Important at All / Not Very Important / Somewhat Important / Important / Very Important
Ethics Line	3.52	12% / 11% / 20% / 30% / 28%
On-Demand CLEs	3.35	12% / 15% / 21% / 26% / 24%
Deskbooks	3.23	20% / 11% / 18% / 27% / 23%
Live Remote CLEs	3.19	15% / 16% / 24% / 26% / 19%
Legal Lunchbox	3.14	20% / 17% / 18% / 20% / 26%
Free Legal Research Tool (Fastcase)	3.11	22% / 12% / 26% / 14% / 26%
WA State Bar News Magazine	3.01	10% / 21% / 36% / 25% / 8%
Free Health Counseling and Consultations	2.93	24% / 19% / 16% / 23% / 19%
Job Seeking and Career Assistance	2.75	27% / 20% / 17% / 24% / 13%
Law Firm Guides and Templates	2.51	34% / 16% / 22% / 21% / 7%
In-Person CLEs	2.47	26% / 30% / 23% / 15% / 6%
Member Wellness Program	2.46	33% / 19% / 24% / 16% / 8%

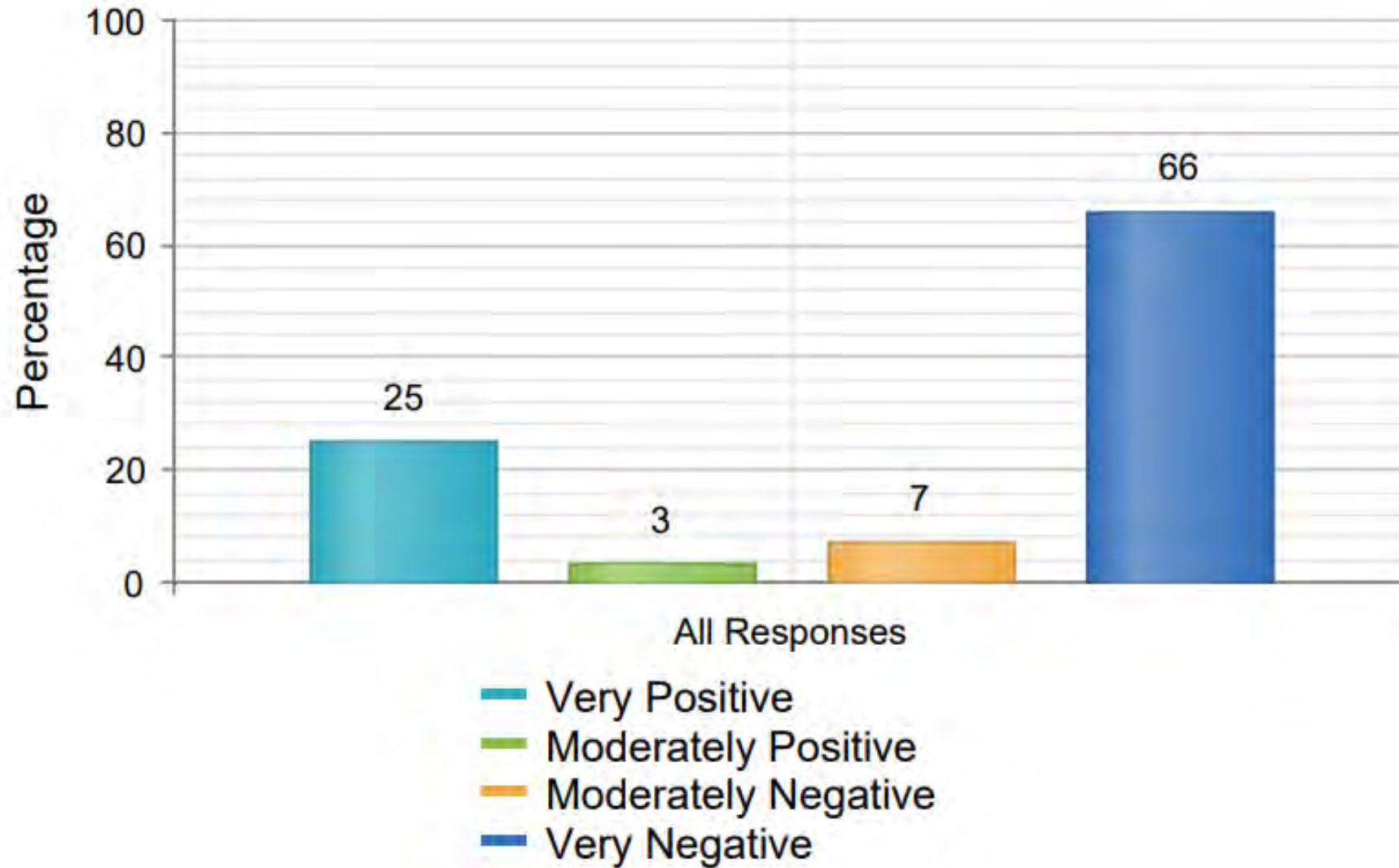
MEAN RANK: MEMBER BENEFITS AND RESOURCES

Resource / Benefit	Mean Rank	Not Important at All / Not Very Important / Somewhat Important / Important / Very Important
Mentorship Opportunities	2.41	31% / 24% / 25% / 14% / 6%
Retirement Resources	2.36	35% / 20% / 25% / 15% / 5%
Practice Management Assistance Consultations	2.29	38% / 21% / 21% / 15% / 6%
Lending Library	2.20	39% / 21% / 24% / 11% / 4%
Practice Management Discount Network	2.02	46% / 24% / 18% / 8% / 5%
Health Insurance Marketplace	1.93	53% / 20% / 14% / 9% / 5%

OPEN ENDED



SENTIMENT ANALYSIS WITHOUT “NEUTRAL”



WORD CLOUD

Comments

feel **bar** example forced diversity cle organization political
legal lunchbox topics applicable lawyer especially own cost
issue past **practice** limited **wsba** seattle attorneys
opinion magazine lot inclusion option time questions services
help **dues** value money board irrelevant discipline ethical rules
profession people please lower annual membership harassment
social issues focus **lawyers** disciplinary justice **law** criminal
benefit public system regulation court association burdens pay
free attempts consequences process support diverse white
providing washington paid expensive office downtown job
committee doing wa program racism filing bog taking illt
appears neutral meetings available professional understand minority
equity instead racist care fees race hire

SAMPLE WORD ASSOCIATIONS

Diversity

"I don't see any consequences imposed upon members for sexist and racist behaviors that should mean they do not have the character and fitness to practice law. There is a lot of talk about **diversity** and equality for non-white male attorneys, but no consequences for discrimination and hostile practices against those who are not white and male."

"I have heard from many women lawyers that they routinely experience sexual harassment in their firms or from other counsel. I would like the WSBA to include education for male lawyers about sexual harassment of women lawyers. I don't know whether this has been addressed in the WSBA's program to increase **diversity** and inclusiveness in the legal profession. If it has not, it should be. There should be efforts to both 1) hire and promote more women lawyers, and 2) reduce the sexual harassment of women lawyers. I would start by -- yes! -- taking a survey of women bar members to determine their perceptions as to what kinds of sexual harassment they have experienced, and how the Bar could help address this issue."

"The pandering to the political left is really tiresome. **Diversity** and inclusion are important. But they are not the only important thing."

"More **diversity** needed at WSBA and in the legal profession generally. More support needed around supporting diverse legal professionals with career development as they may not have connections that white/affluent counterparts may have."

"I feel like branching out into areas not specifically connected to oversight leaves the bar vulnerable to a Janus breakup. For example, having a forced **diversity** CLE is no different than having an mandatory Originalist CLE."

Services

"As noted, my primary practice is in Oregon, but I have been impressed with the WSBA in my limited contacts. With that qualification, it seems important to identify critical areas and core competencies--as this survey attempts to do--and start with what is most important and/or is already adding real value. When the budget allows for additional **services**, be sure they are done well. Ideally, the Bar should have some role as an equalizer, raising the quality of practice and representation across the Bar by providing resources."

"Focus on the basics - maintaining integrity of the profession and providing important **services** to its membership."

"Member dues are too high. Allow for lower annual fees perhaps by offering a sliding scale. The cost of CLEs is also too high paired with the 45 credit requirement. I get ample professional development but I look for what is good, not what is qualified for CLEs. So then I find myself having to pay for CLEs that are completely irrelevant to my work just to check a box for WSBA. At least offer enough free on-demand CLEs that one could meet the requirement for free. I find most WSBA **services** to be irrelevant and/or very Seattle focused."

"I strongly support WSBA providing career and job opportunity **services**, and anything that increases the number of law jobs and makes it easier for lawyers to find jobs. Increasing the public's access to lawyers is important, particularly if it also increases the number of law jobs."

"I was unaware of some of the **services** and initiatives described in this survey and therefore ranked them low. This survey may yield more accurate results if it had a neutral/not applicable/I was not aware option."

"Recognize that some of us pay more to stay in law than we earn for our legal services. I would prefer not to subsidize other lawyers' access to practice (a la the unified bar, where I don't have a choice). If others don't earn enough to pay for their own legal research or practice management **services**, that shouldn't be my problem."

DEMOGRAPHICS



Category	Percentage
Age	<ul style="list-style-type: none"> • 21 to 30: 3% • 31 to 40: 16% • 41 to 50: 21% • 51 to 60: 23% • 61 to 70: 24% • 71 to 80: 12% • 80 and older: 2%
Gender	<ul style="list-style-type: none"> • Female: 44% • Male: 54% • Transgender: 0% • Non-Binary / Non-Conforming: 0% • Not listed: 1%

Ethnicity	% (number)
American Indian/Native American/Alaskan Native	1% (3)
Asian-Central Asian	0% (1)
Asian-East Asian	1% (3)
Asian-South Asian	1% (2)
Asian-Southeast Asian	0% (1)
Asian-Unspecified	0% (1)
Black/African American/African Descent	2% (4)
Hispanic/Latinx	6% (14)
Middle Eastern Descent	0% (1)
Multi-Racial/Bi-Racial	2% (5)
Not Listed	5% (11)
Pacific Islander/Native Hawaiian	1% (2)
White/European Descent	80% (80)

PRACTICE AREAS

Area	Percent
Criminal	10%
Government	10%
Other	8%
Family	6%
Civil Litigation	6%
Business-Commercial	4%
Estate Planning/Probate	4%
Real Property	4%
Health	3%
Litigation	3%
Personal Injury	3%
Judicial Officer	3%
Administrative-Regulator	2%

Area	Percent
Corporate	2%
Employment	2%
General	2%
Military	2%
Municipal	2%
Not Actively Practicing	2%
Torts	2%
Intellectual Property	1%
Bankruptcy	1%
Civil Rights	1%
Construction	1%
Contracts	1%
Disability	1%
Entertainment	1%
Environmental	1%

Area	Percent
Immigration/ Naturalization	1%
Indian	1%
Maritime	1%
Tax	1%
Workers Compensation	1%

UP NEXT



- **Q2 polling begins in January**

- 3,000 survey invitations to be sent to randomly selected members
- All those who responded to Q1 survey will be taken out of the selection pool for several years
- Continued notification to all members about the survey
- A professional analysis and presentation from NBRI's organization psychologists and statisticians to come at the end of Q4



VOLUNTEER ENGAGEMENT REPORT

January 13, 2022

Paris A. Eriksen, CVA

Volunteer Engagement Advisor

AGENDA

- ✓ Introduction & Core Elements of Volunteer Engagement
- ✓ FY21 Volunteer Community Snapshot
- ✓ Volunteer Community Trends
- ✓ FY21 Highlights
- ✓ Upcoming Projects



INTRODUCTION

Paris A. Eriksen, CVA

Volunteer Engagement Advisor

Office of the Executive Director

parise@wsba.org

CVA: Certified Volunteer Administrator



INTRODUCTION

Professional Ethics in Volunteer Administration

CORE VALUES & PRINCIPLES

- **Citizenship:** volunteerism is a foundation of civil societies and guides the organization and its stakeholders toward active community participation.

philosophy of volunteerism, social responsibility, philanthropy

- **Respect:** acknowledge the inherent value, skills and abilities of all individuals and affirms the mutual benefit gained by the volunteer and the organization.

dignity, inclusivity, privacy

- **Accountability:** demonstrate responsibility to the organization, its stakeholders and the profession of volunteer administration.
collaboration, continuous improvement, professionalism
- **Fairness:** commit to individual and collective efforts that build and support a fair and just organizational culture.
impartiality, equity, justice
- **Trust:** maintain loyal and trusting relationships with all stakeholders and is dedicated to providing a safe environment based on established standards of practice.
honesty, integrity, commitment

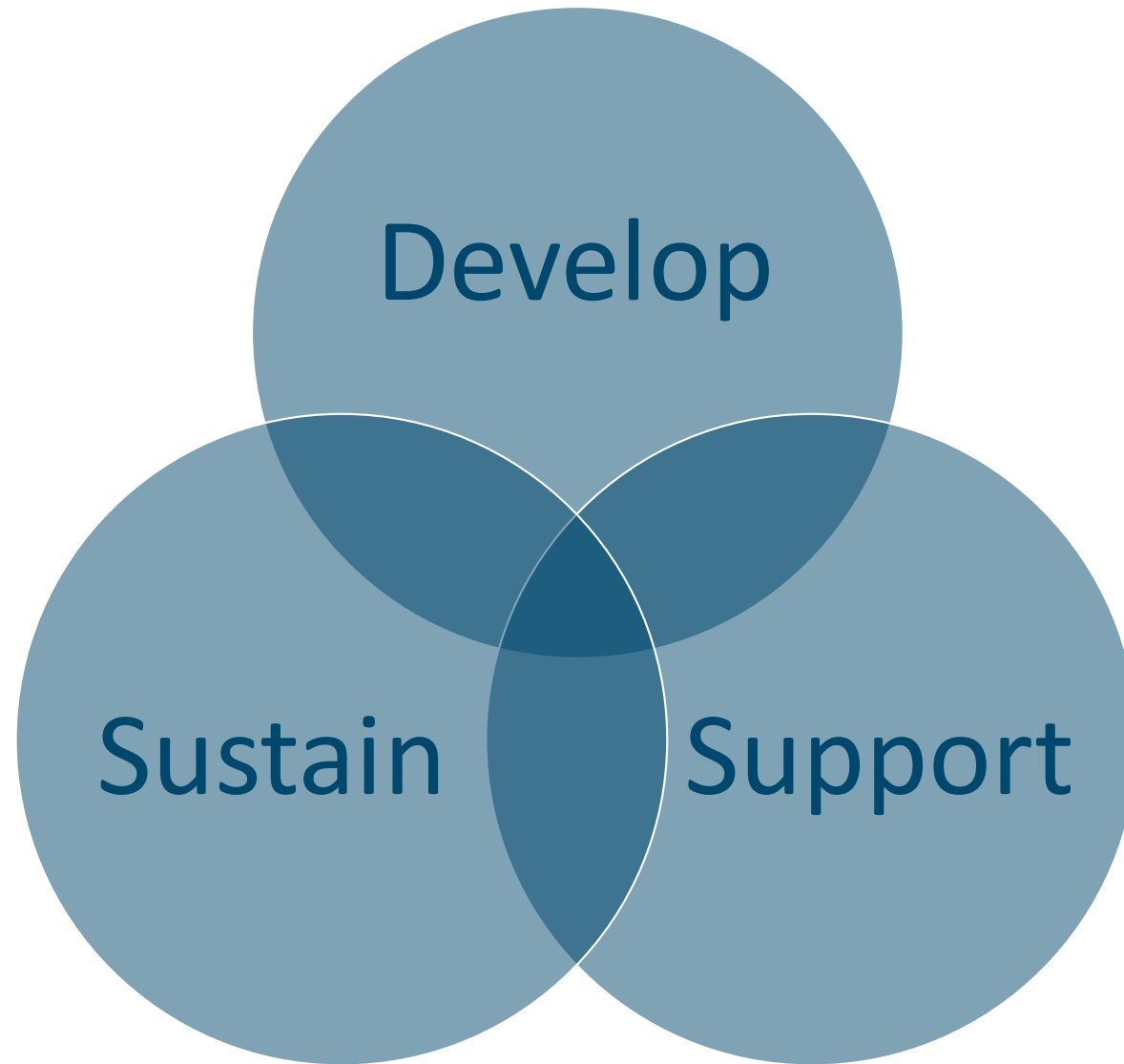
Source: 2016 Council for Certification in Volunteer Administration

CORE COMPETENCIES

- **Plan** for Strategic Volunteer Engagement
goals, objectives, policies, procedures
- **Advocate** for Volunteer Involvement
communicate, cultivate, collaborate
- **Attract and Onboard** a Volunteer Workforce
targeted recruitment, clear roles & expectations, matching
- **Prepare** Volunteers for their Roles
orientation, training, on-going development of skills
- **Document** Volunteer Involvement
manage data, record keeping
- **Manage** Volunteer Performance and Impact
train staff, feedback, exit interviews
- **Acknowledge, Celebrate and Sustain** Volunteer Involvement
invest, recognition, volunteer satisfaction, ongoing evaluation, monitor retention



Source: Seven Competencies of Volunteer Administration



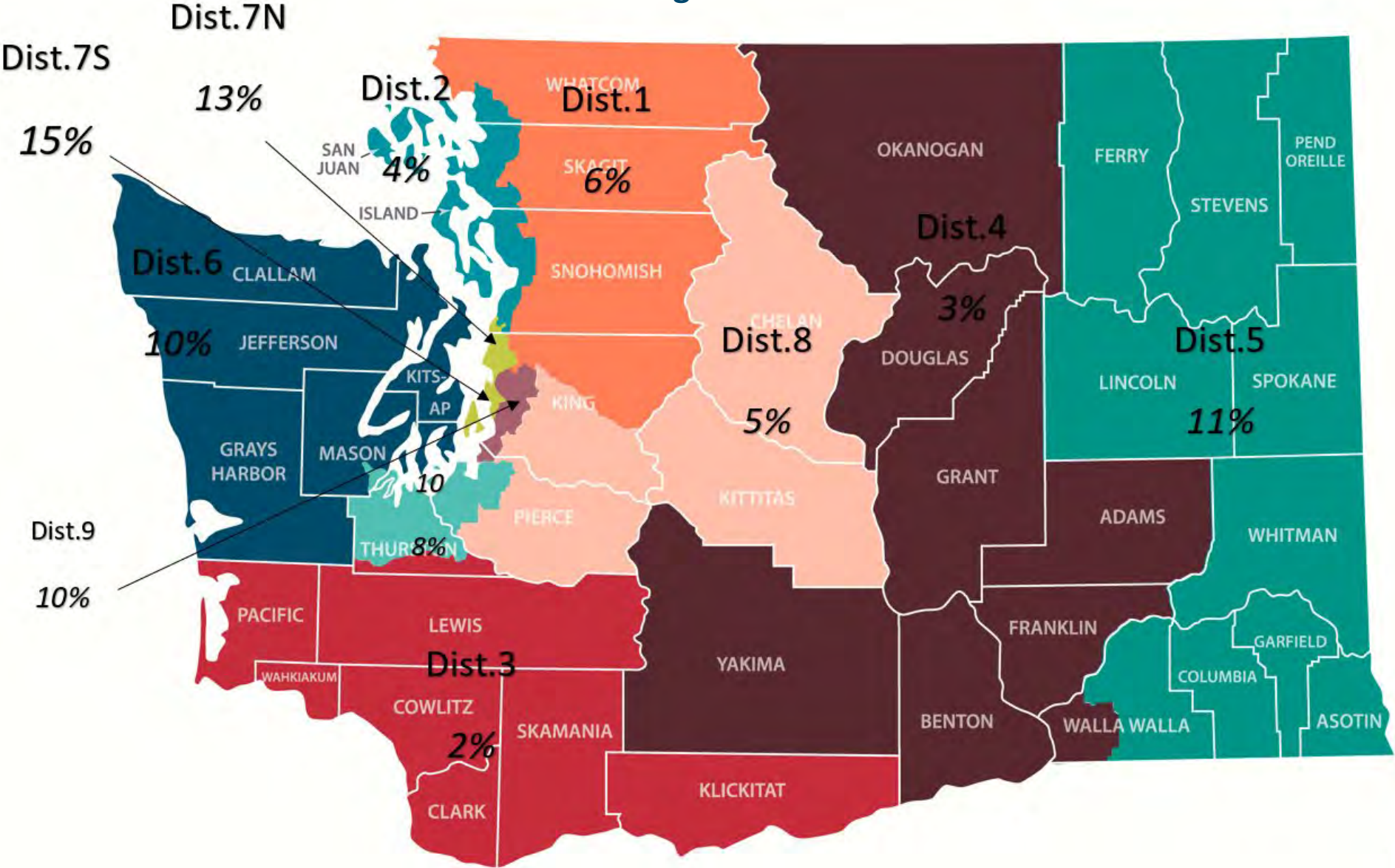
OUR CURRENT VOLUNTEER COMMUNITY

Boards	Usually created by court rule or court order. Appointed by the Court. (10)	Board of Governors	Elected by members.
Committees, Councils, Panels, etc.	Usually created by BOG Action. Appointed by BOG. (17)	WSBA Reps	Appointed or nominated by the BOG to serve on an external entity. (28 groups)
Faculty	Identified and selected by staff and volunteers.	Authors	Identified and selected by staff and volunteers.
Ad Hoc Projects, Task Forces, Work Groups	Appointed by President or BOG for time-limited and narrowly focused topics/charters. (2)	Mentors	Identified and selected by staff and volunteers for MentorLink Mixers.
Section Executive Committees	Elected by section members. Many section executive committees also engage a volunteer Young Lawyer Liaison (29)	Pro Bono	Not a WSBA volunteer but WSBA supports, encourages and recognizes pro bono work.

FY21 VOLUNTEER COMMUNITY SNAPSHOT



Congressional District



1	6%
2	4%
3	2%
4	3%
5	11%
6	10%
7S	15%
7N	13%
8	5%
9	10%
10	8%

40.3%
Female

17.4%
People of
Color

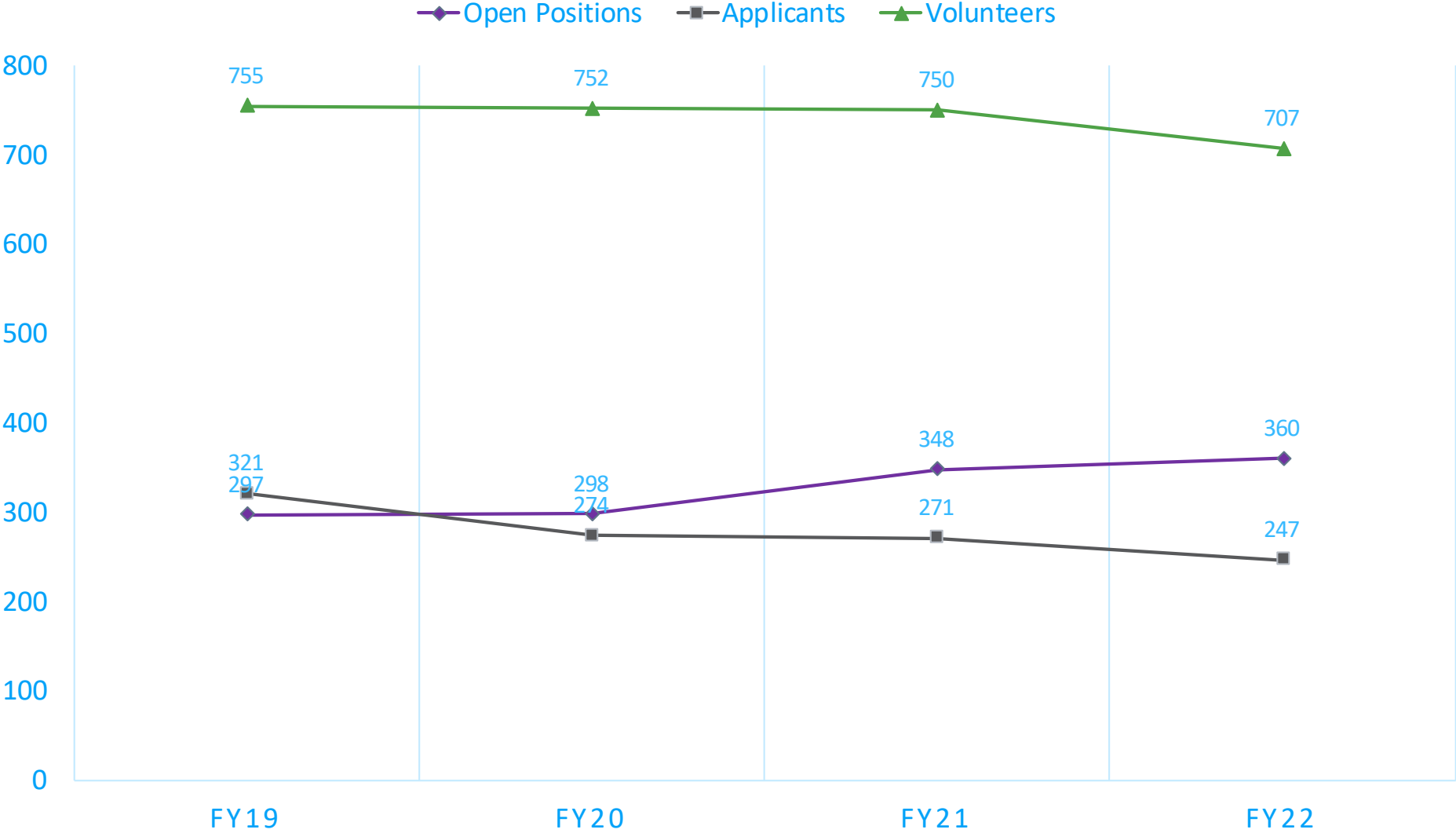
8%
LGBTQ

5%
with
Disabilities

Underrepresented Groups

VOLUNTEER COMMUNITY TRENDS

OPEN POSITIONS, APPLICANTS, VOLUNTEERS



NATIONAL TRENDS



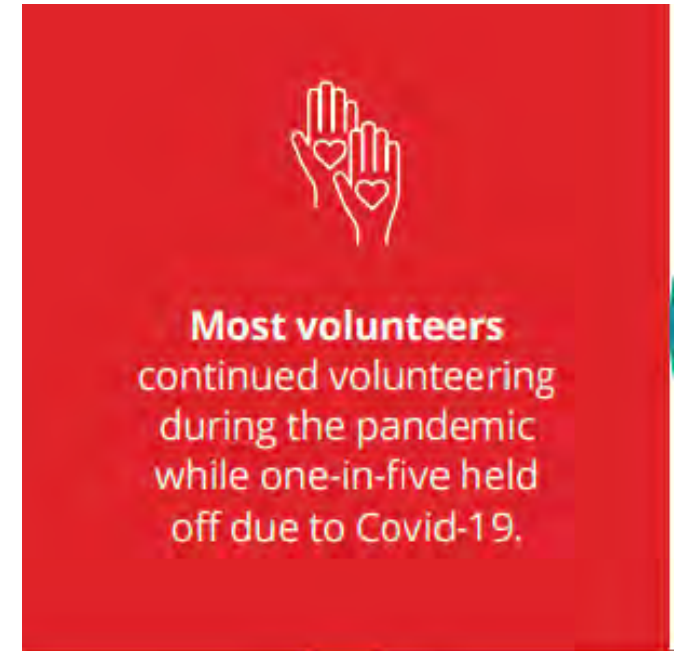
According to the **2021 Volunteer Management Progress Report** published by *Tobi Johnson & Associates* and *VolunteerPro*, volunteer participation has declined across organizations of varying volunteer community sizes.



NATIONAL TRENDS

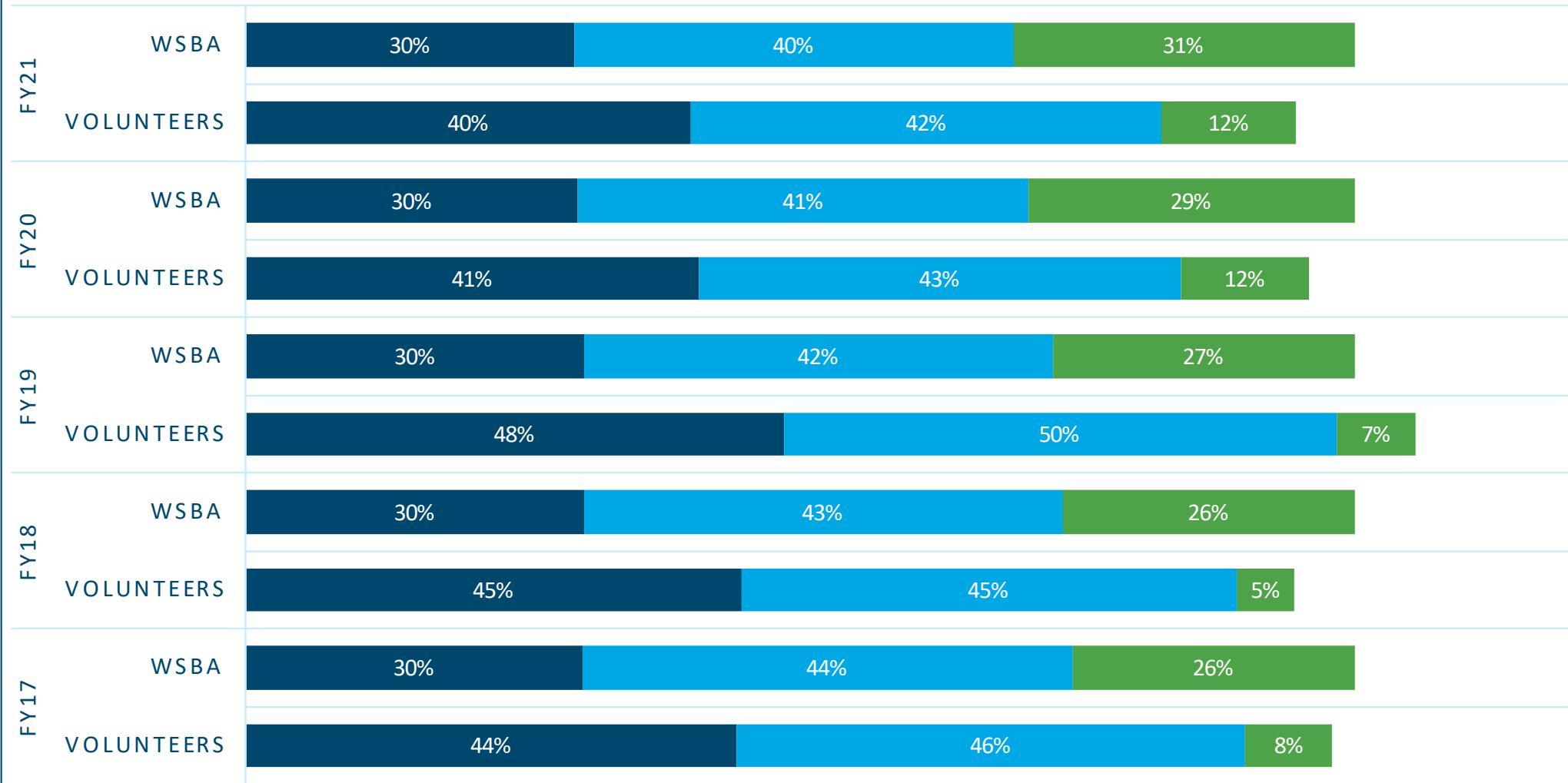
Conversely, *Sterling Volunteers 2021 Industry Insights Nonprofit and Volunteer Perspectives Report* in collaboration with *VolunteerMatch* indicates that ‘volunteerism persevered during the pandemic.’

- 76% of volunteers expect to volunteer the same amount or more in the coming year.
- A quarter of volunteers said ‘responding to urgent needs related to the pandemic or disaster relief’ motivated them to volunteer and many continued their previous volunteering efforts.’



GENDER

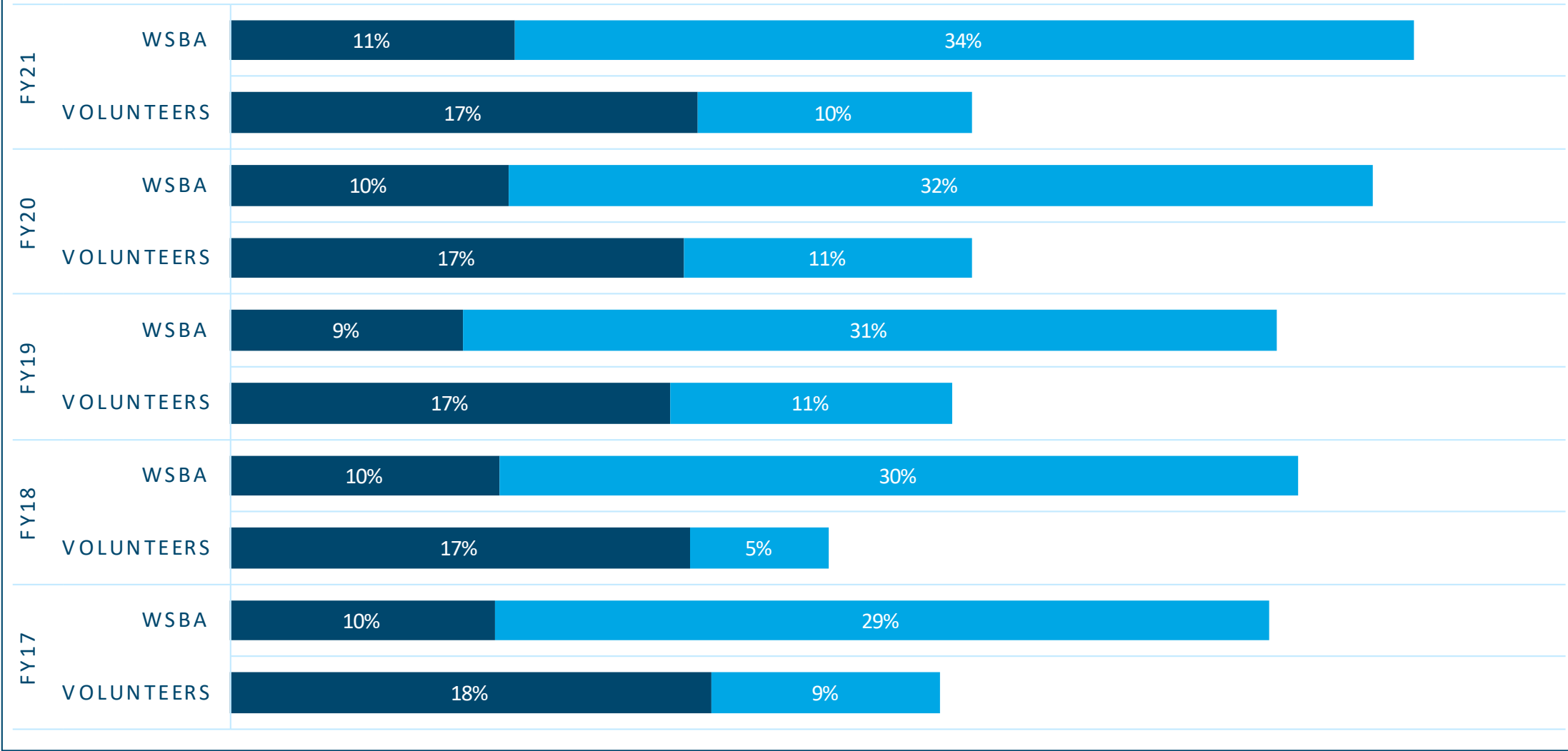
■ FEMALE ■ MALE ■ NO RESPONSE



Note: Less than 1% of volunteers and members identified as non-binary, multi-gender, transgender, two-spirit or not listed. Therefore, this group is not included in the chart.

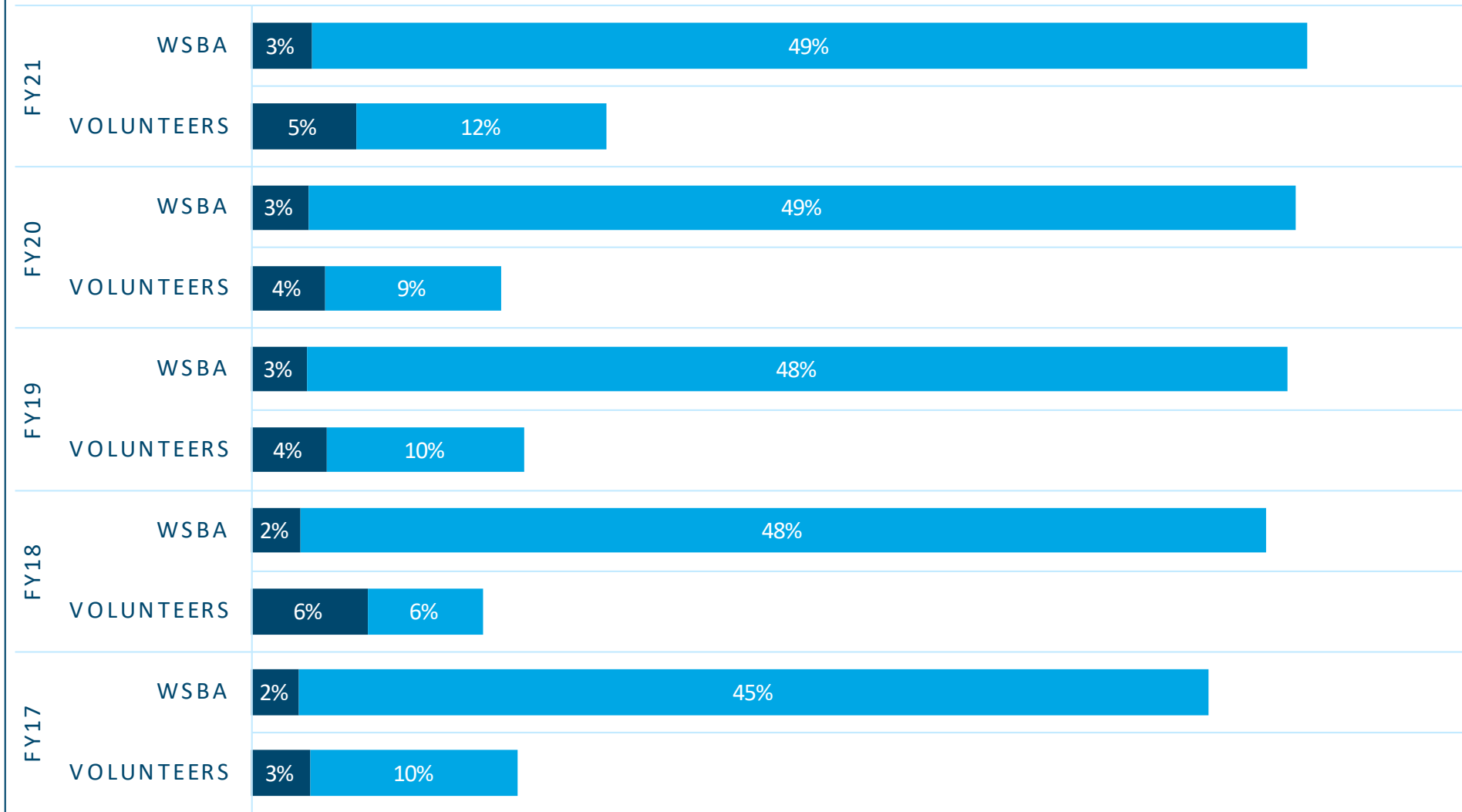
PEOPLE OF COLOR

■ Yes ■ No Response



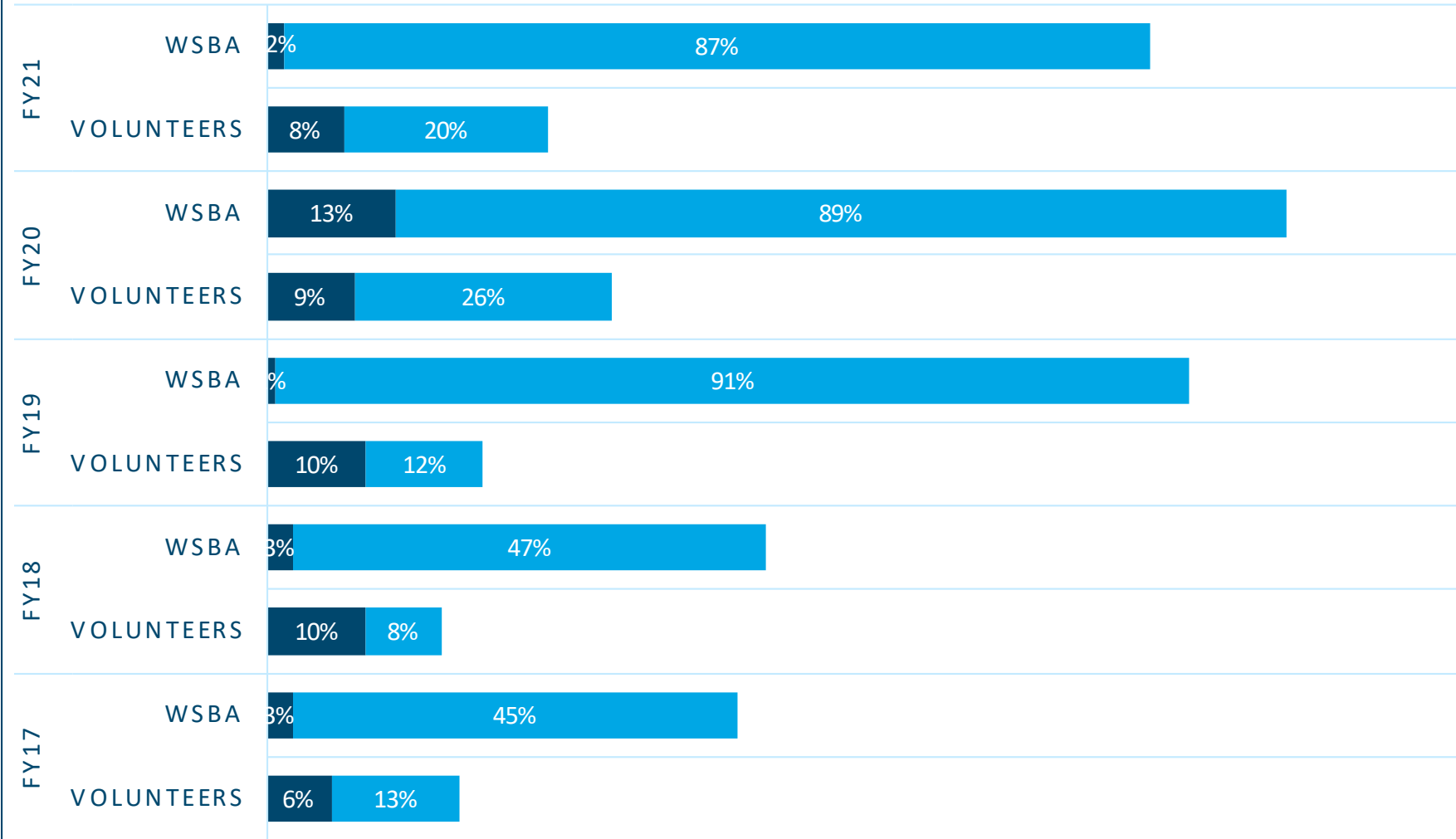
DISABILITY

■ YES ■ NO RESPONSE



LGBTQ

■ LGBTQ ■ NO RESPONSE



VOLUNTEER SATISFACTION SURVEY TRENDS

WSBA conducts a volunteer satisfaction survey every other year. The goal of the survey is to track the effectiveness and impact of the relationship between WSBA and its volunteer community. The survey focuses on the core areas of volunteer engagement including recruitment, onboarding, support, recognition and retention.

Response Rates:

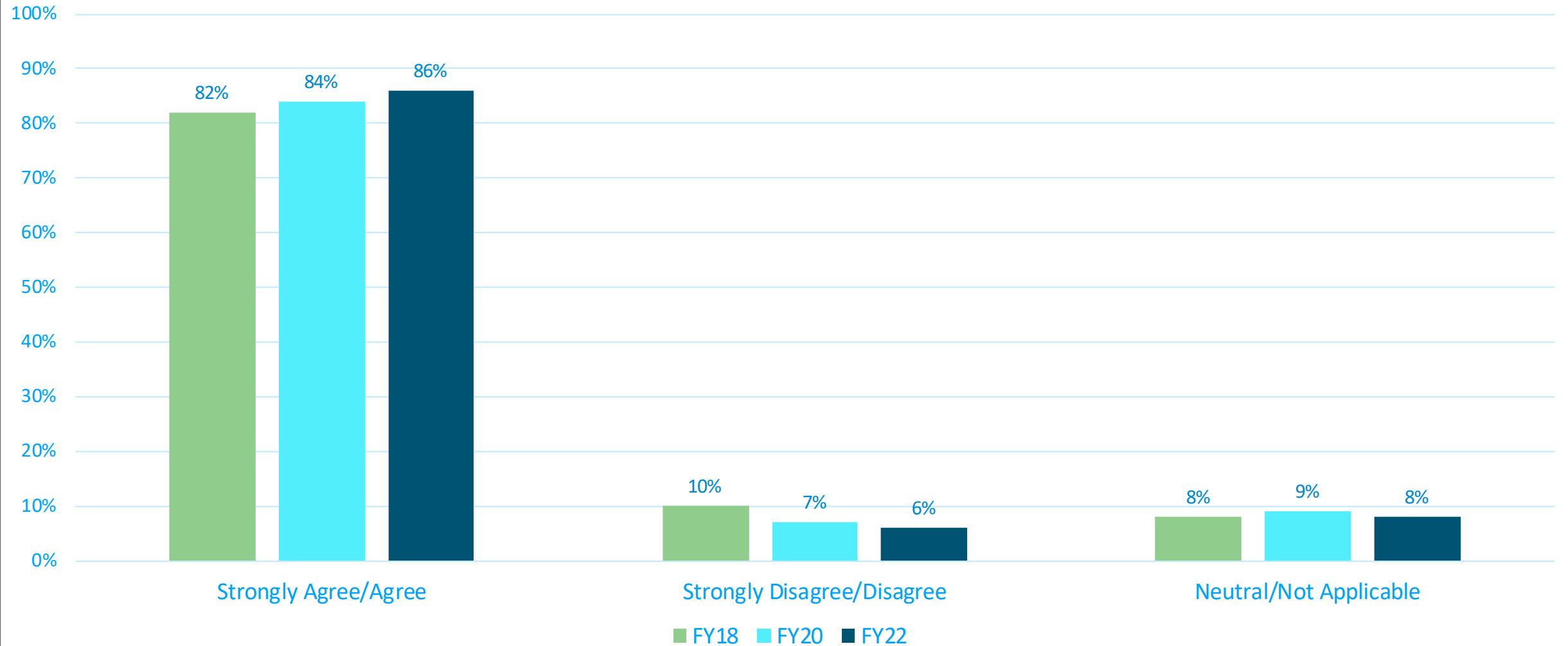
FY2018: 16%

FY2020: 12%

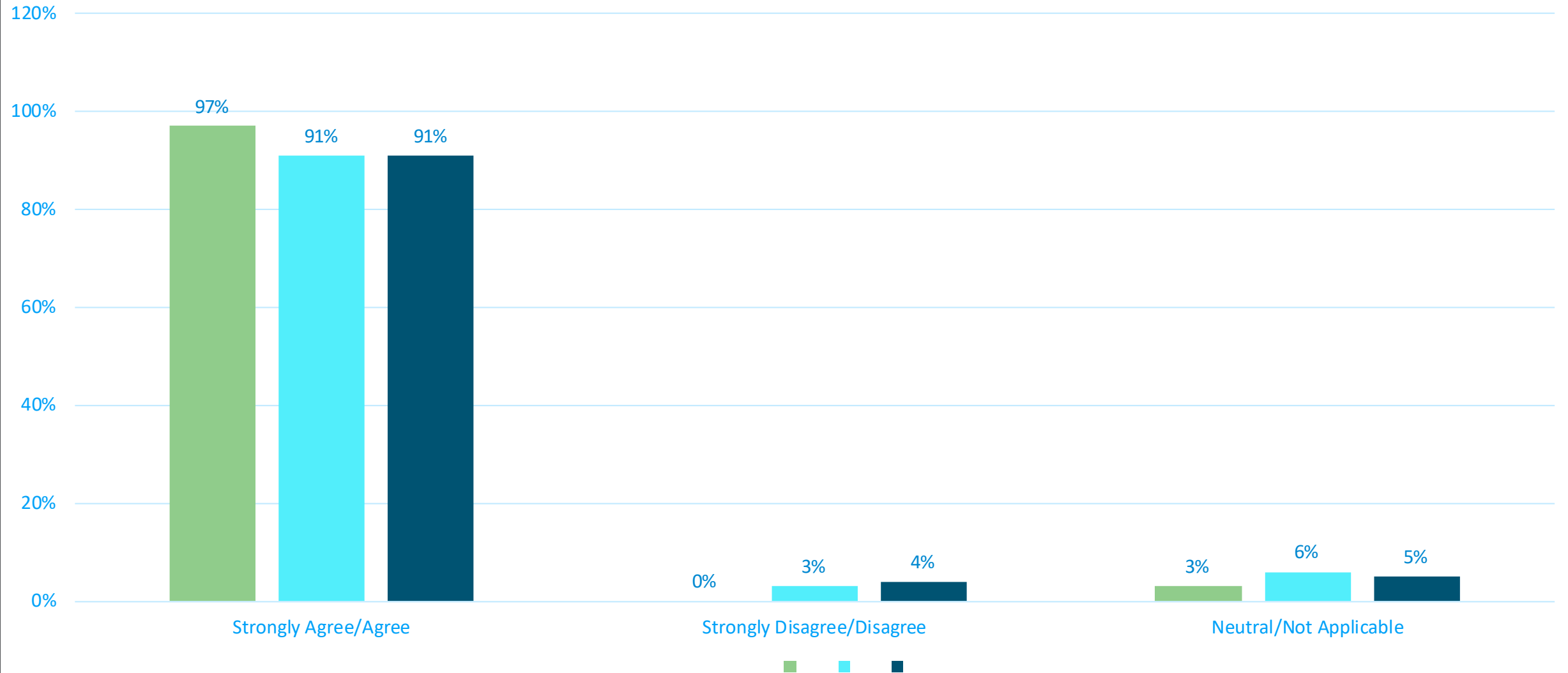
FY2022: 14%



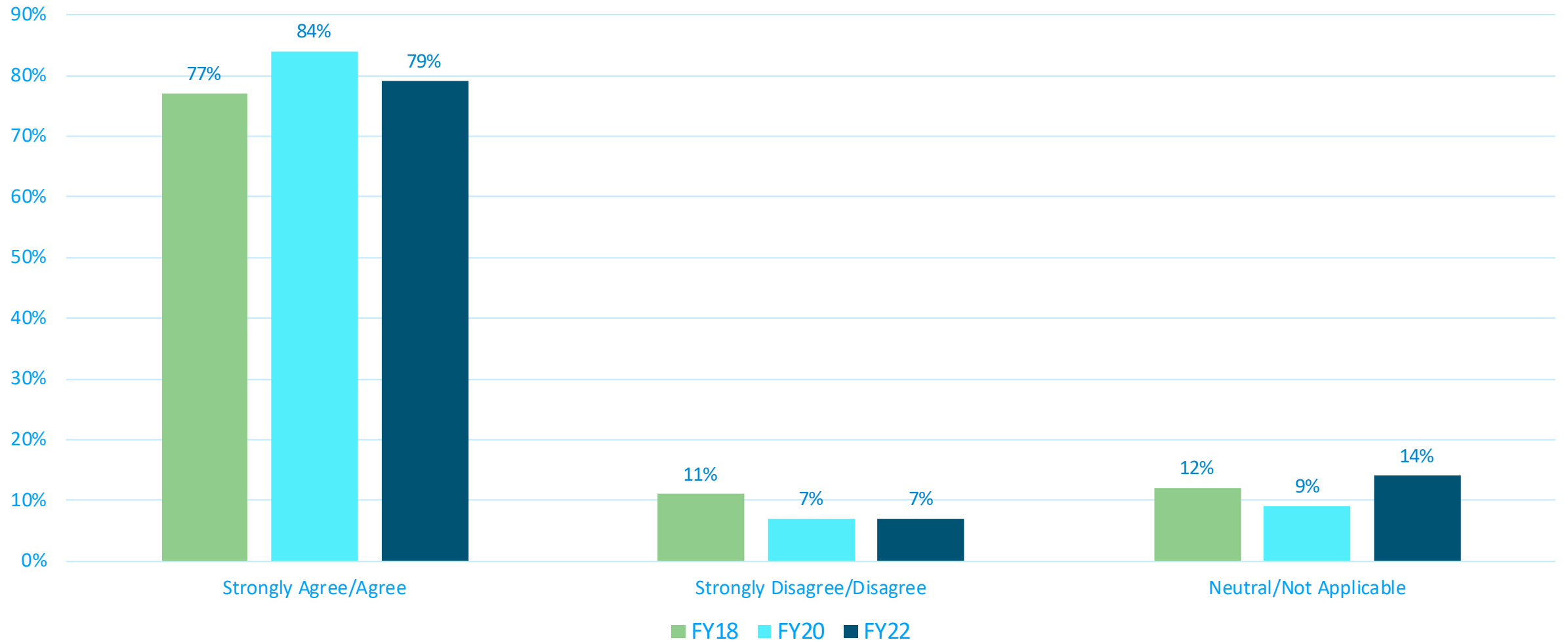
I was provided with enough information to understand the expectations & responsibilities of my role



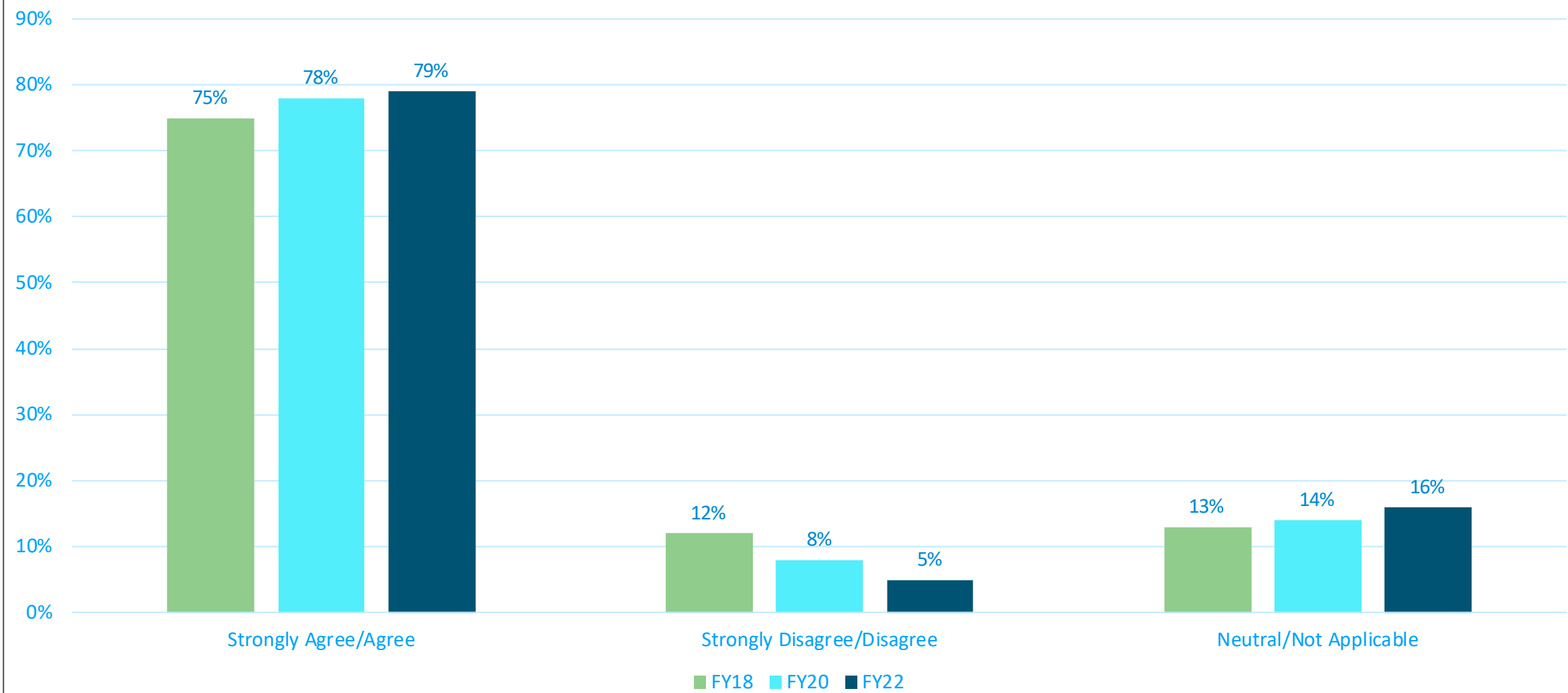
My talent and skills were a good match for the volunteer role in which I served.



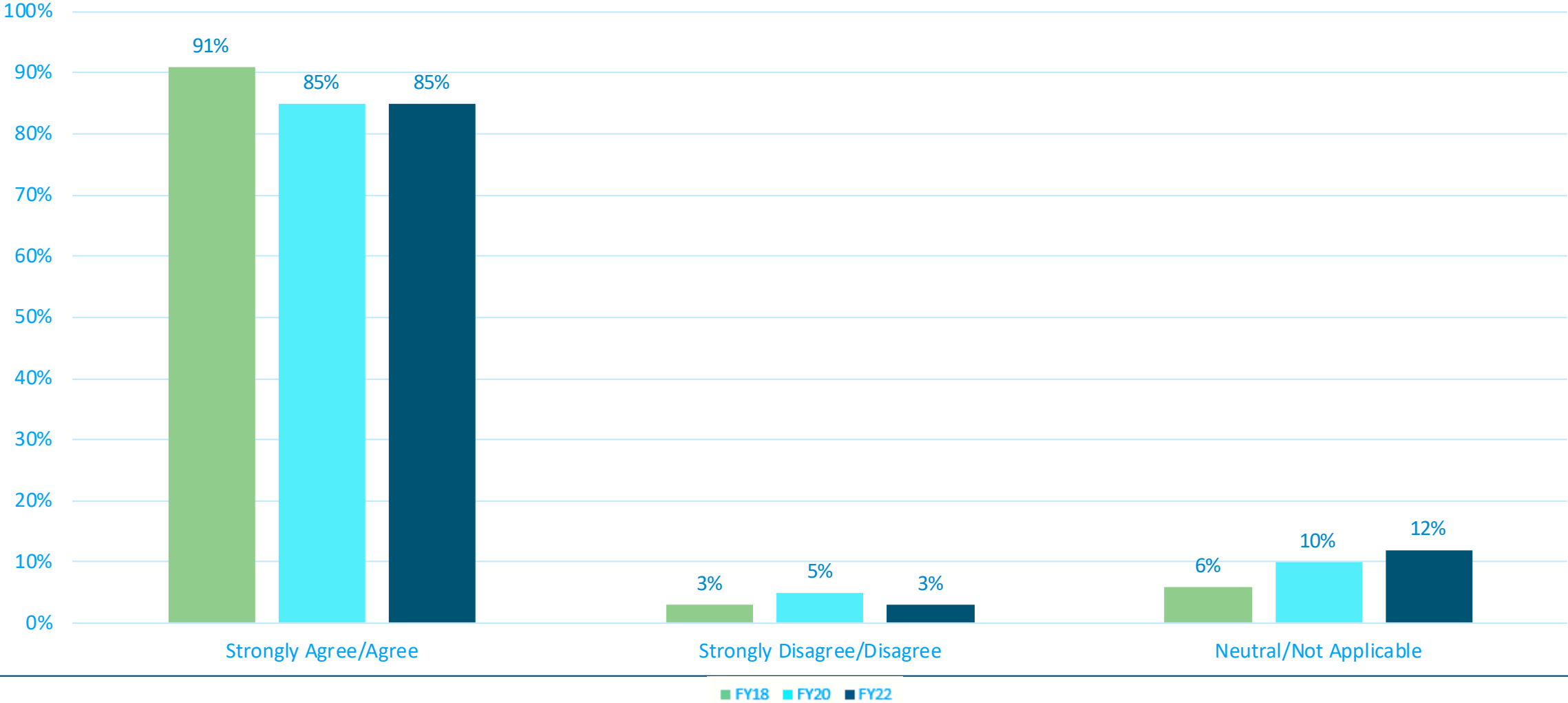
I received adequate support and guidance from staff to be successful in my volunteer role.



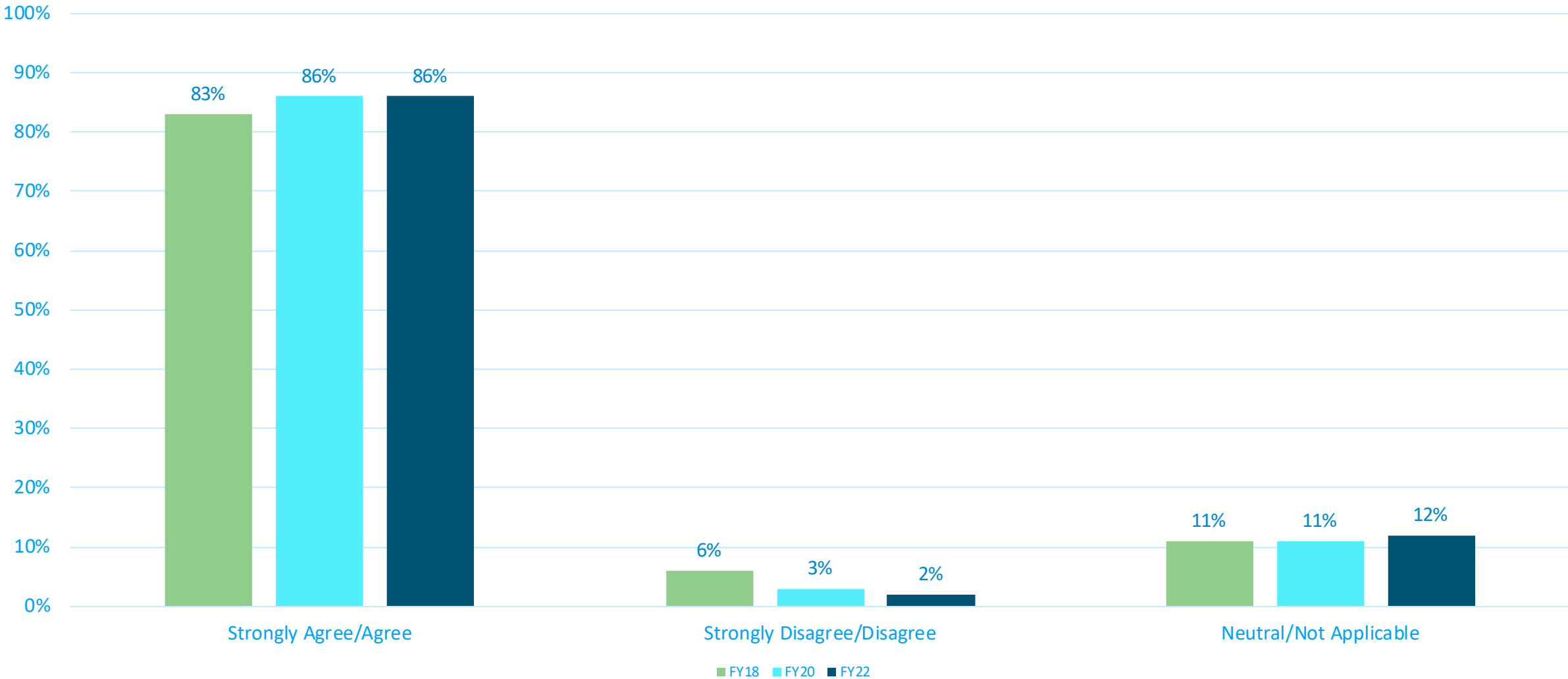
There was a climate of teamwork among staff and volunteers



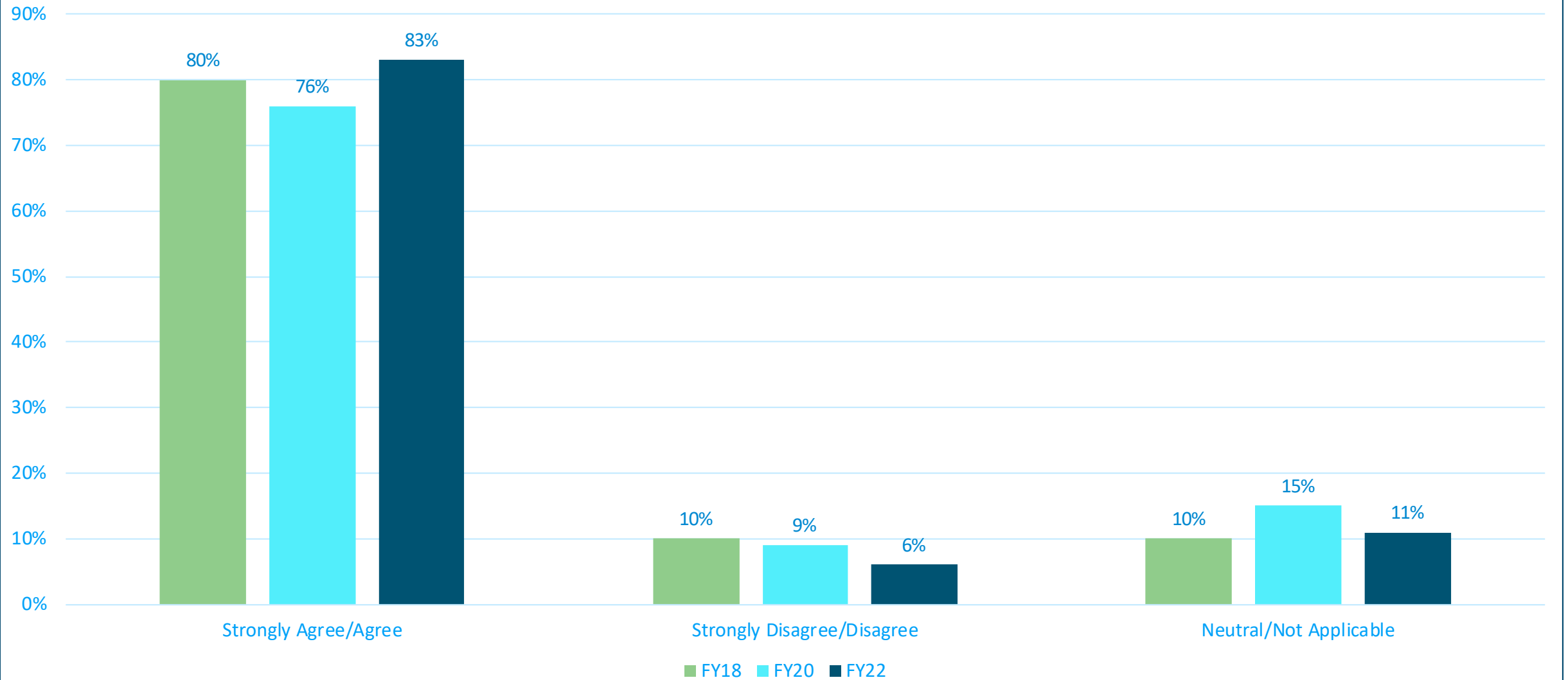
My volunteer role furthered the purpose of the group or program I was volunteering with.



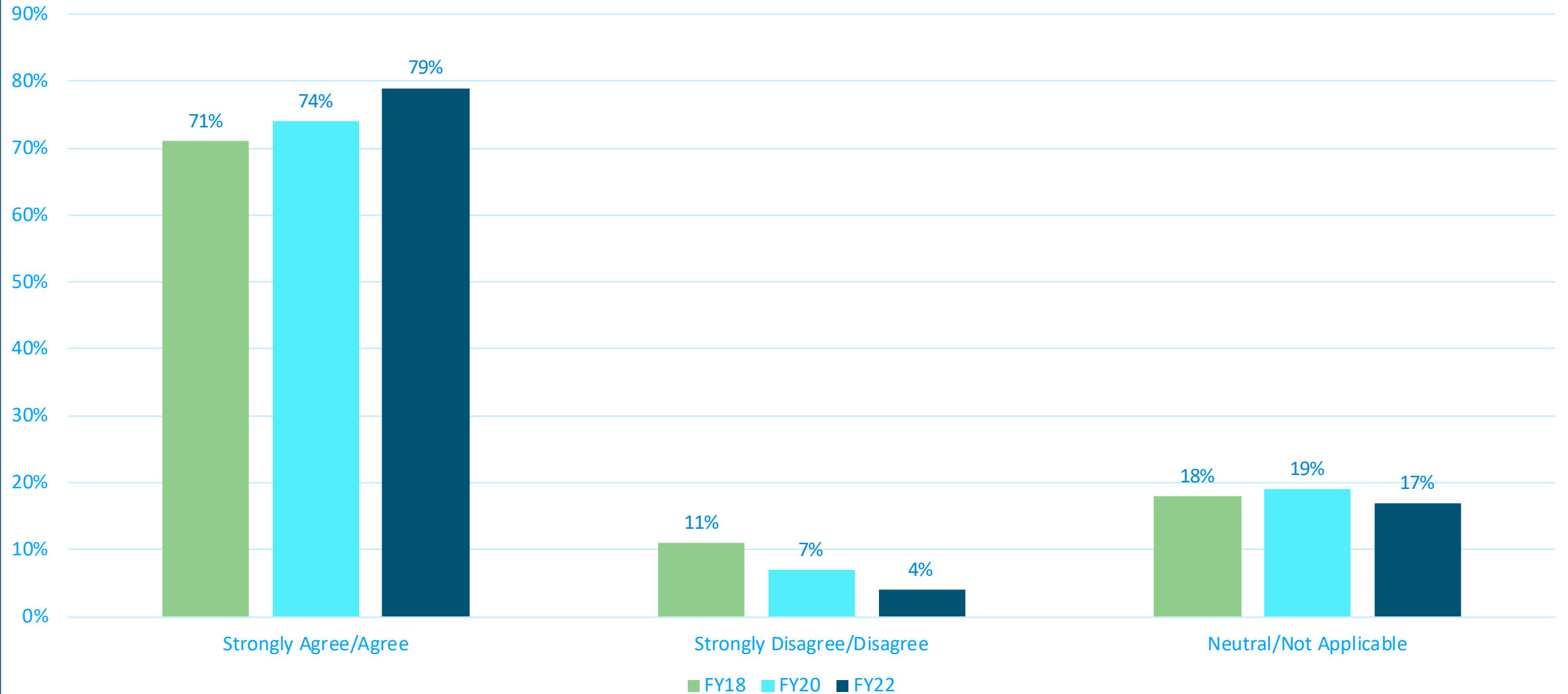
My role furthered the mission.



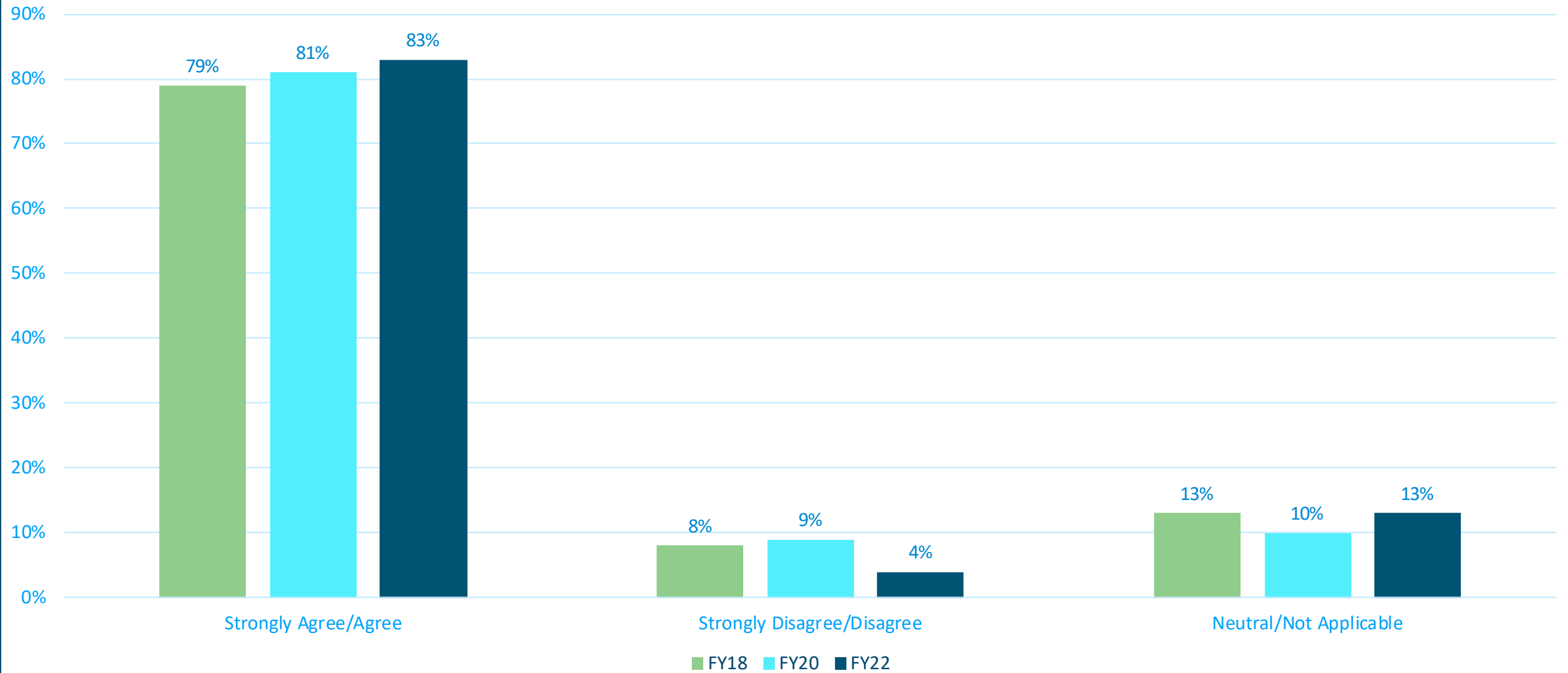
Overall, I was satisfied with my volunteer experience.



My time and talent in this volunteer position were valued by the organization.



I would volunteer again.



Do you have any additional feedback for how the WSBA could improve onboarding, better support you in your volunteer role, or show appreciation for your contribution? Or do you have any other comments you would like to share with us?

- ‘It seemed to me the colleagues I was volunteering with were less engaged than in years past. Perhaps that was due to outside (pandemic related) forces. Not sure what that could be attributed to really but I had enough experience with volunteering on the committee before to recognize that as an outlier this year as compared to past years’.
- ‘I like that we are continuing to work on more effectively recruiting, welcoming and supporting volunteers who hold Bipoc or non-conforming gender identities.’
- ‘I wish there were an easier way for us all to talk among ourselves – email is not great but I don’t know what it would be. Forming a community of volunteers seems challenging.’

FY21 HIGHLIGHTS



Take Our Quiz: Which Type of Legal Volunteer Are You?

*April 12,
2021*



QUIZ

No. 1
Most-Read
Blog Post in
2021!



NWSidebar

The Voices of Washington's Legal Community

Take It from a WSBA Volunteer: A Q&A With Francis Adewale

Meet Francis Adewale. All this week, the WSBA is joining others around the country during National Volunteer Week to recognize and celebrate the many invaluable volunteers who devote their time and expertise to carry out the WSBA mission of serving the public, ensuring the integrity of the legal profession, and championing justice.



*When each of us, in our own way,
answers the call to make a difference,
we make progress in solving our most persistent problems,
and create stronger communities
and a more just society.*

— POINTS OF LIGHT

VOLUNTEER *WITH* WSBA

Find the volunteer opportunity that best aligns with your interests, skills, experiences, and professional goals.

■ WSBA COMMITTEES

A rewarding opportunity to refine a skill, explore an interest, join a professional community, and advance your own professional development while strengthening the legal profession

- ▶ Apply online at [myWSBA.org](https://mywsba.org) beginning March 15, 2021. The deadline for applications is April 16, 2021.
- ▶ Not sure where you'd like to volunteer? Complete the [Volunteer Interest Form](#).
- ▶ For questions, email barleaders@wsba.org.

■ BOARDS AND PANELS

A unique opportunity to work with the Supreme Court and the WSBA on the regulation and discipline of Bar members, while providing insight into the dynamics of a self-regulated profession.

*Click on one of the entities listed below to learn more.
Those marked with an asterisk (*) welcome public members, some eligibility requirements may apply.*

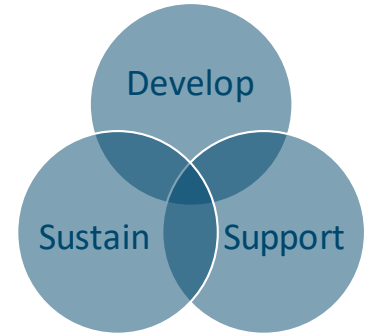
WSBA COMMITTEES		Adm	Civil and	Criti Anal	Disc	Deliv and	Diver Incl	Educ	Effect Chan	Event	Group	Lead and	Cent Opp	Polic	Publ	Recor Recor	Regu	Rese Com	Tech
WSBA Committees (created and authorized by the Board of Governors)	• Continuing Legal Education Committee					■	■	■										■	■
	• Court Rules & Procedures Committee			■							■			■				■	
	• Diversity Committee						■		■	■		■	■						
	• Editorial Advisory Committee						■											■	
	• Judicial Recommendation Committee								■			■						■	
	• Legislative Review Committee								■					■				■	
	• Pro Bono and Public Service Committee		■											■	■	■			
	• Committee on Professional Ethics*			■				■				■		■	■	■		■	
	• Washington Young Lawyers Committee		■				■		■		■	■	■		■		■		

UPCOMING PROJECTS



DEVELOP

Improve/Update **Committees and Boards Policy** (last updated in September 2020).



SUPPORT

Identify and seek approval for implementation of a **volunteer engagement tool** such as *HigherLogic* or *Personify CommUnity*.

- Allows volunteers to work more effectively with each other online. Communicate, share information, answer surveys, see upcoming meetings and events, RSVP, and access documents.



SUSTAIN

Create a **Volunteer Philosophy Statement**

- A clear, positive and consistent statement which articulates why are how volunteers are valuable to the organization. The statement should chart the engagement of volunteer's and the organization's accountability to the volunteer community.



THANK YOU!

Paris Eriksen
Volunteer Engagement Advisor
parise@wsba.org



LGBTQ+ Experiences in the Legal System

A VIEW FROM PRACTITIONERS AND COMMUNITIES



Who We Are

If you'd like, please drop
your name, pronouns,
District, and/or type of legal
practice into the chat!



Agenda/What We'll Cover

9:00-9:10 – Introductions

9:10-9:25 – LGBTQ+ Communities and Legal Issues

9:25-9:35 – Being an LGBTQ+ Practitioner

9:35-9:45 – Representing LGBTQ+ Individuals

9:45-9:55 – The Path to Equal Justice for All

9:55-10:00 – Questions

QUESTIONS YOU DON'T WANT TO ASK PUBLICLY: feel free to directly message Dana or Denise in the chat – we will happily provide an answer during the Q&A section!

LGBTQ+ Identities and Legal Experiences

- LGBTQ2S+ IDENTITIES AND TERMS
- LGBTQ2S+ LEGAL SYSTEM EXPERIENCES

Intro to LGBTQ+ People in WA

5.2% of overall
population in WA

29% POC (30.7%
general
population)

28% raising
children

57% under age 35
(28% general
population)

25% food insecure
(12% general
population)

22% income <\$24k
(15% general
population)

LGBTQ+ Legal Needs

from the 2016 Supplemental WA Civil Legal Needs Survey

LGBTQ+ Low-Income Populations

- 9.4% homeless
- 12.1% denied shelter access
- 13.8% DV survivors
- Average civil legal problems per household per year is 10.3
- Discrimination based on:
 - Race – 19%
 - Disability – 17%
 - Immigration Status – 14%

General Low-Income Population

- 1.7% homeless
- 3.3% denied shelter access
- 8.4% DV survivors
- Average civil legal problems per household per year is 9.3
- Discrimination based on:
 - Race – 14%
 - Disability – 12%
 - Immigration Status – 5%

What we experience in the legal system

*From Protected and Served?
Lambda Legal
Survey (2012)*

Discriminatory Comments about SO/GI:

- Overall - 19%
- Disabled folks (incl. HIV) - 24%
- Low-income - 28%
- BIPOC folks – 30%
- Trans/NB folks – 33%
- Trans/NB BIPOC folks – 53%

Most likely to hear discriminatory comments:

- Attorneys – 32%

SO/GI raised when not relevant:

- Overall – 16%
- Subgroups – 25-29%

Outed in court:

- Overall – 11%
- Subgroups – 14-21%

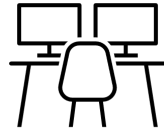
2021: How Gender and Race Affect Justice Now

By the Washington State
Supreme Court Gender and
Justice Commission

LGBTQ+ people experience barriers:



Cost of accessing courts



Workplace discrimination
(including in WA courts!)



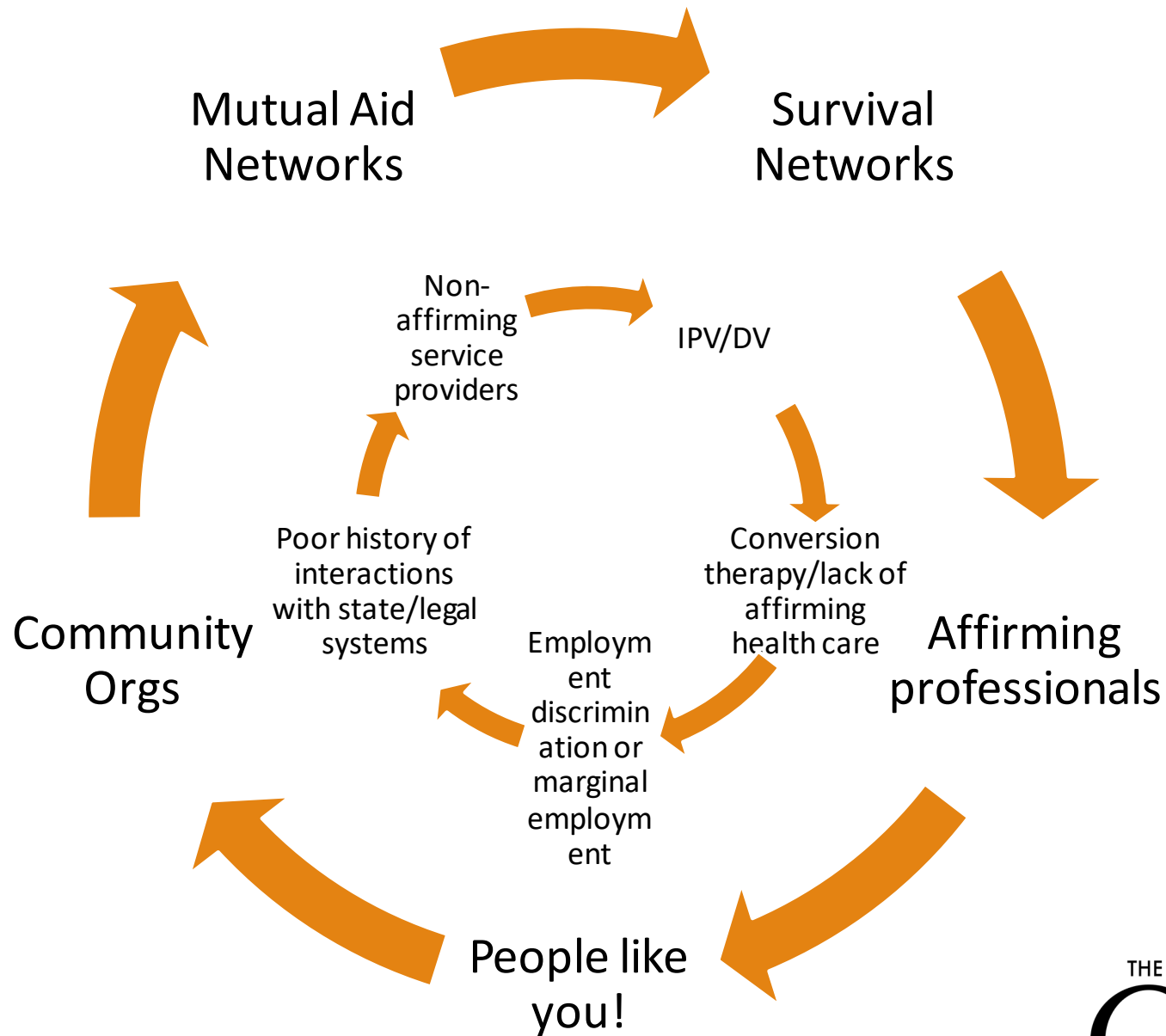
Family court and custody



Domestic violence, sexual
assault, and sexual exploitation



Not enough information!



Being an LGBTQ+ Practitioner

Denise



Advocacy



Mentorship



Allyship

Dana



Activism



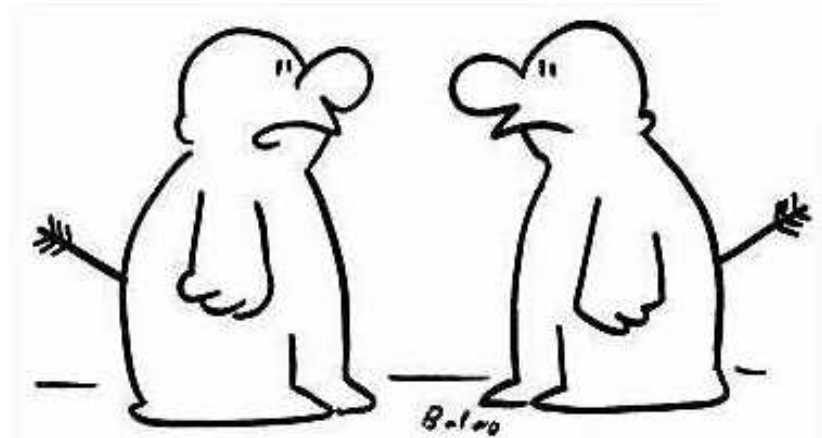
Leadership



Consistency

Representing LGBTQ2S+ Individuals

Understanding someone's identity is NOT a prerequisite for empathy...



"I know exactly how you feel."

Empathy is a prerequisite for understanding.

The Ethics of Inclusion

RPC 8.4(d),(g),(h): don't discriminate, don't make or allow discriminatory arguments, and if you can't do the work, withdraw so someone else can.

RPC 1.1: know our legal issues. Ask for help. Make sure to ask your client about the role of discrimination in their issue. Understand the implications of your legal approach.

RPC 1.6: Confidentiality goes deep, because our communities are tiny. Trust is the only reason your client walked through the door, so guard their privacy.

Preamble: be a conscientious and ardent advocate. Listen carefully, and be alert to your own biases and others'. Recognize racism, transphobia, and homophobia. Make a plan for how you will intervene and advocate.

What's relevant? What's not?

ER 401 – does it advance the probability of a determinative fact?

ER 403 – is the probative value outweighed by tendency toward prejudice or confusing the jury?

ER 404 – evidence of other acts not admissible to show character

ER 412 – evidence of sexual behavior or disposition is not admissible

ER 610 - Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

DON'T rely on religiosity alone to show tolerance or bias

DO ask questions about the nature of religious beliefs if the beliefs are relevant (i.e. discrimination)

QTBIPOC-positive Advocacy

- **BELIEVE US**, and do not assume our trust.
- **Don't assume** name/pronoun in the file are correct – ASK.
(“What name do you want me to call you? I use she/her pronouns – what are yours?”)
- **Do affirmative outreach** to LGBTQ+ community groups or community leaders. Integrate transphobia and homophobia into your anti-racism work. Assume that engaging in transphobia and homophobia is racist.
- **Check your systems** – when do you ask for demographic information? Are all of your staff and volunteers trained on how to gather necessary information with care and respect?

Need help? Contact QLaw Foundation!

The Path to Equal Justice for All

Ongoing Cases To Know

Tingley v. Ferguson

First amendment objection brought against Washington's conversion therapy ban. WDWA denied Plaintiff's request for injunction and dismissed the case; Plaintiff appealed to Ninth Circuit.

Woods v. Seattle's Union Gospel Mission

WA SC held that religious employers are only exempt from WLAD for ministerial employees. Currently awaiting a decision from SCOTUS on Mission's Petition for Cert.

Gender Affirming Treatment Act Implementation

GATA prohibits insurers from denying coverage for trans health care that is deemed medically necessary.

The Role of BOG in the Future



Thank you!

QLAW FOUNDATION

Denise Diskin

[www.qlawfoundation.org](http://www qlawfoundation.org)

@QLawFoundation

Denise@qlawfoundation.org

QLAW ASSOCIATION

Dana Savage

www.qlaw.org

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advocacy@qlaw.org

QLaw Foundation and Association
Presentation to WSBA Board of Governors
January 14, 2022

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Proposed Amendments to:

RAP 18.7
RAP Form 1
RAP Form 2
RAP Form 3
RAP Form 4
RAP Form 5
RAP Form 6
RAP Form 9
RAP Form 10
RAP Form 11
RAP Form 13
RAP Form 16
RAP Form 17
RAP Form 18
RAP Form 19
RAP Form 20
RAP Form 21

RAP RULE 18.7
SIGNING AND DATING PAPERS

Each paper filed pursuant to these rules should be dated and signed by an attorney (with the attorney's Washington State Bar Association membership number in the signature block) or party, except papers prepared by a judge, commissioner or clerk of court, bonds, papers comprising a record on review, papers that are verified on oath or by certificate, and exhibits. The signing attorney or party may also indicate their personal pronouns in the signature block.

RAP FORM 1. Notice of Appeal (Trial Court Decision)
(Rule 5.3(a))

SUPERIOR COURT OF WASHINGTON
FOR () COUNTY
(Name of plaintiff),)
Plaintiff,) No. (trial court)
v.) NOTICE OF APPEAL TO
(Name of defendant),) (COURT OF APPEALS or
Defendant.) SUPREME COURT)

(Name of party seeking review), (plaintiff or defendant), seeks review by the designated appellate court of the (Describe the decision or part of decision which the party wants reviewed: for example, "Judgment", "Paragraph 4 of the Marriage Dissolution Decree".) entered on (date of entry.)

A copy of the decision is attached to this notice.

(Date)

Signature
Attorney for (Plaintiff or Defendant)

(Name, personal pronouns (optional), address, telephone number, and Washington State Bar Association membership number of attorney for appellant and the name and address of counsel for each other party should be listed here. In a criminal case, the name and address of the defendant should also be listed here. See rule 5.3(c).)

RAP FORM 2. Notice for Discretionary Review
(Rule 5.3(b))

SUPERIOR COURT OF WASHINGTON
FOR () COUNTY
(Name of plaintiff),) No. (trial court)
Plaintiff,)
v.) NOTICE OF DISCRETIONARY

(Name of defendant),) REVIEW TO (COURT OF
Defendant.) APPEALS or SUPREME COURT)

(Name of party seeking review), (plaintiff or defendant), seeks review by the designated appellate court of the (Describe the decision or part of decision which the party wants reviewed: for example, "Order Denying Discovery", "Paragraph 4 of the Restraining Order".) entered on (date of entry).

A copy of the decision is attached to this notice.

(Date)

Signature

Attorney for (Plaintiff or Defendant)

(Name, personal pronouns (optional), address, telephone number, and Washington State Bar Association membership number of attorney for appellant and the name and address of counsel for each other party should be listed here. In a criminal case, the name and address of the defendant should also be listed here.

See rule 5.3(c).)

RAP FORM 3. Motion for Discretionary Review

(Rule 6.2 (review of trial court decision); Rule 13.5 (review of Court of Appeals interlocutory decision); Rule 17.3(b) (content of motion))

No. (appellate court)
(SUPREME COURT or COURT OF APPEALS, DIVISION____)
OF THE STATE OF WASHINGTON

(Title of trial court proceeding with parties designated as in rule 3.4, for example:
JOHN DOE, Respondent,
v.
MARY DOE, Petitioner,
and
HENRY JONES, Defendant.)

MOTION FOR DISCRETIONARY REVIEW

(Name of petitioner's attorney) (personal pronouns (optional))

Attorney for (Petitioner)

(Address, telephone number, and
Washington State Bar Association
membership number of petitioner's attorney)

A. IDENTITY OF PETITIONER

(Name) asks this court to accept review of the decision or parts of the decision designated in Part B of this motion.

B. DECISION

(Identify the decision or parts of decision which the party wants reviewed by the type of decision, the court entering or filing the decision, the date entered or filed, and the date and a description of any order granting or denying motions made after the decision such as a motion for reconsideration. The substance of the decision may also be described: for example, "The decision restrained defendant from using any of her assets for any purpose other than living expenses. Defendant is thus restrained from using her assets to pay fees and costs to defend against plaintiff's suit for a claimed conversion of funds from a joint bank account.") A copy of the decision (and the trial court memorandum opinion) is in the Appendix at pages A-____ through ____.

C. ISSUES PRESENTED FOR REVIEW

(Define the issues which the court is asked to decide if review is granted. See Part II of Form 6 for suggestions for framing issues presented for review.)

D. STATEMENT OF THE CASE

(Write a statement of the procedure below and the facts. The statement should be brief and contain only material relevant to the motion. If the motion is directed to a Court of Appeals decision, the statement should contain appropriate references to the record on review. See Part III of Form 6. If the motion is directed to a trial court decision, reference should be made to portions of the trial court record. Portions of the trial court record may be placed in the Appendix. Certified copies are not necessary. If portions of the trial court record are placed in the Appendix, the portions should be identified here with reference to the pages in the Appendix where the portions of the record appear.)

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

(The argument should be short and concise and supported by authority. The argument should be directed to the considerations for accepting review set out in rule 2.3(b) for review of a trial court decision and rule 13.5(b) for review of a decision of the Court of Appeals.)

F. CONCLUSION

(State the relief sought if review is granted. For example: "This court should accept review for the reasons indicated in Part E and modify the restraining order to permit defendant to use her assets to pay fees and costs incurred in defending plaintiff's suit for conversion.")

(Date)

Respectfully submitted,

Signature

(Name of petitioner's attorney)

RAP FORM 4. Statement of Grounds for Direct Review
(Rule 4.2(b))

No. (Supreme Court)
SUPREME COURT OF THE STATE OF WASHINGTON
(Title of trial court proceeding) STATEMENT OF GROUNDS FOR
with parties designated as in) DIRECT REVIEW BY THE
rule 3.4)) SUPREME COURT

(Name of party) seeks direct review of the (describe the decision or part of the decision that the party wants reviewed) entered by the (name of court) on (date of entry.) The issues presented in the review are: (State issues presented for review. See Part II of Form 6 for suggestions for framing issues presented for review.)

The reasons for granting direct review are: (Briefly indicate and argue grounds for direct review. See rule 4.2.)

(Date)

Respectfully submitted,

Signature

(Name, personal pronouns (optional),
address, telephone number, and Washington
State Bar Association membership number
of attorney)

RAP FORM 5. Title Page for all Briefs and Petition for Review
(Rule 10.3 (briefs); Rule 13.4(d) (petition for review))

No. (appellate court)
(SUPREME COURT or COURT OF APPEALS, DIVISION _____)
OF THE STATE OF WASHINGTON

(Title of trial court proceeding with parties designated as in rule 3.4, for example:
JOHN DOE, Respondent,
v.
MARY DOE, (Appellant or Petitioner),
and
HENRY JONES, Defendant.)

(PETITION FOR REVIEW or title of brief, for example: BRIEF OF
PETITIONER, REPLY BRIEF OF APPELLANT)

(Name of attorney for party filing brief) (personal pronouns (optional))
Attorney for (Identity of party, as Appellant)

(Address, telephone number, and Washington State Bar Association
number of attorney for party filing brief or petition)

RAP FORM 6. Brief of Appellant

(Rule 10.3(a))

(See Form 5 for form of cover and title page. For useful discussions of appellate brief writing, see the latest edition of the Washington State Bar Association Appellate Practice Deskbook.)

TABLE OF CONTENTS

I. Introduction [*Optional. See rule 10.3(a)(3).*]

II. ASSIGNMENTS OF ERROR

 Assignments of Error

 No. 1

 No. 2

 No. 3

 Issues Pertaining to Assignments of Error

 No. 1

 No. 2

III. Statement of the Case

IV. Summary of Argument

V. Argument

 [If the argument is divided into separate headings, list each separate heading and give the page where each begins.]

VI. Conclusion

VII. Appendix. A-1

 [List each separate item in the Appendix and give page where each item begins.]

TABLE OF AUTHORITIES

 Table of Cases

 [Here list cases, alphabetically arranged, with citations complying with rule 10.4(g), and page numbers where each case appears in the brief. Washington cases may be first listed alphabetically with other cases following and listed alphabetically.]

 Constitutional Provisions

 [Here list constitutional provisions in the order in which the provisions appear in the constitution with page numbers where each is referred to in the brief.]

 Statutes

 [Here list statutes in the order in which they appear in RCW, U.S.C., etc., with page numbers where each is referred to in the brief. Common names of statutes may be used in addition to code numbers.]

 Regulations and Rules

[Here list regulations and court rules grouped in appropriate categories and listed in numerical order in each category with page numbers where each is referred to in the brief.]

Other Authorities

[Here list other authorities with page numbers where each is referred to in the brief.]
Note: For form of citations, see GR 14(d).

I. Introduction

[An introduction is optional and may be included as a separate section of the brief at the filing party's discretion. The introduction need not contain citations to the record or authority.]

II. Assignments of Error

Assignments of Error

[Here separately state and number each assignment of error as required by rule 10.3(a) and (g). For example:

"1. The trial court erred in entering the order of May 12, 1975, denying defendant's motion to vacate the judgment entered on May 1, 1975."

OR

"2. The trial court erred in denying the defendant's motion to suppress evidence by order entered on March 10, 1975."]

Issues Pertaining to Assignments of Error

[Concisely define the legal issues in question form which the appellate court is asked to decide and number each issue. List after each issue the Assignments of Error which pertain to the issue. Proper phrasing of the issues is important. Each issue should be phrased in the terms and circumstances of the case, but without unnecessary detail. The court should be able to determine what the case is about and what specific issues the court will be called upon to decide by merely reading the issues presented for review.]

[Examples of issues presented for review are: "Does an attorney, without express authority from his client, have implied authority to stipulate to the entry of judgment against his client as a part of a settlement which limits the satisfaction of the judgment to specific property of the client? (Assignment of Error 1.)"

OR

"Defendant was arrested for a traffic offense and held in jail for 2 days because of outstanding traffic warrants. The police impounded defendant's car and conducted a warrantless 'inventory' search of defendant's car and seized stolen property in the trunk. The impound was not authorized by any ordinance. Did the search and seizure violate defendant's rights under the fourth and fourteenth amendments to the Constitution of the United States and under article 1, section 7 of the Constitution of the State of Washington? (Assignment of Error 2.)"]

III. STATEMENT OF THE CASE

[Write a statement of the procedure below and the facts relevant to the issues presented for review. The statement should not be argumentative. Every factual statement should be supported by a reference to the record. See rule 10.4(f) for proper abbreviations for the record.]

IV. SUMMARY OF ARGUMENT

[This is optional.]

V. ARGUMENT

[The argument should ordinarily be separately stated under appropriate headings for each issue presented for review. Long arguments should be divided into subheadings. The argument should include citations to legal authority and references to relevant parts of the record. The court ordinarily encourages a concise statement of the standard of review as to each issue.]

VI. CONCLUSION

[Here state the precise relief sought.]

[Date]

Respectfully submitted,

Signature

[Name of Attorney] [personal pronouns (optional)]

Attorney for *[Appellant, Respondent, or Petitioner]*

Washington State Bar Association
membership number

RAP FORM 9. Petition for Review

(Rule 13.4(d))

(See Form 5 for form of cover which is the title page.)

TABLE OF CONTENTS

(See Form 6, except modify names of parts of brief to correspond to names of parts of Petition for Review.)

TABLE OF AUTHORITIES

(See Form 6.)

A. IDENTITY OF PETITIONER

(Name) asks this court to accept review of the Court of Appeals decision terminating review designated in Part B of this petition.

B. COURT OF APPEALS DECISION

(Identify the decision or parts of the decision of the Court of Appeals which the party wants reviewed, the date filed, and the date of any order granting or denying a motion for reconsideration.) A copy of the decision is in the Appendix at pages A-____ through _____. A copy of the order denying petitioner's motion for reconsideration is in the Appendix at pages A-____ through _____.

C. ISSUES PRESENTED FOR REVIEW

(Define the issues which the Supreme Court is asked to decide if review is granted. See the second portion of Part II of Form 6 for suggestions for framing issues presented for review.)

D. STATEMENT OF THE CASE
(See Part III of Form 6.)

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

(The argument should be short and concise and directed to the considerations for accepting review set out in rule 13.4(b). For argument generally, see Part V of Form 6. The argument may be preceded by a summary.)

F. CONCLUSION

(State the relief sought if review is granted. See Part F of Form 3.)

(Date)

Respectfully submitted,

Signature

(Name of attorney) (personal pronouns
(optional))

Attorney for (Petitioner or Respondent)
Washington State Bar Association
membership number

RAP FORM 10. Cost Bill

(Rule 14.4)

No. (appellate court)
(SUPREME COURT or COURT OF APPEALS, DIVISION _____)
OF THE STATE OF WASHINGTON
(Title of trial court proceeding)
with parties designated as in) COST BILL
rule 3.4))

(Name of party asking for costs), (appellant, petitioner, or respondent), asks that the following costs be awarded:

- | | |
|---|---------|
| 1. Statutory attorney's fees | \$ |
| 2. Preparation of original and one copy of report of proceedings | \$ |
| 3. Copies of clerk's papers | \$ |
| 4. Transmittal of record on review | \$ |
| 5. Expenses incurred in superseding the decision of the trial court (Identify) | \$ |
| 6. Charges of appellate court clerk for reproduction of briefs, petitions, and motions (Identify and separately state the charge for each.) | \$ |
| 7. Preparing 50 pages of original documents | \$ |
| 8. Filing fee | \$_____ |

Total \$

The above items are expenses allowed as costs by rule 14.3, reasonable expenses actually incurred, and reasonably necessary for review. (Name of party) should pay the costs.

(Date)

Signature
Attorney for (Appellant, Respondent, or
Petitioner)
(Name, personal pronouns (optional),
address, telephone number, and Washington
State Bar Association membership number
of attorney)

RAP FORM 11. Objections to Cost Bill
(Rule 14.5)

No. (appellate court)
(SUPREME COURT or COURT OF APPEALS, DIVISION _____)
OF THE STATE OF WASHINGTON
(Title of trial court proceeding)
with parties designated as in) OBJECTIONS TO COST BILL
rule 3.4))

(Name of party objecting), (appellant, petitioner or respondent), objects to the award of
any costs to (name of party) because:
(Here state reasons. See rule 14.2.)

Alternate Form

(Name of party objecting), (appellant, petitioner, or respondent), objects to the following
expenses listed on the Cost Bill of (name of party):

(List the items on the cost bill which are objectionable, by number of item on the cost bill
with a description of the item and the amount claimed. State the objection after each item. For
example:

2. Report of Proceedings \$320.00

Objection: The amount claimed is unreasonable. See RAP 14.3.

(a). The report of proceedings is double spaced and is ____ pages. The usual charge per
page is \$____. Computed on the usual basis, the total charge should be \$220.00.

5. Bond \$10.00

Objection: The charge is for the premium on a cost bond. A cost bond is not required
under the new rules. The charge was not reasonably necessary for review. See RAP 14.3(a.)

(Date)

Signature

Attorney for (Appellant, Respondent, or
Petitioner)
(Name, personal pronouns (optional),
address, telephone number, and Washington
State Bar Association membership number
of attorney)

RAP FORM 13. Motion for Order of Indigency
[Rule 15.2(c)]

SUPERIOR COURT OF WASHINGTON
FOR _____ COUNTY

[*Name of Plaintiff*]
Plaintiff,

v.

[*Name of defendant*]
Defendant.

)
) No. [trial court]
)
) Motion for Order of Indigency-
) (Criminal), (Juvenile Offense),
) (Dependency), (Termination),
) (Commitment), (Civil Contempt),
) (Habeas Corpus), (Appeal
) involving a Constitutional or
) Statutory Right to Counsel) Case
)
)
)

_____, (defendant) (respondent) (petitioner), files a notice of appeal
in the above-referenced (criminal), (juvenile offense), (dependency), (termination),
(commitment), (civil contempt), (habeas corpus), (appeal involving a constitutional or statutory
right to counsel) case, and moves the court for an Order of Indigency authorizing the expenditure
of public funds to prosecute this appeal (wholly at public expense) (partially at public expense).

(Defendant) (Respondent) (Petitioner) was found indigent by order of this court on .
There has been no change in (defendant) (respondent) (petitioner)'s financial status since that
time, and (defendant) (respondent) (petitioner) continues to lack sufficient funds to seek review
in this case.

(Defendant) (Respondent) (Petitioner) asks the court to order the following to be
provided at public expense: all filing fees; attorney fees; preparation, reproduction, and
distribution of briefs; preparation of verbatim report of proceedings; and preparation of necessary
clerk's papers.

The following certificate is made in support of this motion.

DATED: _____

Signature
(Defendant) (Respondent) (Petitioner)
(personal pronouns (optional))

Signature
Name of Attorney for (Defendant) (Respondent) (Petitioner)
(personal pronouns (optional))
WSBA # _____

CERTIFICATE

I, _____, certify as follows:

1. That I have previously been found indigent by this court.

2. That the highest level of education I have completed is:

☐ Grade School ☐ High School ☐ College or greater

3. That I have held the following jobs: _____

4. That I: ☐ have not received job training
 ☐ have received the following job training: _____

5. That I: ☐ do not have a mental or physical disability that would affect my ability to work
 ☐ have the following mental or physical disability that would affect my ability to
work: _____

6. That I: ☐ do not have children or family members that normally depend on me for
financial support
 ☐ have the following children or family member that normally depend on me for
support _____

7. That I: ☐ do not anticipate my financial condition improving in the foreseeable future
through inheritance, sale of land, or similar.
 ☐ anticipate my financial condition improving in the foreseeable future as
follows: _____

I, _____, certify under penalty of perjury under the laws of the State
of Washington that the foregoing is true and correct.

Date

Signature
Name of (Defendant) (Respondent) (Petitioner)

Place

RAP FORM 16. Petition Against State Officer
(Rule 16.2(b))

No. (appellate court)
SUPREME COURT OF THE STATE OF WASHINGTON
(Name of petitioner),)
Petitioner,)
v.) PETITION AGAINST STATE OFFICER
(Name of respondent),)
Respondent.)

Petitioner alleges:

(Set forth in numbered, descriptively titled paragraphs, as in a complaint in a civil action, a short and plain statement of the claim showing that petitioner is entitled to relief. Conclude with a demand for judgment for the relief sought. See CR 10.)

(Date)

Signature
Attorney for Petitioner
(Name, personal pronouns (optional),
address, telephone number, and Washington
State Bar Association membership number
of attorney)

**RAP FORM 17. Personal Restraint Petition for Person Confined
by State or Local Government**
[Rule 16.7]

No. [appellate court]
[Put name of appellate court that you want to hear your case.]
OF THE STATE OF WASHINGTON
[Put your name here.],)
Petitioner.) PERSONAL RESTRAINT PETITION

If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of this form and other papers you are attaching before you sign this form in front of a notary.

A. STATUS OF PETITIONER

I, _____,
(full name, personal pronouns (optional), and address)

apply for relief from confinement. I am ___ am not ___ now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order: _____.

(identify type of order)

1. The court in which I was sentenced is _____.

2. I was convicted of the crime(s) of _____.

3. I was sentenced after trial ___, after plea of guilty ___ on
_____. The judge who imposed sentence was
(date of sentence)

_____.
(name of trial court judge)

4. My lawyer at trial court was _____
(name and address if known; if none, write "none")

5. I did ___ did not ___ appeal from the decision of the trial court. (If the answer is that I did), I appealed to _____.

(name of court or courts to which appeal was taken)

My lawyer on appeal was _____
(name and address if known; if none, write "none")

The decision of the appellate court was ___ was not ___ published. (If the answer is that it was published, and I have this information), the decision is published in

(volume number, Washington Appellate Reports or

Washington Reports, and page number)

6. Since my conviction I have ___ have not ___ asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked), the court I asked was _____.

(name of court or courts in which relief was sought)

Relief was denied on _____
(date of decision or, if more than one, dates of all decisions)

7. (If I have answered in question 6 that I did ask for relief), the name of my lawyer in the proceeding mentioned in my answer to question 6 was

(name and address if known; if none, write "none")

8. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here:

B. GROUND(S) FOR RELIEF

(If I claim more than one reason for relief from confinement, I attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc.). I claim that I have _____ (number) reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

_____ Ground
(First, Second, etc.)

1. I should be given a new trial or released from confinement because (Here state legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement.):

2. The following facts are important when considering my case (After each fact statement, put the name of the person or persons who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that, also.):

3. The following reported court decisions (include citations if possible) in cases similar to mine show the error I believe happened in my case (If none are known, state "None known".):

4. The following statutes and constitutional provisions should be considered by the court (If none are known, state "None known".):

5. This petition is the best way I know to get the relief I want, and no other way will work as well because _____.

C. STATEMENT OF FINANCES

If you cannot afford to pay the filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form.

1. I do ___ do not ___ ask the court to file this without making me pay the filing fee because I am so poor I cannot pay the fee.

2. I have a spendable balance of \$_____ in my prison or institution account.

3. I do ___ do not ___ ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.

4. I am ___ am not ___ employed. My salary or wages amount to \$_____ a month. My employer is _____.

(name and address)

5. During the past 12 months I did ____ did not ____ get any money from a business, profession or other form of self-employment. (If I did, it was _____ and the total income I got was \$_____.)

(kind of self-employment)

6. During the past 12 months, I

did ____ did not ____ get any rent payments. If so, the total amount I got was \$_____.

____ ____ get any interest. If so, the total amount I got was \$_____.

____ ____ get any dividends. If so, the total amount I got was \$_____.

____ ____ get any other money. If so, the amount of money I got was \$_____.

7. ____ ____ have any cash except as said in answer 2. If so, the total amount of cash I have is \$_____.

____ ____ have any savings accounts or checking accounts. If so, the amount in all accounts is \$_____.

____ ____ own stocks, bonds, or notes. If so, their total value is \$_____.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
-------	-------

_____	_____
_____	_____
_____	_____

9. I am ____ am not ____ married. If I am married, my wife or husband's name and address is _____.

10. All of the persons who need me to support them are listed here.

Name and Address	Relationship	Age
------------------	--------------	-----

_____	_____	_____
_____	_____	_____
_____	_____	_____

11. All the bills I owe are listed here.

Name of creditor you owe money to	Address	Amount
--------------------------------------	---------	--------

_____	_____	_____
_____	_____	_____
_____	_____	_____

D. REQUEST FOR RELIEF

I want this court to:

____ vacate my conviction and give me a new trial

____ vacate my conviction and dismiss the criminal charges against me without a new trial

____ other (specify) _____

[illegible]

[sign here]

SUBSCRIBED AND SWORN to before me this ____ day of _____.

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a notary: _____

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

_____[date].

[sign here]

No. (appellate court)
(SUPREME COURT or COURT OF APPEALS, DIVISION____)
OF THE STATE OF WASHINGTON

1. IDENTITY OF MOVING PARTY

LM-112

2. STATEMENT OF RELIEF SOUGHT

(State the relief sought, for example: "Substitution of John Doe as respondent in place of Alvin Jones".)

3. FACTS RELEVANT TO MOTION

(Here state facts relevant to motion with reference to or copies of parts of the record relevant to the motion. For example: "Alvin Jones, plaintiff, obtained a judgment against defendant, Henry Hope (Judgment, CP 17). Alvin Jones assigned the judgment to John Doe after defendant filed his Notice of Appeal. A true copy of the assignment is attached. Defendant did not assert a counterclaim against plaintiff in the trial court".)

4. GROUNDS FOR RELIEF AND ARGUMENT

(Here state the grounds for the relief sought with authority and supporting argument. For example: "RAP 3.2(a) authorizes substitution of parties when the interest of a party in the subject matter of the review has been transferred. Substitution should be granted here as defendant has no claim against plaintiff-respondent and respondent no longer has an interest in the judgment which is the subject matter of this appeal".)

(Date)

Respectfully submitted,

Signature

Attorney for (Appellant, Respondent,
or Petitioner)

(Name, personal pronouns (optional),
address, telephone number, and Washington
State Bar Association membership number
of attorney)

RAP FORM 19. Notice of Motion

(RAP 17.4(a))

(SUPREME COURT or COURT OF APPEALS, DIVISION____)
OF THE STATE OF WASHINGTON

(Title of trial court proceeding) No. (appellate court)
with parties designated as in)
rule 3.4) NOTICE FOR MOTION

To: (Names of persons entitled to notice and their attorneys. See RAP 17.4(a).)

(Name of moving party), (appellant, petitioner, or respondent), will bring on for hearing (name of motion, for example: "Motion To Substitute Appellant") on (date). The motion will be heard by the (Judges, Commissioner, or Clerk) at (hour), or as soon thereafter as the motion can be heard. The address of the place of hearing is (room number and address).

(Date)

Signature
(Name of attorney) (personal pronouns optional)
Washington State Bar Association
membership number Attorney for
(Appellant, Respondent, or Petitioner)

RAP FORM 20. Motion To Modify Ruling
(Rule 17.7)

No. (appellate court)
(SUPREME COURT or COURT OF APPEALS, DIVISION _____)
OF THE STATE OF WASHINGTON
(Title of trial court proceeding)
with parties designated as in) MOTION TO MODIFY RULING
rule 3.4))

1. IDENTITY OF MOVING PARTY

(Name of moving party), (designation of moving party) asks for the relief designated in Part 2.

2. STATEMENT OF RELIEF SOUGHT

Modify ruling of the (Clerk or Commissioner) filed on (date). The ruling (state substance of ruling, for example: "denied the motion to be substituted as respondent in place of Alvin Jones") This court should (State relief requested, for example: "authorize the requested substitution".).

3. FACTS RELEVANT TO MOTION

(Here state facts relevant to original motion, with reference to or copies of parts of the record relevant to that motion. The facts set forth in the original motion may be incorporated by reference. For example: "The facts are set out in Part 3 of the original motion to the commissioner.")

4. GROUNDS FOR RELIEF AND ARGUMENT

(Here state the grounds for relief sought with authority and supporting argument. The grounds for relief set forth in the original motion may be incorporated by reference.)

(Date)

Respectfully submitted,

Signature
Attorney for (Appellant, Respondent or
Petitioner)
(Name, (personal pronouns optional)),
address, telephone number, and Washington

State Bar Association membership number
of attorney)

RAP FORM 21. Civil Appeal Statement
(Rule 5.5(c))

COURT OF APPEALS, DIVISION _____ OF THE
STATE OF WASHINGTON

(Title of trial court proceeding)
with parties designated as in) CIVIL APPEAL STATEMENT
rule 3.4))

1. NATURE OF THE CASE AND DECISION

(State the substance of the case below and the basis for the trial court decision. For example: "Defendant was driving his automobile when struck from the rear by a truck driven by Jones. An automobile coming from the opposite direction driven by an uninsured motorist crossed the center line into the lane occupied by defendant and collided with the defendant's car. Defendant settled his claim against Jones and executed a release without the consent of plaintiff insurance company. The policy issued by plaintiff contained a provision which excluded coverage under the uninsured motorist provisions for bodily injury to an insured who has made any settlement with any person without the written consent of the company. The trial court held that this exclusion violated public policy by restricting the uninsured motorist coverage required by RCW 48.22.030 and declared the exclusion void.")

2. ISSUES PRESENTED FOR REVIEW

(State the issues the party intends to present for review by the Court of Appeals. For example: "Whether a provision which excludes coverage when the insured does not secure the insurer's consent before settling with any person responsible for any injury violates public policy by restricting the uninsured motorist coverage required by RCW 48.22.030?" List under each issue the legal authority relevant to that issue.)

3. RELIEF SOUGHT IN COURT OF APPEALS

(State the relief the party seeks in the Court of Appeals. For example: "Reversal of trial court decision with directions to enter judgment declaring that defendant is not covered by the uninsured motorist provisions of the liability policy issued by plaintiff.")

4. TRIAL COURT

(Name of County) County Superior Court

5. JUDGE

(Name of Trial Court Judge)

6. DATE OF DECISION

(The date the decision was entered in the trial court)

7. POST-DECISION MOTIONS

(State each post-decision motion made in the trial court including the nature of the motion, the date the motion was made, the decision on the motion, and the date the decision was entered.)

8. NOTICE OF APPEAL

The notice of appeal was filed on date. A copy of the notice of appeal is attached to this statement.

9. COUNSEL

Counsel for appellant (name of appellant) is (name, address, and telephone number of attorney). Counsel for respondent (name of respondent) is (name, address, and telephone number of attorney).

10. METHOD OF DISPOSITION IN TRIAL COURT

(State the method used to decide the case in the trial court. For example: "summary judgment, order of dismissal, judgment after trial to the court, judgment after jury trial.")

11. RELIEF GRANTED BY TRIAL COURT

(State the relief granted by the trial court. For example: "The trial court entered a judgment declaring that defendant has coverage under the uninsured motorist provisions of the automobile liability policy issued by plaintiff.")

12. RELIEF DENIED BY TRIAL COURT

(State the relief sought by the party making the statement which was denied by the trial court. For example: "Plaintiff sought a judgment declaring that the uninsured motorist provision of the automobile liability policy no longer provided coverage to defendant.")

13. CERTIFICATE OF COUNSEL

I, attorney for appellant (name of appellant), certify that this appeal is taken in good faith and not for purposes of delay.

I further certify that my client (is or is not) prepared to immediately take all steps to complete the appeal. (If the statement indicates the party is not prepared to immediately take all steps to complete the appeal, state here why the party is not prepared to immediately complete the appeal.)

(Date)

Signature

Attorney for Appellant

(Name, personal pronouns (optional),
address, telephone number, and Washington
State Bar Association membership number
of attorney)

August 24, 2021

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

IN THE MATTER OF THE
WELFARE OF:

M.D.,¹

A minor child.

No. 55647-2-II

RULING GRANTING
DISCRETIONARY REVIEW,
REVERSING IN PART, AND
REMANDING; AND
GRANTING MOTION TO
CHANGE CAPTION

Eleven-year-old M.D. moves for discretionary review of the juvenile court's denial of his motion related to pronoun use by the court and parties. RAP 2.3(b). The Department of Children, Youth, and Families (Department) cross-moves for discretionary review. The Department also requests a change of caption to *In re the Welfare of M.D.*, to reflect M.D.'s new name. RAP 3.4.

¹ For the reasons set out in this ruling, this court is granting the motion and cross-motion for discretionary review, and the motion to change the caption to *In re the Welfare of M.D.* This ruling, therefore, uses the new caption, the initials "M.D." for the child's name, and the child's requested male pronouns.

This court grants M.D.'s motion and the Department's cross-motion for discretionary review. It also grants the Department's motion to change the caption. RAP 3.4. Under RAP 18.13A(a), this court reverses the juvenile court's decision in part and remands for further dependency proceedings.

FACTS

M.D. was assigned the sex of female at birth. In December 2018, the Department became involved with the family for the second time² after receiving a report that M.D. had fallen asleep at school and was difficult to wake. The school was unable to reach his mother, D.D. So law enforcement drove M.D. home.

Two months later, in February 2019, D.D. contacted the Department asking for assistance. She requested the Department place M.D. in a long-term psychiatric facility because M.D. was not sleeping and was trying to access pornography at night.

In March, the Department held a Family Team Decision Making (FTDM) meeting where D.D. said she "does not feel safe with [M.D.] in the home and she does not know how to help [M.D.]." Mot. for Disc. Rev., Appendix at 54. D.D. agreed to in-home services, such as Family Preservation Services (FPS). But the FPS referral was closed after two attempts to engage D.D. in services. And on May 15, 2019, D.D. refused to let a social worker into her home.

Two days after the social worker's attempted visit, M.D. was hospitalized after stabbing himself in the neck with an unidentified object. During M.D.'s stay, hospital staff could not reach D.D. for several days. While he was hospitalized, M.D. asked a social

² An earlier dependency action was dismissed on May 4, 2018.

worker for help. M.D. also said that at times he did not want to live. D.D. reported to a social worker that she did not know what to do and said she could not resolve M.D.'s mental health issues.

In September 2019, D.D. entered into an agreed dependency. The Department placed M.D. in a therapeutic residential group home in Kennewick, Washington. There, M.D. received counseling and behavioral services to address a history of trauma.³

In counseling, M.D. said he wanted to identify as male and use male pronouns. M.D.'s attorney then contacted D.D., the Department, the guardian ad litem (GAL), and D.D.'s attorney by e-mail in early January 2021, informing them of M.D.'s request to be referred to as "he/him/his and boy" and his related request for a haircut. Mot. for Disc. Rev., Appendix at 74. But D.D. opposed both the use of male pronouns and the haircut. D.D. blamed an earlier foster home placement for encouraging M.D. to "live a gay lifestyle" and stating that before that placement, M.D. had never mentioned a male gender identity. Mot. for Disc. Rev., Appendix at 80.

In January 2021, M.D. moved to have the juvenile court and parties use his male pronouns.⁴ M.D. also requested a short haircut to allow him to better conform to his male identity. M.D. additionally requested the juvenile court to "determine whether any additional services may be necessary" for the parents "based on their inability to

³ The dependency petition alleges that M.D.'s father and the father of a half-sibling sexually abused M.D.

⁴ The father supported M.D.'s motion. But his parental rights were terminated sometime after the juvenile court heard the pronoun motion.

recognize the needs of [M.D.'s] gender identification.” Mot. for Disc. Rev., Appendix at 72. The Department supported M.D.'s requests.

M.D.'s motion included studies, research, and a hand-written declaration from M.D. stating usage of male pronouns would help him feel “comfturble in ‘MY’ body.” Mot. for Disc. Rev., Appendix at 105. M.D. wrote, “I want to be preffered as him/he/his. I want to get my hair shaved because I want somebody to look at me and say I am male. . . . I’ve been wanting to make this change for 3 years. ‘I WANT TO BE A BOY.’ ‘AND THATS OK’.” Mot. for Disc. Rev., Appendix at 105-106.

The juvenile court heard argument on M.D.'s motion on February 1, 2021. M.D. made a statement at the hearing, affirming that “I do feel like I should be represented as he/him.” He added that if he had been in court in person, as opposed to on the phone, “I would have broke up in tears.” Mot. for Disc. Rev., Appendix at 8 (Report of Proceedings (RP) Feb. 1, 2021 at 8). He also said that a haircut “would represent me as male or help represent me as male.” Mot. for Disc. Rev., Appendix at 8-9 (RP Feb. 1, 2021 at 8-9). D.D. responded that the gender issue “has never come up before.” Mot. for Disc. Rev., Appendix at 10 (RP Feb. 1, 2021 at 10). D.D. “wanted to hear from a counselor” about the situation and wanted a psychological evaluation for M.D.

Laura Gustavson, the GAL, then spoke to the court. She emphasized that gender identity issues were “deeply important” for a “child’s sense of self-esteem.” Mot. for Disc. Rev., Appendix at 14 (Report of Proceedings (RP) Feb. 1, 2021 at 14). She noted that M.D.'s identity issues were “not a new thing” and that he was exploring them in individual counseling and “finding [his] voice in terms of what [he] wants.” Mot. for Disc. Rev., Appendix at 14 (RP Feb. 1, 2021 at 14). She recommended that the family have

therapeutic support to address this issue. Finally, Gustavson opined that ordering M.D. to undergo a psychological evaluation simply because of his request “seems a little bit heavy handed and concerning.” Mot. for Disc. Rev., Appendix at 16 (RP Feb. 1, 2021 at 16).

The juvenile court permitted M.D. to cut his hair⁵ but denied his motion to use male pronouns. The court reasoned that a “ten-year-old does not get to make these kind of choices for themselves.” Mot. for Disc. Rev., Appendix at 29 (RP Feb. 1, 2021 at 29). The court also noted that M.D.’s brain is “still so developing.” Mot. for Disc. Rev., Appendix at 29 (RP Feb. 1, 2021 at 29). So “[t]here is no way the court can let a youth of that age have a significant say in this.” Mot. for Disc. Rev., Appendix at 29 (RP Feb. 1, 2021 at 29). It declined to order a psychological evaluation. It did not address whether additional services were necessary under the circumstances.

M.D. moved for reconsideration, providing more research and guidance. He submitted a second hand-written declaration, which stated “I am very triggerd when someone calls me female. . . . I Want to look male, and say im male!!” Mot. for Disc. Rev., Appendix at 108. The juvenile court denied the motion, reasoning that there was no basis for the court to reconsider its initial decision.

⁵ At the hearing, the mother’s counsel acknowledged “[t]he haircut is not the major issue.” Mot. for Disc. Rev., Appendix at 10 (RP Feb. 1, 2021 at 10). The court allowed the haircut because of its temporary nature, noting “[t]he great thing about hair, it always grows back.” Mot. for Disc. Rev., Appendix at 28 (RP Feb. 1, 2021 at 28).

M.D. moved for discretionary review of the juvenile court's decisions. Rather than answer the motion, the Department cross-moved for discretionary review.⁶ The Department also moved to change the caption of the case to *In re the Welfare of M.D.* to reflect M.D.'s new name. RAP 3.4. The Washington Defender Association, Lavender Rights Project, ACLU-Washington, Legal Counsel for Youth and Children, and QLaw Foundation submitted an amici curiae brief in support of the motion and cross-motion for discretionary review. RAP 10.6.

On August 2, 2021, the trial court issued an order clarifying its ruling on M.D.'s February 1, 2021 motion. The order states that "no party may refer to the child by the pronouns he/him/his or a name other than [P.D.]." Department Resp. to Amici Curiae Br., Appendix C at 13. It also notes the pronoun issue is pending in this court.

ANALYSIS

I. Discretionary Review

Washington strongly disfavors interlocutory review, and it is available only "in those rare instances where the alleged error is reasonably certain and its impact on the trial manifest." *Minehart v. Morning Star Boys Ranch, Inc.*, 156 Wn. App. 457, 462, 232 P.3d 591, review denied, 169 Wn.2d 1029 (2010); *Right-Price Recreation, LLC v. Connells*

⁶ M.D. and the Department served D.D.'s juvenile court counsel with the notices of discretionary review in March and April 2021. But D.D. did not appear here. In addition, although D.D. had not appeared, M.D. served D.D. with a copy of his motion for discretionary review on July 29, 2021.

After service of M.D.'s motion on D.D., his appellate counsel filed a declaration on July 29, 2021, stating she would not object if D.D. requested an extension of time to respond to M.D.'s motion. Court Spindle, Declaration of Tiffinie B. Ma, Jul. 29, 2016, at 2. As of this ruling's filing date, however, this court has not received anything from D.D.

Prairie Cmty. Council, 146 Wn.2d 370, 380, 46 P.3d 789 (2002), *cert. denied sub. nom, Gain v. Washington*, 540 U.S. 1149 (2004). Under *Minehart*, “Where there is a weaker argument for error [under RAP 2.3(b)(1) or (2)], there must be a stronger showing of harm.” *Minehart*, 156 Wn. App. at 463.

This court may grant discretionary review only when:

- (1) The superior court has committed an obvious error which would render further proceedings useless;
- (2) The superior court has committed probable error and the decision of the superior court substantially alters the status quo or substantially limits the freedom of a party to act;
- (3) The superior court has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by an inferior court or administrative agency, as to call for review by the appellate court; or
- (4) The superior court has certified, or all the parties to the litigation have stipulated, that the order involves a controlling question of law as to which there is substantial ground for a difference of opinion and that immediate review of the order may materially advance the ultimate termination of the litigation.

RAP 2.3(b).

M.D. seeks discretionary review under RAP 2.3(b)(2) and (3). The Department cross-moves for discretionary review under RAP 2.3(b)(2).

A. RAP 2.3(b)(2)

Probable Error

RAP 2.3(b)(2) requires the moving party to show the superior court committed probable error, which had a substantial effect on the status quo or the freedom of the

parties to act. The moving parties argue that the juvenile court committed probable error by misgendering⁷ M.D. and denying his motion to use male pronouns.

Generally, this court reviews orders issued in dependency cases for an abuse of discretion.⁸ *In re Dependency of D.C-M.*, 162 Wn. App. 149, 158, 253 P.3d 112 (2011). A juvenile court abuses its discretion when its decision is manifestly unreasonable, rests on untenable grounds, or is made for untenable reasons. *D.C-M.*, 162 Wn. App. at 158; *In re Dependency of T.L.G.*, 139 Wn. App. 1, 15, 156 P.3d 222 (2007). A decision is manifestly unreasonable if it goes beyond acceptable choices, given the facts and the applicable legal standard. *T.L.G.*, 139 Wn. App. at 15-16. A decision is based on untenable grounds or is made for untenable reasons if the court applied the wrong legal standard or relied on unsupported facts. *State v. Rohrich*, 149 Wn.2d 647, 654, 71 P.3d 638 (2003).

It is undisputed that parents have a fundamental liberty interest in the care and welfare of their minor children. *In re Dependency of Schermer*, 161 Wn.2d 927, 941, 169 P.3d 452 (2007). But the state also has an interest in protecting the physical, mental, and emotional health of children. *Schermer*, 161 Wn.2d at 941. Thus, in a dependency, it is well established that “[w]hen the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail.” RCW 13.34.020. And as a dependent child’s legal custodian,

⁷ “Misgender” means to refer to the gender of a person incorrectly. MERRIAM-WEBSTER DICTIONARY, <https://www.dictionary.com/browse/misgender> (last visited Aug. 24, 2021).

⁸ M.D.’s brief does not identify the underlying standard of review that he believes applies to a pronoun decision. The Department uses the abuse of discretion standard.

the Department has the responsibility to provide M.D. with “conditions free of unreasonable risk of danger, harm, or pain.” *Braam ex rel. Braam v. State*, 150 Wn.2d 689, 700, 81 P.3d 851 (2003); see also *T.L.G.*, 139 Wn. App. at 15 (holding that the safety of the child prevails over the rights of the parents when in conflict in a dependency matter); *Matter of the Dependency of W.W.S.*, 14 Wn. App. 2d 342, 359, 469 P.3d 1190 (2020) (when the right of a parent conflicts with that of the child, the child’s right prevails).

M.D. and the Department argue that the juvenile court’s decision was probable error under RCW 13.34.020⁹ and the evidence M.D. provided in support of a minor’s decision to socially transition.¹⁰ This court agrees.

⁹ Along with RCW 13.34.020, M.D. relies on the Washington Law Against Discrimination (WLAD), RCW 49.60. He argues that this statute prohibits discrimination based on gender identity, RCW 49.60.040(26) through (27). He adds that the Office of the Superintendent of Public Instruction and the Department have interpreted the WLAD to require them to respect a minor’s pronoun usage. Mot. for Disc. Rev. at 12 (citing Susanne Beauchaine, et al., *Prohibiting Discrimination in Washington Public Schools: Guidelines for School Districts to Implement Chapters 28A.640 and 28A.642 RCW and Chapter 392-190 WAC*, WASH. SUPERINTENDENT OF PUB. INSTRUCTION, OFF. OF SUPERINTENDENT OF PUB. INSTRUCTION (Feb. 2012), https://www.k12.wa.us/sites/default/files/public/equity/pubdocs/Prohibiting_Discrimination_in_Washington_Public_Schools_February2012%28RevisedSep.2019Disclaimer%29.pdf (last visited Aug. 24, 2021), and Washington Department of Children, Youth, and Families, *Supporting LGBTQ+ Identified Children and Youth*, Policies & Procedures 6900, Policy (2)(a)(b) (Jul. 1, 2018), <https://www.dcyf.wa.gov/6000-operations/6900-supporting-lgbtq-identified-children-and-youth> (last visited Aug. 24, 2021)). But because M.D. cites no opinions adopting this interpretation of the WLAD and because the law surrounding RCW 13.34.020 is well established, this court need not reach the WLAD issue to determine whether the juvenile court committed probable error.

¹⁰ See Motion for Disc. Rev. Appendix at 112 (discussing what it means to socially transition); see also HUMAN RIGHTS CAMPAIGN, *Glossary of Terms*, <https://www.hrc.org/resources/glossary-of-terms>, para. 30 (stating that “[t]ransitioning . . . typically includes social transition, such as changing name and pronouns.” (boldface omitted)) (last visited Aug. 24, 2021).

M.D. presented the juvenile court with many studies and reports from reputable sources showing the harmful effects of misgendering. The evidence also shows that a minor's gender expression should be supported. The mother did not counter this evidence.

The juvenile court, though, ruled there was “no way the court can let a youth of that age have a significant say in this.” Mot. for Disc. Rev., Appendix at 29 (RP Feb. 1, 2021 at 29). This ignored M.D.'s statement he became aware of his gender identity at eight years old, and studies showing that (1) most children have a stable sense of gender identity at a young age and (2) supporting a child's expressed gender is linked to better mental health outcomes. See Mot. for Disc. Rev. at 7-8, 7 n.3 (citing James R. Rae, Sulin Gülgöz, Lily Durwood, Madeleine DeMeules, Riley Lowe, Gabrielle Lindquist, and Cristina R. Olson, *Predicting Early Childhood Gender Transitions*, ASS'N FOR PSYCH. SCI., 669, 671 (Mar. 29, 2019), <https://journals.sagepub.com/doi/pdf/10.1177/0956797619830649> (last visited Aug. 24, 2021); and Ed Yong, *Young Trans Children Know Who They Are*, THE ATLANTIC (Jan. 15, 2019), <https://www.theatlantic.com/science/archive/2019/01/young-trans-children-know-who-they-are/580366/>, para. 3 (last visited Aug. 24, 2021) (stating children who later transitioned had a “strong sense of their identity” from the start)); see also Mot. for Disc. Rev., Appendix at 98-100 (stating that the American Academy of Pediatrics and its norms for gender identity in children note that by four years old children have a stable sense of gender identity); Mot. for Disc. Rev., Appendix at 105-106 (M.D.'s statement that “I've been wanting to make this change for 3 years. ‘I WANT TO BE A Boy.’ ‘AND THATS OK’.”).

In addition, statistics from The Trevor Project¹¹ showed that out of 400,000 LGBTQ teens surveyed in 2020, 42 percent “seriously considered attempting suicide”; and over 60 percent of transgender youth and nonbinary youth reported self-harm. Mot. for Disc. Rev., Appendix at 70, 82; *National Survey on LGBTQ Youth Mental Health 2020*, THE TREVOR PROJECT (2020), at 1, 14, <https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf> (last visited Aug. 24, 2021). But these high numbers can be combated by supporting an individual’s expressed gender, leading to better mental health outcomes. Mot. for Disc., Rev., Appendix at 70, 82; *National Survey on LGBTQ Youth Mental Health 2020*, THE TREVOR PROJECT (2020), <https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf> (last visited Aug. 24, 2021).

Here, M.D. informed the court that misgendering distresses him. Mot. for Disc. Rev., Appendix at 108 (“I am very triggerd when someone calls me female. . . . I Want to look male, and say im male!!”). He also has already exhibited some of the significant mental health concerns mentioned by the statistics. For example, M.D. expressed suicidal thoughts after being hospitalized for stabbing himself in the neck.

In light of this information, the juvenile court’s ruling that M.D. could not make this type of decision because of his young age was unsupported. See Mot. for Disc. Rev.,

¹¹ The Trevor Project describes itself as “the leading national organization providing crisis intervention and suicide prevention services to lesbian, gay, bisexual, transgender, queer & questioning (LGBTQ) young people under 25.” <https://www.thetrevorproject.org/about/> (last visited Aug. 24, 2021).

Appendix 29 (ruling that M.D. “does not get to make these kind of choices” due to his brain “still so developing. . . . [t]here is no way the court can let a youth of that age have a significant say in this.”). In addition to the studies already referenced, M.D. submitted the letter-declaration of Aidan Key, co-chair of the Gender Clinic at Seattle Children’s Hospital. Key directly addressed best practices for a child expressing a new gender identity in preadolescence, which include requested pronoun usage.

Key also listed harmful practices, which include “refusing to use names and pronouns that are in congruence with [the] child’s gender identity.” Mot. for Disc. Rev., Appendix at 112. Key also acknowledged that a minor’s social transition, such as name changes, pronoun changes, and other gender expressions, may end up being temporary, but best practices support allowing a child to make these decisions to “explore their gender identity.” Mot. for Disc. Rev., Appendix at 112. Key further stated that supporting “reversible social transition steps”¹² “will *not* make a child’s gender identification change,” rather the support will “ensure that [the] child is confident in the love and support of their family as they explore their gender identity.” Mot. for Disc. Rev., Appendix at 112 (italics in original).

In light of RCW 13.34.020 and the extensive and uncontroverted documentation submitted by M.D. showing that his decision to socially transition should be supported and that children are at a significant risk of harm when these decisions are not honored,

¹² The juvenile court’s decision to allow M.D. to cut his hair tracked Key’s recommendation to allow a child to take steps to socially transition. The court relied on the fact that a haircut is temporary. But it did not explain why this reasoning did not extend to pronoun usage, another potentially temporary social transition step.

this court concludes that both M.D. and the Department satisfy the error prong of RAP 2.3(b)(2).

Effect Prong

Besides finding probable error, RAP 2.3(b)(2) also requires this court to determine that the juvenile court's decision "substantially alters the status quo or substantially limits the freedom of a party to act." M.D. argues that the decision limits his freedom to use his "[correct¹³] pronouns in court and in pleadings." Mot. for Disc. Rev. at 14. The Department adds that the juvenile court's decision changes the status quo by altering the Department's written policy, Policy 6900, that directs it to "mirror[] language the [dependent] child or youth uses to describe themselves." Department Resp. and Cross-Mot. for Disc. Rev., Appendix B at 3 (Washington Department of Children, Youth, and Families, 6900. *Supporting LGBTQ+ Identified Children and Youth*, Policies & Procedures 6900, Policy (2)(a)(b) at 3, (Jul. 1, 2018); also available at: Washington Department of Children, Youth, and Families, 6900. *Supporting LGBTQ+ Identified Children and Youth*, Policies and Procedures 6900, Policy (2)(a)(b) at 3 (Jul. 1, 2018),

¹³ M.D.'s motion for discretionary review actually states, "using his *preferred* pronouns in court" Mot. for Disc. Rev. at 14 (emphasis added). This court, however, recognizes that the term "preferred pronouns" is falling out of favor, so this court replaces "preferred" with "correct" here. See *generally* Ashlee Fowlkes, *Why You Should Not Say 'Preferred Gender Pronouns,'* FORBES (Feb. 27, 2020, 10:22 PM EST), <https://www.forbes.com/sites/ashleefowlkes/2020/02/27/why-you-should-not-say-preferred-gender-pronouns/>, at para. 2 ("[T]he phrase 'preferred gender pronouns,' while well-intended, gives the impression that pronouns other than the ones specified are acceptable.") (last visited Aug. 24, 2021); see *also generally* *Gender Pronouns*, TRANS STUDENT EDUC. RES., <https://transstudent.org/graphics/pronouns101/> (last visited Aug. 24, 2021) ("We also do not use 'preferred pronouns' due to people generally not having a pronoun 'preference' but simply having 'pronouns.' Using 'preferred' can accidentally insinuate that using the correct pronouns for someone is optional.").

<https://www.dcyf.wa.gov/6000-operations/6900-supporting-lgbtq-identified-children-and-youth> (last visited Aug. 24, 2021)).

M.D.’s harm argument at first appears untenable given *State v. Howland*, 180 Wn. App. 196, 207, 321 P.3d 303 (2014), *discretionary review denied*, 182 Wn.2d 1008 (2015), which requires a superior court’s decision to have some effect outside the courtroom. But because the juvenile court’s decision, although arguably limited to pronoun use in court proceedings and pleadings, goes directly to M.D.’s identity and autonomy, this court determines that *Howland* does not preclude granting review. See *generally Taking Offense v. State*, No. Co88485, 2021 WL 3013112, at * 20 (Cal. Ct. App. 5th Jul. 16, 2021) (Robie, J., concurring) (“One’s name or the pronoun that represents that name is the most personal expression of one’s self.”); see also WASH. CONST. ART. I, sections 3 and 7 (autonomous decision making is a fundamental right); *Butler v. Kato*, 137 Wn. App. 515, 527-28, 154 P.3d 259 (2007) (stating that the right to autonomous decision making is given the “utmost constitutional protection. . . .”); *State v. Koome*, 84 Wn.2d 901, 904, 530 P.2d 260 (1975) (stating that the “constitutional rights of minors, including the right of privacy, are coextensive with those of adults”). M.D. shows that the juvenile court’s decision substantially limits his freedom to act to express his identity and have his identity acknowledged. In addition, the Department’s argument that the decision alters its status quo is well taken.

B. RAP 2.3(b)(3)

M.D. also argues that the juvenile court’s decision warrants review under RAP 2.3(b)(3) because it departs “from the accepted and usual course of judicial proceedings.” This court agrees. The juvenile court had sufficient guidance on pronoun usage best practices—both from M.D. and the Department, as well as from other opinions and juvenile and LGBTQ bench guidebooks—which it did not follow.

First, opinions from our state courts and other courts routinely respect a party’s pronouns. *Matter of Detention of C.S.*, No. 80655-6-I, 2021 WL 2313409, at *1 n.1 (June 7, 2021) (cited under GR 14.1 (c)) (“The record reflects that C.S. prefers the pronouns ‘they/them/their.’ We defer to C.S.’s preferred pronouns.”); *State v. Perry*, No. 35476-8-III, 2020 WL 550253, at *12 n.1 (Feb. 4, 2020) (cited under GR 14.1 (c)) (using feminine pronouns to refer to the appellant but only for periods after gender reassignment for clarity (because witnesses referred to Perry as male during the trial) and noting the court’s departure from its usual practice while meaning no disrespect); *see also Farmer v. Haas*, 990 F.2d 319, 320 (7th Cir. 1993) (“Farmer prefers the female pronoun and we shall respect her preference.”).

Second, the National Council of Juvenile and Family Court Judges issued guidance in 2017, directly addressing the issue at hand. It states that juvenile courts are “ethically obligated to promote access to justice for all impartially, competently, and diligently regardless of race, ethnicity religion sexual orientation, gender identity, and gender expression.” *Access to Juvenile Justice Irrespective of Sexual Orientation, Gender Identity, and Gender Expression (SOGIE)*, at intro., NAT’L COUNCIL OF JUV. & FAM.

CT. JUDGES (2017), https://www.ncjfcj.org/wp-content/uploads/2017/08/SOGIE_Benchcard-7-15-17.pdf (last visited Aug. 24, 2021).

To do so effectively, the benchbook highlights these practices: (1) supporting an individual's expression of gender identity by using their name and pronouns of choice, (2) demanding professionalism and prohibit use of derogatory pronouns, including "he-she" and "it" for Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Gender Non-Conforming (LGBTQ-GNC) individuals by ensuring all in court use the individual's chosen pronouns, and (3) where issues relating to youth's gender identity are raised, carefully considering any existing law, research, best practices, and standards of care before issuing a decision. *Access to Juvenile Justice Irrespective of Sexual Orientation, Gender Identity, and Gender Expression (SOGIE), Unique Considerations at Every Stage of the Case*, Bench card 2, para. 9, NAT'L COUNCIL OF JUV. & FAM. CT. JUDGES (2017), https://www.ncjfcj.org/wp-content/uploads/2017/08/SOGIE_Benchcard-7-15-17.pdf (last visited Aug. 24, 2021). Here, as discussed, M.D. presented significant un rebutted evidence on best practices and current standards of care.

Third, for several years our state courts have the benefit of a bench guide issued by QLaw of Washington for the Washington State Supreme Court's Gender & Justice Commission. *Judges' Bench Guide on the LGBTQ Community and the Law*, QLaw FOUND. OF WASH. & QLaw ASSOC. (3d ed. 2017), <http://www.courts.wa.gov/committee/pdf/LGBTQ%20Bench%20Guide.pdf> (last visited Aug. 24, 2021). This document is readily available online and has been cited by this court

in at least one ruling.¹⁴ This guide advises correct pronoun usage in court. *Judges' Bench Guide on the LGBTQ Community and the Law*, ch. 2, § 2, QLaw FOUND. OF WASH. & QLaw ASSOC. (3d ed. 2017), <http://www.courts.wa.gov/committee/pdf/LGBTQ%20Bench%20Guide.pdf> (last visited Aug. 24, 2021) (“Inclusive Language and Tone”). It does not exempt juvenile courts.

In sum, discretionary review is warranted under RAP 2.3(b)(2) and (3).

II. Caption Change

The Department also moves for a caption change¹⁵ under RAP 3.4 to reflect the initials of M.D.'s new name and not his deadname.¹⁶ RAP 3.4 provides in relevant part:

Upon motion of a party or on the court's own motion, and after notice to the parties, the Supreme Court or the Court of Appeals may change the title of a case by order in said case.

See *Matter of Welfare of K.D.*, No. 98965-6, 2021 WL 3085557, at *1 (Wash. Jul. 22, 2021).

In *Matter of Welfare of K.D.*, our Supreme Court held that RAP 3.4 and this court's general order for changes to juvenile case captions require that identifying information

¹⁴ *In re Detention of Adel Pittman*, COA No. 52331-1-II, Ruling Denying Review at 1 n.2 (Sept. 6, 2018) (also citing Heidi K. Brown, INCLUSIVE LEGAL WRITING, *We Can Honor Good Grammar and Societal Change Together*, 104-APR A.B.A. J. 22 (April 2018)). The *Pittman* ruling is cited neither as binding nor persuasive authority. See generally GR 14.1(c). Rather it is cited only to show that this court uses the QLaw bench guide as a reference.

¹⁵ At argument, M.D. joined this motion.

¹⁶ “[D]eadname” refers to the birth name of a LGBTQ+ individual who no longer uses it. MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/deadname> (last visited Aug. 24, 2021).

about juveniles be removed from the case title in dependency and termination appeals and be replaced with a child's initials. See Gen. Order for the Court of Appeals, Div. Two, 2018-2, *In re Changes to Case Title* (Wash. Ct. App. Aug. 22, 2018), https://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumbe r=2018-2&div=II (last visited Aug. 24, 2021); *K.D.*, 2021 WL 3085557, at *1. The purpose behind the rule and order is to protect the children involved and their privacy.

Here, the Department moves for a change of the case caption, contending that it would further M.D.'s mental health and allow the Department to comply with its own policies to meet M.D.'s needs while in its care. Changing the caption of the case to replace the deadname initials does not place M.D.'s privacy at risk or go against the purpose of RAP 3.4. In fact, as previously noted by scientific data provided to the juvenile court and M.D.'s own words and wishes, changing his initials in the caption for this case would further M.D.'s wellbeing and mental health outcomes. Thus, under RAP 3.4, this court grants the Department's motion.

III. RAP 18.13A(a)

The moving parties show that the court should accept discretionary review. RAP 2.3(b)(2) and (3); RAP 6.2(a). This court takes review and, under RAP 18.13A(a) and for the reasons stated in this ruling, it reverses in part the juvenile court's denial of the child's motion to be identified as male by the parties to this case, the juvenile court, and by his parents.¹⁷ Specifically, the Department and the dependent child are allowed to use the

¹⁷ This court accepts review and issues a merits decision in the same ruling because child welfare matters are time sensitive and this family remains subject to active dependency proceedings. RAP 18.13A(a); RAP 7.3; see generally *In re K.J.B.*, 187 Wn.2d 592, 613,

initials “M.D.” (and M.D.’s corresponding full name) and to use male pronouns for M.D.; the juvenile court is required to do so; but D.D. may use the name and pronouns that she believes are warranted in light of M.D.’s wishes, the evidence he submitted about best practices, and feedback D.D. may receive from service providers and M.D. in this dependency.

The context in which this dispute arises informs this court’s decision not to order D.D. to use M.D.’s name and pronouns. This family is in an active dependency. The child welfare system exists because when a parent seriously jeopardizes a child’s physical or mental health, “the State has a *parens patriae* right and responsibility to intervene to protect the child.” *In re Dependency of Schermer*, 161 Wn.2d 927, 942, 169 P.3d 452 (2007) (quoting *In re the Welfare of Sumey*, 94 Wn.2d 757, 762, 621 P.2d 108 (1980)); *In re the Welfare of Shantay C.J.*, 121 Wn. App. 926, 935, 91 P.3d 909 (2004). Once legal custody of a child transfers to the Department, it is charged with providing the parent with services necessary to achieve family reunification, the goal of any dependency. See RCW 13.34.180(1)(d).

To that end, the juvenile court has ordered D.D. to engage in individual and family therapy.¹⁸ M.D. is also receiving ongoing supports in his placement, including individual

387 P.3d 1072 (2017) (González, J., dissenting) (“In matters of juvenile justice, getting to the right result quickly is a priority.”).

¹⁸ As of February 1, 2021, D.D. had not started family therapy, although the parties had discussed it and M.D. advocated for it. And as of the March 15, 2021 dependency review hearing, family therapy had still not started. M.D. continued to express that he wanted to start family counseling.

counseling. And there is some consensus that M.D.'s request for his mother to use male pronouns should be addressed through these services.

For example, at the initial hearing on pronouns, GAL Gustavson emphasized that the conflict between M.D. and D.D. about M.D.'s wishes should be "facilitated" with a therapist to allow D.D. to have "therapeutic communication with her [child.]" Mot. for Disc. Rev., Appendix at 14-15. D.D. also indicated that she wanted to hear from mental health providers about M.D.'s decision. And at a March 15, 2021 dependency review hearing, the juvenile court ordered family counseling to start "immediately" and identified it as "an integral part of moving towards a return home." Mot. for Disc. Rev., Appendix at 47 (RP Mar. 15, 2021 at 14).

As in any dependency, these services are in place to assist D.D. and M.D. in addressing their relationship to facilitate their planned reunification.¹⁹ Department Resp. to Amici Curiae Br., Appendix at C at 10 (setting a trial return home date of September 26, 2021). D.D. has not completed these necessary services and a court order for D.D. to use male pronouns in court proceedings will do nothing to address the underlying conflict between M.D. and his mother on this issue. Nor will it facilitate reunification. Accordingly, it is hereby

¹⁹ Amici contend that the juvenile court denied M.D.'s request for additional reunification services for his parents. Amici Curiae Br. at 2. But at the February 1, 2021 hearing, the juvenile court did not appear to rule on M.D.'s request to consider additional services. And any party remains free to request additional necessary services at future periodic dependency review hearings. See *generally* RAP 2.3(b)(2) (effect prong requires substantial change in the status quo or limitation on freedom of party to act).

This court expresses no opinion as to whether additional services will be required during the dependency. That determination is left to the juvenile court, with input from D.D., M.D., the Department, the GAL, and current service providers.

ORDERED that M.D.'s motion and the Department's cross-motion for discretionary review are granted. It is further

ORDERED that the juvenile court's denial of M.D.'s motion for the court and the parties to use male pronouns is reversed in part, and this matter is remanded for further dependency proceedings. And it is further

ORDERED that the Department's motion to change the caption from *In re the Welfare of P.D.* to *In re the Welfare of M.D.* is granted.

A handwritten signature in blue ink, appearing to read 'ARB', is positioned above a horizontal line.

Aurora R. Bearse (she/her)
Court Commissioner

cc: Tiffinie B. Ma
Elizabeth A Baker
Andrew D. Pugsley
Christopher Torrone
D'Adre Cunningham
Megan Dawson
Nancy Talner
Yvonne Chin
Antoinette M. Davis
Erin L. Lovell
Denise Diskin
Hon. Christine Schaller

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN TINGLEY,

Plaintiff,

v.

ROBERT W. FERGUSON, et al.,

Defendants.

No. 3:21-cv-05359-RJB

**[PROPOSED] BRIEF OF AMICI
CURIAE THE TREVOR PROJECT,
INC., AMERICAN FOUNDATION FOR
SUICIDE PREVENTION, AND
AMERICAN ASSOCIATION OF
SUICIDOLOGY, IN SUPPORT OF
DEFENDANTS' AND PROPOSED
DEFENDANT-INTERVENOR'S
MOTION TO DISMISS AND
OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

Note on Motion Calendar: June 28, 2021

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INTRODUCTION¹

Substantial evidence shows youth subjected to conversion therapy are at risk of great harm, including a significantly increased risk of suicide, which has resulted in an overwhelming medical consensus that minor patients must not be subjected to conversion therapy under the imprimatur of the mental health profession. For this reason, it is a matter of well-settled law as pronounced by the Ninth Circuit and the United States Supreme Court that state and local governments may regulate unsafe medical treatments and protect minor children from medical treatments that put minors at an increased risk of suicidality and other serious harms.² In arguing to the contrary, Plaintiff Brian Tingley ignores decades of binding case law and falsely claims that “[t]here is no statistically valid evidence that counseling of the type that [he] provides is harmful or ineffective,” Dkt. No. 2 at 12. As demonstrated below, the medical consensus that conversion therapy is harmful to minors is based on extensive evidence and rigorous, peer-reviewed studies. The relief Plaintiff seeks would place minors in this state at risk of serious and potentially life-threatening harms. *Amici* urge this Court to dismiss Plaintiff’s challenge and affirm the state’s authority (indeed, responsibility) to protect children from being subjected to this dangerous abuse by state-licensed mental health professionals.

Amici are three non-profit organizations who have particular familiarity and knowledge of the significant harms that LGBTQ youth endure as a result of conversion therapy. As representatives advocating on behalf of the interests of impacted minors, *amici* believe their perspective—developed through decades of work studying mental health and suicide and addressing suicidality in LGBTQ youth—will be useful to the Court as it adjudicates Plaintiff’s motion for preliminary injunction and Defendants’ and Proposed Defendant-Intervenor’s motions to dismiss.³ Indeed, as the largest crisis service provider for LGBTQ youth, The Trevor Project,

¹ Appendix A lists the identity and interest of *amici*, who have filed an unopposed motion for leave to submit this brief. No party or its counsel authored this brief in whole or in part, and no person (including a party or its counsel), other than *amici* or their counsel, contributed money intended to fund preparing or submitting this brief.

² See, e.g., *Nat’l Inst. of Family and Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018) (“*NIFLA*”); *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992); *Welch v. Brown*, 834 F.3d 1041 (9th Cir. 2016); *Pickup v. Brown*, 740 F.3d 1208 (9th Cir. 2014).

³ See *Cnty. Ass’n for Restoration of Env’t (CARE) v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash.

1 Inc. (“The Trevor Project”) has unique insight into the harmful role conversion therapy plays in
 2 the mental health of LGBTQ youth; the American Foundation for Suicide Prevention (“AFSP”) is
 3 a leading organization funding research on and educating the public about suicide; and the
 4 American Association of Suicidology (“AAS”) is focused on advancing suicidology as a science
 5 and developing scholarship and information surrounding suicide and suicidal behaviors to increase
 6 public awareness. These organizations now respectfully offer the following summary of the
 7 evidence linking conversion therapy to a significantly heightened risk of suicidality and other
 8 serious harms, including an important new study published by The Trevor Project in 2020, which
 9 has further corroborated the overwhelming evidence that these practices are extraordinarily
 10 dangerous for youth.

11 ARGUMENT

12 I. WASHINGTON’S STATUTE REDRESSES SIGNIFICANT HARMS TO THE 13 HEALTH AND SAFETY OF MINORS.

14 The statute challenged by Plaintiff, SB 5722, regulates the practice of conversion therapy,
 15 a practice through which professional therapists seek to impose a predetermined outcome with
 16 respect to a person’s sexual orientation or gender identity under color of a Washington-issued
 17 license to practice.⁴ Notably, in addition to the Washington law clearly serving the public interest,
 18 the balance of equities weighs heavily in favor of the statute as it seeks to protect children from
 19 the grave harms of conversion therapy, which can be a matter of life and death. *See Winter v. Nat.*
 20 *Res. Def. Council, Inc.*, 555 U.S. 7, 20, 26, 32 (2008) (emphasizing “the importance of assessing
 21 the balance of equities and the public interest” in determining the propriety of injunctive relief).
 22 Numerous rigorous, peer-reviewed studies have shown that conversion therapy is closely
 23 correlated with a dramatically increased risk of suicide in minors, as well as with other serious

24 1999) (“An amicus brief should normally be allowed when a party is not represented competently or is not
 25 represented at all, . . . or when the amicus has unique information or perspective that can help the court beyond
 26 the help that the lawyers for the parties are able to provide”); *see, e.g., Castaneda Juarez v. Asher*, No. C20-
 0700JLR-MLP, 2020 WL 3104919, at *1 (W.D. Wash. June 11, 2020) (granting leave to file amicus where
 27 proposed amici had “unique information or perspective that can help the court”).

28 ⁴ *See* RCW 18.130.020 (defining conversion therapy as “a regime that seeks to change an individual’s sexual
 orientation or gender identity . . . includ[ing] efforts to change behaviors or gender expressions, or to eliminate
 or reduce sexual or romantic attractions or feelings toward individuals of the same sex.”).

1 harms. The baseline scientific principle that a treatment “is unsafe if its potential for inflicting
 2 death or physical injury is not offset by the possibility of therapeutic benefit,” *United States v.*
 3 *Rutherford*, 442 U.S. 544, 556 (1979), deems conversion therapy unsafe. This is why the statute
 4 at issue was passed,⁵ and why every leading medical and mental health organization has issued
 5 policy statements over the past 20 years, cautioning therapists and parents that conversion therapy
 6 is unsafe and should not be performed on minors.

7
 8 **A. SOCIAL SCIENCE OVERWHELMINGLY CONFIRMS THE
 9 SIGNIFICANT HARM OF CONVERSION THERAPY ON LGBTQ
 10 YOUTH.**

11 The Trevor Project offers free and confidential crisis intervention services for LGBTQ
 12 youth, which are used by thousands of young people each month, and counselors record
 13 anonymized data about the cases that come before them. In over 1,100 crisis contacts in 2020—
 14 an average of more than three per day—LGBTQ youth seeking help through these crisis services
 15 proactively raised conversion therapy as a topic in their discussions with crisis counselors.⁶ These
 16 contacts came from almost every state, including multiple contacts from youth in Washington.
 17 When raised, conversion therapy was discussed in various contexts, including dealing with
 18 experiences of conversion therapy, facing threats of conversion therapy, looking for help getting
 19 out of conversion therapy, and expressing relief that conversion therapy is illegal where they live.
 20 This data shows that conversion therapy is a serious issue for LGBTQ youth in crisis, who are
 21 estimated to attempt suicide at a rate of 1 every 45 seconds in the United States.⁷

22 Recent peer-reviewed retrospective case-control studies confirm the devastating harms that
 23 conversion therapy inflicts upon LGBTQ youth. Conversion therapy harms LGBTQ youth “by
 24 invoking feelings of rejection, guilt, confusion, and shame, which in turn can contribute to

25 ⁵ Washington Governor Jay Inslee signed SB 5722 into law, noting that “conversion therapy is not so much
 26 therapy; it’s abuse.” Human Rights Campaign, Facebook (Mar. 28, 2018, 1:20),
 27 <https://www.facebook.com/watch/?v=10156295724678281&t=80>.

28 ⁶ This information is derived from anonymized data that The Trevor Project has collected from its platforms,
 compiled, and reviewed. In order to protect the privacy of the youth using its services, The Trevor Project does
 not make the underlying sources of this data publicly available.

⁷ The Trevor Project, *Estimate of How Often LGBTQ Youth Attempt Suicide in the U.S.* (Mar. 11, 2021),
<https://www.thetrevorproject.org/2021/03/11/estimate-of-how-often-lgbtq-youth-attempt-suicide-in-the-u-s/>.

decreased self-esteem, substance abuse, social withdrawal, depression, and anxiety.”⁸ The Trevor Project documented these harmful results and others in its 2020 peer-reviewed article in the *American Journal of Public Health* (AJPH), reporting that LGBTQ youth who underwent conversion therapy were “**more than twice as likely to report having attempted suicide**” and more than 2.5 times as likely to report multiple suicide attempts in the past year compared to those who did not.⁹ This year, The Trevor Project released the results of a cross-sectional survey with nearly 35,000 LGBTQ individuals between the ages of 13 and 24 across the United States.¹⁰ Thirteen percent of these youth reported undergoing conversion therapy, a staggering proportion of whom were subjected to it as minors (83%).¹¹

The results of this study are consistent with a substantial body of other rigorous, peer-reviewed research on the detrimental impact of conversion therapy on LGBTQ youth.¹² A 2020 study found that exposure to conversion therapy **doubled** the odds of lifetime suicidal ideation, increased the odds of planning to attempt suicide by 75%, and increased the odds of a suicide attempt by 88% as compared with those who had not undergone conversion therapy.¹³ A November 2018 study found that the rates of attempted suicide by LGBTQ young adults whose parents tried to change their sexual orientation during adolescence were **more than double** (48%) the rate of LGBTQ young adults who reported no conversion therapy experience (22%).¹⁴ The study also found that these rates were nearly **triple** for LGBTQ youth who reported both home-

⁸ Am. Found. for Suicide Prevention, *State Laws: Banning Conversion Therapy Practices 2* (2020), <https://www.datocms-assets.com/12810/1592504833-conversion-therapy-issue-brief-6-18-20.pdf>.

⁹ Amy E. Green et al., *Self-Reported Conversion Efforts and Suicidality Among US LGBTQ Youths and Young Adults, 2018*, 110 Am. J. Pub. Health 1221, 1224 (2020) (emphases added).

¹⁰ The Trevor Project, *National Survey on LGBTQ Youth Mental Health* (2021), <https://www.thetrevorproject.org/survey-2021/?section=ConversionTherapy>.

¹¹ *Id.*

¹² See, e.g., Am. Ass’n of Suicidology, *Suicidal Behavior Among Lesbian, Gay, Bisexual, and Transgender Youth Fact Sheet* (2019), <https://suicidology.org/wp-content/uploads/2019/07/Updated-LGBT-Fact-Sheet.pdf> (“[Y]outh who have undergone conversion therapy [are] more than twice as likely to attempt suicide as those who did not.”).

¹³ John R. Blosnich et al., *Sexual Orientation Change Efforts, Adverse Childhood Experiences, and Suicide Ideation and Attempt Among Sexual Minority Adults, United States, 2016–2018*, 110 Am. J. Pub. Health 1024, 1027 (2020), https://dworakpeck.usc.edu/sites/default/files/2020-10/Blosnich%20Henderson%20Coulter_0.pdf.

¹⁴ Caitlin Ryan et al., *Parent-Initiated Sexual Orientation Change Efforts with LGBT Adolescents: Implications for Young Adult Mental Health and Adjustment*, J. Homosexuality, 10 (Nov. 2018), <https://www.utah.gov/pmn/files/513643.pdf>.

1 based efforts to change their sexual orientation by parents and intervention efforts by therapists
 2 and religious leaders (63%).¹⁵ More recent data shows the same increased risk: “Around 28 percent
 3 of U.S. LGBTQ youth who had experienced conversion therapy had attempted suicide within the
 4 previous 12 months as of 2020, compared to 12 percent of LGBTQ youth who had not experienced
 5 conversion therapy.”¹⁶

6 **B. EVERY MAJOR MEDICAL AND MENTAL HEALTH ORGANIZATION**
 7 **HAS REJECTED CONVERSION THERAPY AS SCIENTIFICALLY**
 8 **UNSOUND, HARMFUL TO THE PATIENT, AND INEFFECTIVE AT**
 9 **CHANGING SEXUAL ORIENTATION, GENDER IDENTITY, OR**
 10 **GENDER EXPRESSION.**

11 Every major medical and mental health organization has uniformly rejected conversion
 12 therapy as unsafe for minors. AFSP has stated that “conversion therapy efforts are inappropriate
 13 and harmful therapeutic interventions” and “urges states to prohibit this discredited practice and
 14 protect LGBTQ youth.”¹⁷ As the federal Substance Abuse and Mental Health Services
 15 Administration has cautioned, there is a “professional consensus that conversion therapy efforts
 16 are inappropriate” and that “none of the existing research supports the premise that mental or
 17 behavioral health interventions can alter gender identity or sexual orientation.”¹⁸ The U.S. Surgeon
 18 General has similarly warned that “[c]onversion therapy is not sound medical practice.”¹⁹

19 The American Psychological Association (“APA”) recently published a review of sexual
 20 orientation change efforts, including conversion therapy.²⁰ It found that “[p]articipation in
 21 [conversion therapy] is associated with numerous negative effects, including depression,
 22 suicidality, decreased self-esteem, and self-hatred . . . as well as negative views of homosexuality,

23 ¹⁵ *Id.*

24 ¹⁶ Statista Research Dep’t., *U.S. LGBTQ Youth Who Experienced Conversion Therapy and Attempted Suicide*
 25 *2020*, Statista (May 10, 2021), [https://www.statista.com/statistics/1053024/lgbtq-youth-in-us-attempted-suicide-](https://www.statista.com/statistics/1053024/lgbtq-youth-in-us-attempted-suicide-conversion-therapy-experience/)
 26 [conversion-therapy-experience/](https://www.statista.com/statistics/1053024/lgbtq-youth-in-us-attempted-suicide-conversion-therapy-experience/).

27 ¹⁷ Am. Found. for Suicide Prevention, *Conversion Therapy Bans*, <https://afsp.org/conversion-therapy-bans> (listing
 28 other professional medical organizations with similar policies).

¹⁸ Substance Abuse and Mental Health Services Administration, *Ending Conversion Therapy: Supporting and*
Affirming LGBTQ Youth 3, 11 (2015), <https://store.samhsa.gov/sites/default/files/d7/priv/sma15-4928.pdf>.

¹⁹ Sunnivie Brydum, *WATCH: U.S. Surgeon General Opposes Conversion Therapy* (Apr. 10, 2015),
<https://www.advocate.com/ex-gay-therapy/2015/04/10/watch-us-surgeon-general-opposes-conversion-therapy>.

²⁰ Amy Przeworski, et al., *A Systematic Review of the Efficacy, Harmful Effects, and Ethical Issues Related to*
Sexual Orientation Change Efforts, 28 *Clinical Psychol. Sci. & Prac.* 81 (2020).

1 internalized homonegativity, sexual dysfunction, impaired familial and romantic relationships . . .
 2 and decreased overall sexual attraction.”²¹

3 This year, the American Psychological Association published updated policy statements
 4 on sexual orientation and gender identity change efforts, condemning conversion therapy, and
 5 reaffirming that “sexual minority youth and adults who have undergone” efforts to change their
 6 sexual orientation “are significantly more likely to experience suicidality and depression than those
 7 who have not,” and that “minors who have been subjected to [this practice] have reported more
 8 suicide attempts than those who have not.”²² But the professional consensus rejecting conversion
 9 therapy has been well established for over two decades. In 1993, the American Academy of
 10 Pediatrics took the position that “[t]herapy directed specifically at changing sexual orientation is
 11 contraindicated, since it can provoke guilt and anxiety while having little or no potential for
 12 achieving changes in orientation.”²³ Since 1998, the American Psychiatric Association has
 13 “opposed any psychiatric treatment, such as ‘reparative’ or conversion therapy.”²⁴ And in 2009,
 14 an APA task force found “no research demonstrating that providing [conversion therapy] to
 15 children or adolescents has an impact on adult sexual orientation” and significant evidence that it
 16 “has the potential to be harmful.”²⁵ The task force concluded that minor patients should “have a
 17 developmentally appropriate understanding of treatment, are afforded complete information about
 18 their rights, and are provided treatment in the least restrictive environment.”²⁶

21 ²¹ *Id.* at 90 (internal citations omitted).

22 ²² Am. Psychol. Ass’n, *APA Resolution on Sexual Orientation Change Efforts*, at 5, 7 (Feb. 2021),
 23 <https://www.apa.org/about/policy/resolution-sexual-orientation-change-efforts.pdf>; Am. Psychol. Ass’n., *APA*
 24 *Resolution on Gender Identity Change Efforts*, at 3 (Feb. 2021), [https://www.apa.org/about/policy/resolution-](https://www.apa.org/about/policy/resolution-gender-identity-change-efforts.pdf)
 25 [gender-identity-change-efforts.pdf](https://www.apa.org/about/policy/resolution-gender-identity-change-efforts.pdf).

26 ²³ Am. Acad. Pediatrics, *Homosexuality and Adolescence*, 92 Pediatrics 631, 633 (1993).

27 ²⁴ Am. Psychiatric Ass’n, *Position Statement on Conversion Therapy and LGBTQ Patients* (Dec. 2018),
 28 [https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-](https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-Conversion-Therapy.pdf)
 29 [Conversion-Therapy.pdf](https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-Conversion-Therapy.pdf).

30 ²⁵ Am. Psychol. Ass’n, *Report of the American Psychological Association Task Force on Appropriate Therapeutic*
 31 *Responses to Sexual Orientation*, at 4, 6 (2009), <https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>.

32 ²⁶ *Id.* at 76.

C. UNINTERRUPTED ENFORCEMENT OF WASHINGTON’S LAW IS CRUCIAL TO PREVENTING THIS SIGNIFICANT HARM TO LGBTQ YOUTH.

Washington’s law is plainly within the public interest as it protects Washington’s minors and saves lives by stopping a practice that results in increased suicide and suicidality among LGBTQ youth. A preliminary injunction would, at minimum, disrupt enforcement of the statute, allowing conversion therapy practitioners to continue harming Washington young people. Other federal courts considering similar bans on the administration of conversion therapy have denied preliminary injunctions precisely for this reason, noting that “conversion therapy is likely harmful to minors.” *Doyle v. Hogan*, 411 F. Supp. 3d 337, 346–47 (D. Md. 2019) (highlighting “negative effects on minors” and noting that “[r]eparative therapy (for minors, in particular) . . . has been proven harmful to minors,[] and that there is no scientific evidence supporting the success of these interventions[.]”) (internal quotation mark omitted), *rev’d and vacated on other grounds*, 2021 WL 2424800 (4th Cir. Jun. 15, 2021); *see King v. Governor of the State of New Jersey*, 767 F.3d 216, 239 (3d Cir. 2014) (finding that “substantial evidence” supports finding that “[conversion therapy] is ineffective” and that law banning it “advances . . . [the state’s] interest in protecting minor citizens from harmful professional practices”), *abrogated on other grounds by NIFLA*, 138 S. Ct. 2361. Indeed, given the life-saving impact of Washington’s law, the balance of equities lies in favor of Defendants’ motion given the significant harms from which it will protect children. *See Sierra Club v. Trump*, 963 F.3d 874, 895 (9th Cir.), *cert. granted*, 141 S. Ct. 618 (2020); *see also San Francisco Veteran Police Officers Ass’n v. City & Cty. Of San Francisco*, 18 F. Supp. 3d 997, 1005 (N.D. Cal. 2014) (in assessing balance of equities, court denied injunction of law that would prevent “frequent and documented” instances of death and serious harm). This Court should not prevent Washington from protecting the mental and physical wellbeing of its LGBTQ youth.

CONCLUSION

For the foregoing reasons, this Court should deny Plaintiff’s motion for preliminary injunction and dismiss Plaintiff’s Complaint.

1 DATED: June 28, 2021

2 Respectfully submitted,

3 By: /s/ Shireen A. Barday

4 /s/ J. Denise Diskin

/s/ Isaac Ruiz

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9 Attorneys for Amici The Trevor Project, Inc.,
10 American Foundation for Suicide Prevention, and
11 American Association of Suicidology

APPENDIX A
IDENTITY & INTEREST OF *AMICI CURIAE* THE TREVOR PROJECT, INC.,
AMERICAN FOUNDATION FOR SUICIDE PREVENTION, AND AMERICAN
ASSOCIATION OF SUICIDOLOGY

The Trevor Project is the world's largest suicide prevention and crisis intervention organization for lesbian, gay, bisexual, transgender, queer & questioning (LGBTQ) young people.. The Trevor Project offers the only accredited, free, and confidential phone, instant message, and text messaging crisis intervention services for LBGQT youth, which are used by thousands of youth each month. Through analyzing data derived from these services and national surveys, The Trevor Project produces innovative research that brings new knowledge, with clinical implications, to issues affecting LGBTQ youth.

AFSP is dedicated to saving lives and bringing hope to those affected by suicide. In carrying out its mission, AFSP funds scientific research, educates the public about mental health and suicide prevention, advocates for public policies in mental health and suicide prevention, and supports survivors of suicide loss and those affected by suicide.

AAS is a nationally recognized organization comprised of public health and mental health professionals, researchers, suicide prevention and crisis intervention centers, survivors of suicide loss, attempt survivors, and others, that promotes the prevention of suicide through research, public awareness programs, education, and training. In addition to advancing suicidology as a science—developing and disseminating scholarly research on suicidology and suicide behaviors—AAS promotes public education and training for professionals and volunteers on suicide prevention and intervention. AAS is also an accrediting body for crisis services providers.

Amici have a special interest in this litigation as well as familiarity and knowledge of the significant harms that LGBTQ youth endure as a result of conversion therapy. *Amici* are deeply concerned that issuance of a preliminary injunction in this case will place minors at an increased and substantial risk of suicidality, a scientifically-proven risk inherent in conversion therapy. The Trevor Project works firsthand with LGBTQ youth who have endured these harmful practices—and understands the devastating effects that these therapies inflict, including an increased risk of suicide. Due to the increased and substantial risks of suicidality, AFSP and AAS advocate to end

1 the practice of conversion therapy against minors through public policy advocacy. For these
2 reasons, The Trevor Project, AFSP, and AAS have a substantial interest in supporting the
3 enforcement of laws prohibiting the practice of conversion therapy against minors.
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APPENDIX B
HARD-TO-FIND AUTHORITIES

For the convenience of the Court, *amici curiae* have appended the following hard-to-find sources that are cited in the proposed brief.

Amy E. Green et al., Self-Reported Conversion Efforts and Suicidality Among US LGBTQ Youths and Young Adults, 2018, 110 Am. J. Pub. Health 1221, 1224 (2020)

Amy Przeworski, et al., American Psychological Association, A Systematic Review of the Efficacy, Harmful Effects, and Ethical Issues Related to Sexual Orientation Change Efforts, 28 Clinical Psychology: Science and Practice 1, 81-100 (2021)

APPENDIX B

Pages LM-155 through LM-183 have been removed due to posting permissions.

**SUPERIOR COURT OF THE STATE OF WASHINGTON
SNOHOMISH COUNTY**

In re: MOANA TEINEALETALAFATAI OMELI (a/k/a Quincy Tyree Childress), Petitioner.	Superior Court Case No. 21-2-02667-31 District Court Case No. N 21-39 AMICUS CURIAE BRIEF OF THE ATTORNEY GENERAL OF THE STATE OF WASHINGTON
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I. INTRODUCTION

For transgender and gender-expansive Washingtonians, changing their legal name to match their gender identity and chosen name is a matter of safety, self-determination, and dignity. While a legal name change is important to all who seek one, it is especially important to transgender people who are at a disproportionate risk of violence—in particular, transgender women of color like Petitioner Omeli—when they use a form of identification that does not match their gender presentation. Because transgender individuals generally experience more economic challenges than the overall population, they are likely to have a greater need to avail themselves of the court fee waiver process provided in General Rule (GR) 34. As such, the proper interpretation of GR 34 is a critical access to justice issue. The Attorney General of the State of Washington respectfully submits this amicus curiae brief to ensure that the Court understands the impact that a narrow interpretation of GR 34 will have on the safety and well-being of

1 indigent transgender Washingtonians who require a complete waiver of all fees to be able to
2 legally change their name.

3 **II. IDENTITY OF AMICUS CURIAE**

4 The Attorney General is the legal adviser to the State of Washington. RCW 43.10.030.
5 The Attorney General's constitutional and statutory powers include the submission of amicus
6 curiae briefs on matters that affect the public interest. *See Young Ams. for Freedom v. Gorton*,
7 91 Wn.2d 204, 212, 588 P.2d 195 (1978); *see also City of Seattle v. McKenna*, 172 Wn.2d 551,
8 562, 259 P.3d 1087 (2011) (Attorney General's "general powers and duties" include
9 "discretionary authority to act in any court, state or federal, trial or appellate, on a matter of
10 public concern") (internal quotation marks omitted).

11 **III. THE ATTORNEY GENERAL'S INTEREST IN THIS MATTER**

12 This case presents issues of significant public interest: the public's right to equal access
13 to justice; and the health, safety, and well-being of transgender and gender-expansive residents
14 of Washington State. A legal name change is undoubtedly important to everyone who avails
15 themselves of the process. But it is especially important to transgender and gender-expansive
16 Washingtonians, who most often are seeking to conform their legal name to their gender identity
17 and chosen name. Not having identification that accurately reflects a chosen name is frequently
18 dangerous for those individuals, and is linked to depressive symptoms. As such, the Attorney
19 General has an interest in ensuring rules like GR 34, which is meant to eliminate financial
20 barriers to court services, are interpreted and applied in a manner that ensures the public's broad
21 access to the legal name change process. That interest is present in this case, where Petitioner
22 Omeli, a transgender woman of color, was denied a waiver of a \$103.50 fee to record her legal
23 name change, even though the District Court found Ms. Omeli is indigent. *See Pet.'s Op. Br.*;
24 RCW 4.24.130(4); 36.18.010.

1 **IV. SPECIFIC ISSUE ADDRESSED BY AMICUS**

2 The impact of the failure to waive a County Auditor’s fee to record a legal name change
3 under GR 34 on access to justice and the safety and well-being of transgender and
4 gender-expansive Washingtonians.

5 **V. STATEMENT OF THE CASE**

6 The Attorney General adopts Petitioner’s Statement of the Case.

7 **VI. ARGUMENT**

8 In general, the Attorney General’s Office agrees with and supports the arguments made
9 in Petitioner’s Opening Brief. The Attorney General submits this Amicus Curiae Brief to
10 highlight the unique and substantial impacts that a narrow interpretation of GR 34’s fee waiver
11 would have on transgender and gender-expansive Washingtonians seeking a legal name change,
12 and the importance of access to justice in this context.

13 First, as observed by the Washington Supreme Court Gender & Justice Commission,
14 legal name change recording fees “may have a disparate impact on indigent transgender and
15 non-binary individuals.” Wash. State Supreme Court Gender & Justice Comm’n, *2021 Gender*
16 *Justice Study*, at 14 (2021), [https://www.courts.wa.gov/subsite/gjc/documents/](https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Report.pdf)
17 [2021_Gender_Justice_Study_Report.pdf](https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Report.pdf). Transgender people are statistically more likely to
18 need a GR 34 fee waiver in order to access the legal name change process in district court because
19 they have higher rates of unemployment, underemployment, and poverty than the general
20 U.S. population, and are more likely to receive a means-tested benefit, such as SNAP or WIC.
21 Sandy E. James, et al., Nat’l Ctr. For Transgender Equality, *The Report of the 2015 U.S.*
22 *Transgender Survey*, at 140-45 (2016), [https://transequality.org/sites/default/files/docs/](https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf)
23 [usts/USTS-Full-Report-Dec17.pdf](https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf). The unemployment rate amongst respondents to the 2015
24 U.S. Transgender Survey—the most recent version of the large, in-depth, national survey—was
25 15%, which is three times the overall U.S. unemployment rate at the time of the survey.
26 *Id.* at 140-41. These rates are even higher for transgender people of color. *Id.* at 140-45. The

1 economic challenges that transgender people face have been attributed to the rampant
2 discrimination and harassment directed towards them in nearly every area of society, but most
3 notably in the employment context. Jaime M. Grant et al., Nat'l Ctr. For Transgender Equality,
4 *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, at 66-67
5 (2011), https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

6 Indeed, studies show that many transgender people are deterred from seeking a legal
7 name change by the costs associated with the process. Of the 64% of respondents to the 2015
8 U.S. Transgender Survey who did not seek a legal name change, 35% said it was because they
9 could not afford it. James et al., *2015 U.S. Transgender Survey*, at 83-84. Of the 30% of
10 respondents who did attempt to change their legal name, 2% did not complete the process
11 because they ran out of money. *Id.* Cost barriers only exacerbate the difficulties transgender
12 people already face in seeking a legal name change. According to the 2015 survey, 49% of
13 respondents did not have an ID or record with the name they preferred. James et al., *2015 U.S.*
14 *Transgender Survey*, at 85. Transgender noncitizens are even less likely to have an ID or record
15 with their preferred name. *Id.*

16 A narrow interpretation of GR 34 therefore is more likely to impede the ability of
17 transgender people to access our courts, especially those whom, like Petitioner Omeli, have zero
18 income, zero assets, and zero ability to pay anything to access the name change process. In this
19 situation, denying the application of a GR 34 fee waiver as to even one fee amounts to a total
20 denial of access to our state court system, which is inconsistent with the plain language of GR 34
21 and case law. *See* GR 34 & comment (allowing waiver of any fee “which is a condition precedent
22 to a litigant’s ability to secure access to judicial relief” including “legislatively established” fees);
23 *Jafar v. Webb*, 177 Wn.2d 520, 529, 303 P.3d 1042 (2013) (“Consistent with our analysis of
24 GR 34, principles of due process or equal protection require that litigants have access to the
25 courts and require a complete waiver of fees.”); *accord* Wash. State Supreme Court Gender
26 & Justice Comm’n, *2021 Gender Justice Study*, at 23 (observing that “[s]ince the recording is a

1 requirement of the name change petition process, it appears it should be waived under *Jafar* and
2 GR 34”).

3 Second, reliable access to the vital gender affirming service of a legal name change is
4 critical to ensuring the safety and well-being of transgender Washingtonians. Unfortunately, hate
5 crimes and incidents of violence against transgender people have increased substantially in the
6 last five years. Reported violent deaths of transgender people are increasing, with 2021 on pace
7 to be the deadliest year yet. Movement Advancement Project, *Policy Spotlight: Hate Crime*
8 *Laws*, at 4-6 (July 2021), <https://www.lgbtmap.org/file/2021-report-hate-crime-laws.pdf>; see
9 also Anagha Srikanth, *Almost twice as many transgender Americans have been killed as this*
10 *time last year*, The Hill (Apr. 13, 2021), [https://thehill.com/changing-america/respect](https://thehill.com/changing-america/respect/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed)
11 [/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed](https://thehill.com/changing-america/respect/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed). Transgender
12 people are over four times more likely to experience violent crimes compared to cisgender
13 people, and twice as likely to experience property crime. *Policy Spotlight*, at 6.

14 For transgender and nonbinary people, not having an identification that accurately
15 reflects a chosen name exacerbates the risks they already face because of their gender identity.
16 As a result of showing an identification with a name or gender that did not match their chosen
17 name or gender presentation, respondents to the 2015 U.S. Transgender Survey reported being
18 verbally harassed, denied services or benefits, asked to leave a location or establishment, and
19 assaulted or attacked. James et al., *2015 U.S. Transgender Survey*, at 90. People of color and
20 residents who are undocumented were even more likely to report being assaulted or attacked for
21 using incongruous IDs. *Id.* at 90. As such, denying transgender Washingtonians the ability to
22 petition for a legal name change because of the inability to pay a recording fee can have serious
23 impacts on the personal safety and security of some of Washington’s most vulnerable residents.

24 Finally, removing barriers to the legal name change process, rather than constructing
25 them, has positive impacts on the mental health of transgender and gender-expansive individuals.
26 Studies show that using a chosen name is linked to reduced depressive symptoms in transgender

1 people. See Stephen T. Russell, et al., *Chosen Name Use Is Linked to Reduced Depressive*
2 *Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*,
3 63 J. of Adolescent Health 503, 505 (Oct. 2018); see also Jody Herman, et al., Williams Inst.,
4 *Suicide Risk and Prevention for Transgender People: Summary of Research Findings*,
5 (Sept. 2021), [https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-](https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/)
6 [summary/](https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/). And ensuring that a legal name change is accessible to all Washingtonians, regardless
7 of the ability to pay, is consistent with Washington's statutory obligation to provide government
8 services to all residents without discriminatory impact based on sex, gender identity, or gender
9 expression. RCW 49.60.030(1), .040(27); accord Transgender Law Center, *Black Trans Women*
10 *and Black Trans Femmes: Leading and Living Fiercely*, [https://transgenderlawcenter.org/black-](https://transgenderlawcenter.org/black-trans-women-black-trans-femmes-leading-living-fiercely)
11 [trans-women-black-trans-femmes-leading-living-fiercely](https://transgenderlawcenter.org/black-trans-women-black-trans-femmes-leading-living-fiercely) (last accessed: Nov. 22, 2021) (urging
12 gender identities be honored and protected in public and private spaces).

13 VII. CONCLUSION

14 The Attorney General respectfully requests that the Court construe GR 34 in a manner
15 that ensures all Washingtonians, and in this case, transgender and gender-expansive individuals,
16 have access to the legal name change process, regardless of ability to pay.

17
18 DATED this 23rd day of November 2021.

19 Respectfully submitted,

20 ROBERT W. FERGUSON
21 Attorney General of Washington

22 

23 EMILY C. NELSON, WSBA #48440
24 Assistant Attorney General
25 Office of the Attorney General
26 Wing Luke Civil Rights Division
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1 **CERTIFICATE OF SERVICE**

2 I certify that I caused a copy of this document to be served on all parties or their counsel of
3 record as follows:

4 Via Electronic Mail by agreement of counsel:

5 Brian D. Buckley
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9 (206) 389-4510
bbuckley@fenwick.com
Attorney for Petitioner

10 Rebecca Guadamud
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13 Everett, WA 98201
14 (425) 388-6370
Rebecca.Guadamud@co.snohomish.wa.us
raye.rysemus@co.snohomish.wa.us

15 I certify under penalty of perjury under the laws of the state of Washington that the
16 foregoing is true and correct.

17 DATED this 23rd day of November, 2021 at Seattle, Washington.

18 

19 Allie Lard
20 Legal Assistant
21
22
23
24
25
26

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2021: October 1, 2020 – September 30, 2021

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.

Instructions: under the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2020 – September 30, 2021. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

Completion of the annual report should be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Friday, October 15: please submit by emailing barleaders@wsba.org or requesting that your staff liaison submit the report internally.

Name of Entity:	Practice of Law Board
Chair or Co-Chairs:	Michael Cherry (WSBA # 48132)
Staff Liaison: <i>(include name, job title, and department if known)</i>	Thea Jennings, Assistant General Counsel, WSBA, Office of the General Counsel
Board of Governors Liaison:	Governor Sunitha Anjilvel
Purpose of Entity: <i>May be in Bylaws, Charter, Court Rule, etc.</i>	
Per Washington Court, General Rule 25, the Practice of Law Board is responsible for: (1) Educating the public about how to receive competent legal assistance (Educate); (2) Considering and recommending to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal- and law-related services (Innovate); and (3) Receiving complaints alleging the unauthorized practice of law (UPL) in Washington by any person or entity (Coordinate).	
Strategy to Fulfill Purpose:	
To fulfill the Practice of Law Board's responsibilities, the Board has prepared several plans as follows: To address the responsibility to educate, the Board has prepared a plan for a Legal Checkup designed to help people determine if they have a legal issue and direct them to appropriate resources to address such issues. To address the responsibility to innovate, the Board is preparing a blueprint for a Legal Regulatory	

Laboratory (formerly called a sandbox) to permit the testing and potentially authorize entities to provide online legal services, or for authorized legal service practitioners (LPOs, LLLTs, and Lawyers) to use an alternative business structure. The Board is also drafting Court orders to create such a laboratory and provide for entities proving they address access to justice without increasing risk of harm to the public to offer such legal services ongoing basis. This laboratory is modeled on the Legal Regulatory Sandbox operating under supervision of the Utah Supreme Court's Office of Innovation. To address the responsibility to coordinate, the Board is working to improve relationships with the Attorney General's Office (AGO), as well as with various county prosecutor's offices and in conjunction with public education, improving information to the public about the unauthorized practice of law with a Frequently Asked Questions (FAQ) page and improved reporting form. The Board has added a county prosecutor to the Board to assist us in understanding UPL from the prosecutor's perspective.

Finally, to further all of these goals, the Board has developed a diversity plan, outlined in a letter to the Supreme Court, to improve the diversity and inclusion of the Board.

How do the entity's strategies help further the mission of the Practice of Law Board under General Rule 25?

The Board is formulating plans that both set goals and the methods and means to accomplish such goals and to begin to accurately measure the work of the Board. Although plans will need revision as work progresses towards goals, they provide a degree of continuity which the Board has sometimes lacked as it is staffed primarily by volunteers from the public and the legal community.

All of the Boards plans are available to the public as follows:

Educate:

Legal Checkup: https://wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/polb_legal-checkup-project-plan_sept-2021.pdf?sfvrsn=262c17f1_0

Innovate:

Legal Regulatory Laboratory: https://wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/polb_legal-regulatory-laboratory-project-plan_june-2021.pdf?sfvrsn=582c17f1_0

Coordinate:

UPL FAQ and improved forms to report are being prepared.

Diversity:

Letter to the Supreme Court: https://wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/polb_letter-to-sct-re-plb-diversity-plan_march-2021.pdf?sfvrsn=492c17f1_0

2020-2021 Entity Accomplishments:

Educate

Created plan and templates for Legal Checkup, which will go out to the Minority and County bar associations for feedback and assistance in generating the underlying materials.

Innovate

Created blueprint and worked with experts on this matter in other jurisdictions such as Utah. Working to create the orders to implement the lab.

Coordinate

Reached out to the Attorney General's office (AGO) to strengthen the relationship between the Board and the AGO to ensure the proper cases are being referred. Created database to collect data on unauthorized practice of law complaints and began work to improve education on UPL.

Diversity

Began work to understand the Board's baseline diversity across multiple factors and reached out to

members of the public and authorized legal practitioners to improve the diversity of the Board. Although Washington State Bar Association (WSBA) resources on diversity were instrumental in helping the Board work on diversity through education and assistance, the lack of a diverse pool of volunteers is affecting our ability to fill vacant seats on the board with diverse candidates.

Looking Ahead: 2021-2022 Top Goals & Priorities:

- | | |
|---|---|
| 1 | Educate: Continue work on the Legal Checkup, working with stakeholders including the public, the Minority Bar and County Bar Associations. Update plan as necessary. Investigate best way to bring to the Internet. |
| 2 | Innovate: Prepare final version of the blueprint and prepare necessary orders for the Court to implement. Present to the Supreme Court for approval. |
| 3 | Coordinate: Continue to evaluate and refer complaints of unauthorized practice of law and educate the public on this issue. Work to ensure people know how to complain, and that complaints are timely referred to the appropriate authority. |
| 4 | Diversity: Continue to work to diversify the Board per the letter to the Supreme Court. |
| 5 | Click or tap here to enter text. |

Please report how this entity 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?

The Board conducted a voluntary demographic survey of its membership in an effort to identify gaps and needs to advance diversity and inclusion on the Board. The Board worked with the WSBA DEI team to draft the questions and responses in the survey. Please see the Board's letter to the Supreme Court on this matter, available at https://wsba.org/docs/default-source/legal-community/committees/practice-of-law-board/polb_letter-to-sct-re-plb-diversity-plan_march-2021.pdf?sfvrsn=492c17f1_0

The Chair has worked to involve all members of the Board in discussions and has circulated the plans to the members for input and comment. To better solicit input and involvement of the members, sub-committees are being created to allow members to work on the matters of most interest to them—while still allowing people to contribute to all the work the Board does.

Please describe the relationship with WSBA staff and the Board of Governors.

For example:

- *Quality of WSBA staff support/services*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

First and foremost, the Board wants to thank Kyla Jones, Thea Jennings, and General Counsel Julie Shankland, Chief Equity and Justice Officer Diana Singleton, Chief Regulatory Counsel Renata de Carvalho Garcia, and Chief Disciplinary Counsel Doug Ende, for their support of the Board, and their day-to-day contributions to our work. Without their assistance and guidance, the Board could not have put plans in place and begun work on such plans.

Governor Sunitha Anjilvel has also been instrumental in supporting the Board, especially in keeping the Board of Governors up-to-date on the Practice of Law Board's work. The Board is concerned about the placement of the Board's information on the WSBA website. The information is virtually impossible for the public or legal providers to find as it is situated in an area related to volunteer recruitment rather than a place which allows the public to understand what the Board is responsible for and how it fulfills those responsibilities. If this cannot be changed, then the Board may need to create its own website. Tools the Board are using, such as Box, are inadequate for a collaborative Board to use. Therefore, the Board may need to investigate better tools that support online, collaboration (multiple people working in the same documents simultaneously). The annual budgeting process could include more communication with and input from Board chairs in the future. The Board has been extremely conservative in generating expenses, but as indicated above, may need to spend some money on better and focused technology.

SECTIONS ONLY: Please quantify your section's 2020-2021 member benefits:

For example:

- \$3000 Scholarships, donations, grants awarded;
- 4 mini-CLEs produced

Click or tap here to enter text.

Newsletters/publications produced

Click or tap here to enter text.

Mini-CLEs produced

Click or tap here to enter text.

Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA

Click or tap here to enter text.

Co-sponsored half-day, full-day and/or multi-day CLE seminars with *non*-WSBA entity

Click or tap here to enter text.

Receptions/forums hosted or co-hosted

Click or tap here to enter text.

Recognitions/Awards given

Click or tap here to enter text.

New Lawyer Outreach events/benefits

Click or tap here to enter text.

Other (please describe):

**Entity Detail & Demographics Report:
To Be Completed by WSBA Staff**

Size of Entity:

13 members, of which 5 must be non-legal professionals (that is, members of the public).

**Membership Size:
(for Sections Only)**

(As of September 30, 2021)

Click or tap here to enter text.

Number of Applicants for FY22 (October 1, 2021 – September 30, 2022)	The Board received 7 applications. The Board recommended 4 applicants to be appointed by the Court.			
How many current volunteer position vacancies for this entity?	There is 1 lawyer position open. It is being left open until a diverse candidate can be found.			
FY21 Revenue (\$): For Sections Only: As of September 30, 2021	Click or tap here to enter text.			
Direct Expenses: As of September 30, 2021. For Sections, this does not include the Per-Member-Charge.	\$9,000			
Indirect Expenses:	\$36,875			
FY21 Demographics: The WSBA promotes diversity, equality, and cultural competence in the courts, legal profession, and the bar, and is committed to ensuring that its committees, boards, and panels reflect the diversity of its membership. Aside from the factors marked (*), demographic information was provided voluntarily and individuals had the option to not respond to any of the factors below.				
Disability:	Yes: X	No: X	No Response: X	
Ethnicity:	American Indian/Native American/Alaskan Native:	Asian: X	Black/African-American/African Descent: X	Hispanic/Latinx:
	Middle-Eastern Descent:	Multi-Racial/Biracial:	Pacific Islander/Native Hawaiian:	White/European Descent: X
	Not Listed:	No response:		
Gender:	Female: X	Male: X	Non-Binary:	Transgender:
	Two-spirit:	Not Listed: X	No Response:	
Geographic*:	District 1: X	District 2:	District 3:	District 4: X
	District 5:	District 6:	District 7S:	District 7N:
	District 8:	District 9:	District 10:	Other: X
New/Young Lawyer*:	Yes:	No:		

Sexual Orientation:	Asexual:	Gay, Lesbian, Bisexual, Pansexual, or Queer:	Heterosexual: X	Two-spirit:
	Not Listed: X	No Response:		

ⁱ The Access to Justice Board (not regulatory, but applicable to the distinction herein) and Regulatory Boards (Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) are not required by Bylaws or Court Rule submit an annual report to WSBA. However, as part of the administration of monitoring of Regulatory Boards, the Boards listed herein typically provide an annual report to the Court and WSBA should be provided this same report an annual basis.