



**Board of Governors Meeting
Olympia Hotel at Capitol Lake, Olympia, WA
March 10-11, 2022**

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

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

**To participate: Join via Zoom or Call 1.888.788.0099
Thursday, March 10th , Meeting ID: 884 6708 4268 Passcode: 539083
<https://wsba.zoom.us/j/88467084268?pwd=N2F4Q09aMStaL3ErckVOWStqYlo3QT09>**

**Friday, March 11th , Meeting ID: 854 3956 6115 Passcode: 699911
<https://wsba.zoom.us/j/85439566115?pwd=OE1WUk1ZYXBHZRscUhyOFBTL1N0dz09>**

THURSDAY, MARCH 10, 2022

8:30 AM – CALL TO ORDER & WELCOME

CONSENT CALENDAR

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

- Approve January 13-14, 2022 Board of Governors meeting minutes.....6
- Approve Client Protection Board Gift Recommendations18, CM
- Approve Labor and Employment Law Section Bylaw Amendments 19
- Approve Senior Lawyers Section Bylaw Amendments 34

MEMBER AND PUBLIC COMMENTS (30 minutes reserved)

Overall public comment is limited to 30 minutes and each speaker is limited to 3 minutes. The President will provide an opportunity for public comment for those in the room and participating remotely. Public comment will also be permitted at the beginning of each agenda item at the President’s discretion.

STANDING REPORTS

PRESIDENT’S REPORT

EXECUTIVE DIRECTOR’S REPORT.....54

REPORTS OF STANDING OR ONGOING BOG COMMITTEES

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

- Executive Committee, Pres. Brian Tollefson, Chair
- APEX Awards Committee, Gov. Hunter Abell, Chair
- Personnel Committee, Gov. Carla Higginson, Chair
- Legislative Committee, Gov. Brent Williams-Ruth, Chair
- Nominations Committee, Gov. Lauren Boyd, Chair
- Diversity Committee, Gov. Sunitha Anjilvel, Co-Chair
- Long-Range Strategic Planning Council, Pres. Brian Tollefson, Chair
- Member Engagement Workgroup, Treas. Bryn Peterson and Gov. Francis Adewale, Co-Chairs
- Budget & Audit Committee, Treas. Bryn Peterson, Chair
- Equity & Disparity Workgroup, Gov. Alec Stephens, Chair
- Supreme Court Bar Licensure Task Force, Gov. Williams-Ruth, BOG Rep.
- TAXICAB, Immediate Past Pres. Kyle Sciuchetti

SPECIAL REPORTS

ABA MID-YEAR MEETING REPORT, ABA Delegates Kyle Berti and Rajeev Majumdar 78

NEW BUSINESS

GOVERNOR ROUNDTABLE (Governors’ issues of interest)

AGENDA ITEMS & UNFINISHED BUSINESS

DIVERSITY COMMITTEE REQUEST TO SUBMIT COMMENTS IN SUPPORT OF PROPOSED AMENDMENTS TO RPC 8.4 AND OTHER COURT RULES, Gov. Sunitha Anjilvel, Diversity Committee Co-Chair 99

FAMILY LAW SECTION PROPOSED COMMENTS TO SUGGESTED CHANGES TO THE CODE OF JUDICIAL CONDUCT

APEX AWARD COMMITTEE PROPOSAL TO RENAME THE AWARD OF MERIT TO THE CHIEF JUSTICE MARY E. FAIRHURST AWARD OF MERIT, Gov. Hunter Abell, Outreach Specialist Mike Kroner, and Chief Communications Officer Sara Niegowski..... 382

PERSONNEL COMMITTEE’S PROPOSED PROCESS FOR EXECUTIVE DIRECTOR EVALUATION, Gov. Carla Higginson and Director of Human Resources and Chief Culture Officer Glynnis Klinefelter Sio 392

12:00 PM – RECESS FOR LOCAL HEROES LUNCH

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CREATION OF COMMITTEE TO EXPLORE AND ADVISE THE BOG ON THE FUTURE OF ALL COMMITTEES, WORK GROUPS, TASK FORCES, COUNCILS, ETC., EITHER AS A STAND-ALONE PROJECT OR AS PART OF THE BOARD OF GOVERNORS’ STRUCTURES WORK..... 520

FOLLOWING THE SCIENCE: REVISION OF VOLUNTEER VACCINATION RULES AT WSBA 522

DISCUSSION RE USPS DELAYS AND THE IMPACT ON LEGAL PROCESSES 530

SPECIAL REPORTS CONTINUED

COMMENT PERIOD FOR PRACTICE OF LAW BOARD PROPOSED LEGAL REGULATORY LAB, Chair Michael Cherry

CHARACTER AND FITNESS BOARD REPORT, Chair Michael Morguess..... 533

VOLUNTEER ENGAGEMENT REPORT, Volunteer Engagement Advisor Paris Eriksen 557

TRAINING

100 YEARS OF VOTES FOR SOME WOMEN – AND HOW THE COURTS ARE DOING ON THE WOMEN LEFT OUT, Washington Supreme Court Justice Sheryl Gordon McCloud & Northwest Justice Project Staff Attorney Elizabeth Hendren..... 593

5:30 PM – RECESS

FRIDAY, MARCH 11, 2022

9:00 AM – RESUME MEETING

MEETING WITH WASHINGTON SUPREME COURT

BOARD OF GOVERNORS ANNUAL MEETING WITH WASHINGTON SUPREME COURT

- Update Discussions Re WSBA’s Structure
- Update on Task Force Team Administering Xenial Involvement with Court Appointed Boards
- Report on February 2022 Bar Exam
- Report on Membership Survey
- Report on Board & Executive Leadership Team Building Retreat
- Discussion RE How WSBA Could Better Serve its Members

12:00 PM – ADJOURN

INFORMATION

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MAY (Spokane)

Standing Agenda Items:

- Legislative Report/Wrap-up
- Interview/Selection of WSBA At-Large Governor
- Interview/Selection of the WSBA President-elect
- WSBA APEX Awards Committee Recommendations
- Financials (Information)
- Office of Disciplinary Counsel Report (ED Report)

JULY (Tacoma)

Standing Agenda Items:

- Draft WSBA FY2023 Budget
- WSBA Treasurer Election
- Court Rules and Procedures Committee Report and Recommendations
- WSBA Committee and Board Chair Appointments
- BOG Retreat
- Financials (Information)
- Office of Disciplinary Counsel Report (ED Report)

SEPTEMBER (Bellevue)

Standing Agenda Items:

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

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING MINUTES

Held Virtually
January 13-14, 2022

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

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Brian Tollefson on Thursday, January 13, 2022 at 9:05 AM. Governors in attendance were:

Hunter Abell
Francis Adewale
Sunitha Anjilvel
Lauren Boyd
Pres. Elect Daniel D. Clark
Jordan Couch
Matthew Dresden
Carla Higginson
Treas. Bryn Peterson
Brett Purtzer
Serena Sayani
Alec Stephens
Brent Williams-Ruth

Also in attendance were Paul Apple, Executive Administrator Shelly Bynum, Meng Li Che, Michael Cherry (Practice of Law Board), Chief Disciplinary Counsel Doug Ende, Volunteer Engagement Advisor Paris Eriksen, Cameron Fleury, Chief Regulatory Counsel Renata Garcia, Tamara Garrison, Practice Management Advisor Margeaux Green, Nancy Hawkins (Family Law Section), Associate Director of Regulatory Services Bobby Henry, Director of Human Resources & Chief Culture Officer Glynnis Klinefelter Sio, Community Outreach Specialist Mike Kroner, Chief of Staff Ana LaNasa Selvidge, Kimberly Loges, Sections Program Specialist Carolyn MacGregor, James E Macpherson (Washington Defense Trial Lawyers), Member Engagement Specialist Curtiss Melvin, Executive Director Terra Nevitt, Chief Communications & Outreach Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Chief Financial Officer Jorge Perez, Kari Petrsek (Solo and Small Practice Section), Director of Advancement Kevin Plachy, Immediate Past President Kyle Sciuchetti, General Counsel Julie Shankland, Chief Equity & Justice Officer Diana Singleton, Equity & Justice Specialist Bonnie Sterken, and Member Services & Engagement Manager Julianne Unite.

Consent Calendar ([link](#))

Pres. Tollefson inquired as to whether any governor wished to remove any item from the Consent Calendar. Gov. Dresden moved for approval. Motion passed unanimously.

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

The Board took public comment from Nancy Hawkins who noted that she had submitted written comments on behalf of the Family Law Section Executive Committee regarding the structure workgroup discussion.

The Board took public comment from Tamara Garrison who encouraged the Board to ask the Court to extend its order to expand the number of Rule 9 law clerks supervised by a single attorney.

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

Pres. Tollefson reported on the annual officer's meeting with the Washington Supreme Court on January 5, noting that the recording of the meeting is available on TVW. He also reported on the staff forum held on March 8. He also reminded the Board that the teambuilding retreat is scheduled for the end of February and about the upcoming ABA meeting. He also made remarks to honor the passing of former Chief Justice Mary Fairhurst and noted the passing of Stan Barer.

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

Executive Director Terra Nevitt noted that WSBA is in the middle of licensing, noting that the workload is increased this year due to the Washington Supreme Court extending the MCLE deadline by one year due to the pandemic, resulting in a double reporting period. She reported on the upcoming licensing exams, including the safety protocols in place for this in-person exam. She also reported on her work related to WSBA's approach to employee compensation. Finally, she called the Board's attention to the most recent report arising out of the Task Force on Race and Washington's Criminal Justice System.

Discussion followed regarding the testing requirements and rapidly changing public health guidance.

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

Executive Committee. Pres. Tollefson reported that the Executive Committee met in January to attempt to provide some suggestions and guidance to the Board regarding the questions about WSBA's structure.

APEX Awards Committee. Gov. Abell reported that the committee had received requests from Governors to rename the award of merit after former Chief Justice Mary Fairhurst and his intent to call a meeting soon to consider that request.

Personnel Committee. Gov. Higginson reported that the committee is working on reviewing the salary survey noting the committee's concern about the comparables used. She also noted that the committee is working on questionnaires and a timeline related to the Executive Director's evaluation.

The Board observed a moment of silence in honor of former Chief Justice Mary Fairhurst.

Legislative Committee. Gov. Williams-Ruth reported that the committee is meeting weekly during this short legislative session and that the majority of the work will likely be complete by the time the Board meets in March. He noted it is operating under the Board's directive that we operate with a business as usual approach.

Nominations Review Committee. Gov. Boyd noted that the committee had met and taken action on several nominations.

Diversity Committee. Gov. Anjilvel highlighted several of the matters the committee is working on, including exploring whether the committee should become a council and work on the legal pipeline. She noted that the committee has a retreat upcoming.

Long Range Strategic Planning Council. Pres. Tollefson reported that the Council is discussing the matter of WSBA's space when the lease expires and a few other matters.

Member Engagement Workgroup. Gov. Peterson and Chief Communications Officer Niegowski reported on the first quarterly results from the externally-conducted member engagement survey. Discussion followed about recommended modifications to the survey based on feedback from survey takers; how to interpret the mean scale information; a request to have an opportunity to review all of the written comments collected through the survey; and how the data can be sliced to understand trends, particularly related to sentiments around diversity.

Budget & Audit Committee. Treas. Peterson thanked CFO Perez and Manager Wick on putting together this year's budget retreat.

Equity & Disparity Workgroup. Gov. Stephens reported on the work of the group, including advancing the remote court model and examining GR 12.2. He noted that he expected the group to bring forward recommendations to the Board in July.

Supreme Court Bar Licensure Task Force. Gov. Williams-Ruth announced that he had recently been appointed as the co-chair of the task force. He also reported on the Oregon Supreme Court's decision to unanimously endorse an alternative to the bar exam as a pathway to licensure. Discussion followed regarding some of the high-level specifics of the Oregon approach.

Task Force Examining Xenial Involvement with Court Appointed Boards (TAXICAB). Past Pres. Sciuchetti reported on the work of the task force, including a proposal that is being developed by representatives from the Access to Justice Board, LLLT Board, and Practice of Law Board. He noted that he anticipates the task force bring a recommendation to the Board of Governors in the future, followed by a presentation to the Washington Supreme Court.

Governor Roundtable ([link](#))

Gov. Williams-Ruth expressed his view that reimbursement to governors for travel is penny-wise and pound foolish. Executive Director Nevitt responded requesting additional guidance from the Board, noting that we are revisiting the cap, and that the budget is limited.

Gov. Couch shared that he had received feedback from the Pierce County Bar Association that they are hoping for training, work and improvement around diversity, equity, and inclusion on the Board of Governors.

Gov. Dresden reported on recent accomplishments of the Pro Bono & Public Service committee.

Pres-Elect Clark inquired regarding the goals of the upcoming retreat in February, discussion followed including that the goal was pure teambuilding and inclusive of the executive staff.

Gov. Stephens expressed frustration that the Board had not reported nor taken any meaningful action with regard to our racial reckoning.

Gov. Higginson spoke about the change to no longer send physical certificates to members honoring their pro bono service. She suggested that the Board adopt a resolution that each person that donates their time receive a paper certificate and a letter signed by the Executive Director. Gov. Higginson moved that the Executive Director be directed to issue paper certificates of appreciation to every member who in 2021 donated 50 or more hours of pro bono service as reported on their license form and that it be accompanied by a letter signed by the Executive Director. The motions were seconded and further discussion was deferred until later in the meeting.

Gov. Adewale reported that the Spokane County Bar Association is very interested in the structure discussion and on a CLE being planned by the Cardozo Society.

Gov. Abell reported on the work to date of the Small Town and Rural Committee (STAR), including strong engagement by WSBA members.

Past Pres. Sciuchetti commented on the motion related to the pro bono certificate noting that it might be premature to take action without a fiscal analysis and promoted upcoming trainings.

Gov. Stephens inquired as to what can be done with regard to email spoofing and a brief discussion followed.

Council on Public Defense's Proposed Statement on the Standard for Indigent Defense ([link](#))

Chair Stearns introduced the proposal noting that it is in response to the crisis of in public defense due to COVID-19 and was unanimously supported by the Council. Prof. Boruchowitz explained that the purpose of the statement is to help local governments and public defenders to advocate for their ability to carry out the public defender standards required by the Washington Supreme Court. He outlined the nature of the current public defense crisis. Discussion followed regarding the complexity of cases and length of time that they remain open; the unique dynamics with regard to charging decisions as a result of COVID; a perspective that the statement will be useful to public defenders. Gov. Adewale moved for approval of the statement. Discussion continued regarding the current difficulty in communicating with clients and the usefulness of the statement for the entire system, including prosecutors' offices. Motion passed unanimously. Gov. Sayani was not present for the vote.

Proposed Revisions to the Member Engagement Committee Charter ([link](#))

Gov. Adewale presented the proposed revisions. He acknowledged the history, noting that the group began as a task force before becoming a committee. At this time the committee is requesting to be constituted as a council in order to include WSBA members in its makeup. Director Plachy provided additional detail on the makeup and history of the group as well as the specific changes to its charter. Gov. Stephens moved for approval of the proposal. It was restated to approve the member engagement workgroup charter revision to a member engagement council, but to leave them constituted as they are for this year and to add in Aliene Limric as a member through the balance of FY22. Discussion followed regarding the attendance requirement and the importance of attending meetings; that the work of the committee has been stifled by COVID-19; and a suggestion that governors be polled about their experience after they leave the Board. Motion passed unanimously.

Governor Election Policy ([link](#))

Pres. Tollefson noted he thought the Board should discuss adopting an election policy. Discussion followed including that WSBA should be neutral in the election process, which means that WSBA should announce when there is an opening, provide application materials, set the deadlines, set candidate forums, and beyond that should not engage in recruiting or sending out candidate statements, or ABA educational information. Gov. Higginson moved for adoption of an election neutrality policy. Motion failed for lack of a second.

Discussion continued, including what constitutes neutrality; a suggestion to look at the contact list issues; a perspective that the bar should do more e-blasts; a request to hear from staff; the perspective that having WSBA disseminate information ensures that attorneys from big firms do not have an advantage; support for each governor having a complete list; that the member and data policy restricts the information that can be shared with candidates; clarification of what happened regarding lists in the past; and the value of recruiting candidates. Gov. Couch moved that the policy in the materials be amended to ask that third year governors running for reelection recuse themselves from the recruiting committee. Motion failed for lack of a second.

Discussion continued regarding the lists. The Board took public comment from James E. Macpherson who served on the task force that adopted the policy provided in the materials who provided his perspective that the goal was to folks excited to run for the Board. The Board took public comment from Nancy Hawkins who noted that members should have the opportunity to opt out of communications and suggested that we find other ways to resolve the issues, such as allowing folks to provide more detailed information. Discussion continued, including a perspective that the outreach to recruit for Board positions has been excessive; a perspective that recruiting and having multiple.

Gov. Dresden sought to second or remake Gov. Couch's earlier motion. Pres. Tollefson ruled that the motion was no longer alive. Gov. Dresden remade the motion to amend policy to say that if the current governor intends to run for a second term, they shall recuse themselves from the position of chair. Discussion followed, including to clarify the motion and the meaning of the current policy; the perspective that the motion is appropriate as a stop gap, but that the policy should still be examined as it may not be the best practice; and a perspective that no one is neutral. Executive Director Nevitt and Chief Regulatory Counsel Garcia explained the difference between official and unofficial WSBA emails and noted the policy limitation on sharing non-public email addresses. Executive Director Nevitt also clarified that every person gets a ballot, and noted that the Board has encouraged extensive recruitment for volunteers for committee, boards, and panels, and it seems that the same should apply to recruiting for positions on the Board.

Discussion followed about the order in which folks are being recognized. There was additional comment that the current motion will not address the issue of address lists and a suggestion that more e-blasts be sent out to the bar in light of the inability to get complete lists to candidates. Motion passed unanimously with Govs. Higginson, Stephens, and Williams-Ruth abstaining.

Process for Analyzing and Recommending to the Supreme Court of Washington Re the Future of WSBA ([link](#))

Executive Director Nevitt reported that the Executive Committee had a special meeting to brainstorm how to move forward with regard to the action the Board took at the December 14,

2021 special meeting. She noted that the Executive Committee discussion resulted in three approaches, for which she presented the potential fiscal impact. Williams-Ruth moved for adoption of the ETHOS proposal. Discussion followed including a desire for separate stand-alone meetings; a perspective that the agendas can be modified and that if public health conditions don't allow we might have to shift to virtual meetings; a request to be flexible with regard to the proposed dates; and background on the proposal in the materials.

The Board took public comment from Nancy Hawkins critical of the proposed structure of the workgroup and the lack of inclusion of non-governors. Discussion followed, including a perspective that the Board members are the elected representatives and should be the voting members for this discussion. The Board deferred further discussion following to later in the meeting.

Committee on Professional Ethics' Proposed Amendment to RPC 1.8(e) ([link](#))

Chair Pam Anderson and Committee on Professional Ethics member Monte Jewell provided background and information about the proposal which would permit civil legal aid or pro bono services to provide limited financial assistance to low-income clients. Discussion followed, including a perspective that the rule change might undermine the existing rule, which allows gifts to clients and the committee's perspective that this will instead harmonize the existing rule. Gov. Purtzer moved to adopt the proposed change to RPC 1.8. Discussion followed, including the importance of the change in the current crisis. Chair Anderson sought to clarify that the BOG would be adopting a recommendation to the Court, rather than adopting the proposed rule change. The motion was amended by Gov. Purtzer to make this a recommendation to adopt the proposal. Chief Ende provided some background on the last time RPC 1.8(e) was amended to conform to the model rules, which resulted in unintended rulemaking activity by the Department of Revenue and retreat on the RPC amendment. Chief Disciplinary Ende distinguished this amendment from the prior action. Motion passed unanimously with Govs. Higginson and Peterson abstaining. Gov. Couch was not present for the vote.

Process for Analyzing and Recommending to the Supreme Court of Washington Re The Future of WSBA Continued ([link](#))

Gov. Clark moved to amend the proposal to follow our travel policy with reimbursement for governor travel with this including potential hotel reimbursement for all governors traveling more than 100 miles each way to the WSBA office. Executive Director Nevitt clarified that the current policy sets the standard as reasonable and necessary and reimbursement for a hotel would be at the discretion of the Executive Director. Discussion followed regarding whether the amendment was necessary, including a statement from Gov. Williams-Ruth that clarified that his motion did not intend to bind any hands with regard to the fiscal impact, noting that the normal fiscal policies should apply. Gov. Williams Ruth moved to amend the motion to allow for a poll to

be sent to applicable parties that will offer available dates around the proposed dates contained in the original ETHOS proposal to allow for the 8 meetings to be held at approximately the proposed times. Discussion followed, including support for the meetings being held during the work week and a contrary perspective in support of weekend dates. Gov. Stephens moved to call the question on the motion to amend. The motion to call the question was approved 11-1. Gov. Couch was not present for the vote. The underlying motion to amend was approved 8-1. Gov. Clark abstained from the vote. Govs. Adewale and Couch were not present for the vote. Gov. Adewale indicated his positive vote after the close of the vote and was added as a yay vote without objection resulting in approval of the motion to amend by a margin of 9-1.

Discussion followed regarding the underlying motion to approve the ETHOS proposal including support for the proposal and an inclusive approach that allows the Board to hear from members first; support for the proposal and a hope that it can be done more quickly and with an emphasis on the three questions set forth by the Chief Justice; a perspective that the cost for this important process is not exorbitant; a perspective that public comment should not come at the end and that consideration should be given to having stakeholders at the table; and support for adding the discussions to the existing board meetings. Gov. Abell moved to amend the motion to have 6 meetings, with 4 to be held virtually and 2 to be hybrid. In support of his motion he noted that the Board was not starting from scratch and could therefore do the work more efficiently and save time and resources. Discussion followed including support for the motion given the prior work; a note that the prior structure work group meetings were not full day meetings; the perspective that the prior report did not address all of the questions in front of WSBA now and did not include all of the perspectives being considered now; comments in support of and opposition to the motion to amend; a perspective that its critical for the local bar associations to have a voice in the process. The motion was clarified and restated. The motion failed 8-4 with Gov. Clark abstaining from the vote.

The Board took public comment from Kari Petrasek who noted that the executive committee of the solo and small practice section supports the memo presented by the family law section executive committee.

Gov. Stephens moved to call the question. The motion passed 8-3 with Govs. Clark and Peterson abstaining. There was a question as to whether that satisfied the requisite two-thirds majority and Pres. Tollefson ruled that it did. The ruling was not appealed. The underlying motion to approve the ETHOS proposal passed 8-4 with Gov. Clark abstaining.

Discussion followed about the impact of abstentions, including the ability to raise an objection to a ruling later in a meeting; a perspective that the county bar associations be included in the

structure discussion; the role of the parliamentarian and the President in resolving such matters; and the timeliness of appealing decisions.

Proposed Changes to WSBA Admissions Policies ([link](#))

Chief Renata Garcia presented the proposed changes, noting that she is requesting to amend the policy effective February 1, which is when registration will open for the July licensing exams. She highlighted the purpose of the changes, which is primarily a conflict with WSBA deadlines and NCBE deadlines, which impacts WSBA's ability to meet ADA requests. She noted this would be a return to a prior approach and may, additionally, help WSBA to avoid some late fees. Other changes include clarifying that the policies apply to requests for reinstatement and that applications not submitted after six months can be deleted. She noted that there is no significant fiscal impact other than WSBA's ability to avoid some late fees. Gov. Peterson moved for approval. Discussion followed including clarification of the specific changes; the intent regarding the changed language related to ADA requests; and a discussion about the volume of accommodation request WSBA receives for the licensing exams. The motion passed unanimously with Gov. Stephens abstaining.

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

Treas. Peterson directed the Board to the materials and noted his availability to answer questions.

Approve Amendment to the Fiscal Policies and Procedures and FY22 Budget Amendment Re Officer Travel. Gov. Adewale moved for approval of the amendment to the Fiscal Policies and Procedures related to officer travel. Motion passed unanimously with Gov. Higginson abstaining.

Approve Exception to the Fiscal Policies and Procedures and FY22 Budget Amendment Re Governor Travel. Gov. Adewale moved for approval of the exception to the fiscal policies and procedures and the budget amendment as stated in the late materials. Motion passed unanimously with Gov. Higginson abstaining.

There was discussion about when to take up Gov. Higginson's motion with regard to the pro bono certificates. Gov. Stephens noted his support for including county bars as important stakeholders.

Volunteer Engagement Report

This topic was deferred to March.

Pro Bono Certificates ([link](#))

The Board took up Gov. Higginson's motion from earlier in the day that the Executive Director be directed to issue paper certificates of appreciation to every member who in 2021 donated 50 or more hours of pro bono service as reported on their license form and that it be accompanied by a letter signed by the Executive Director. Executive Director noted that we have not been sending physical certificates since 2013 except upon request, noting that about 100 folks requested them. She suggested that rather than sending out a certificate to everyone, it be sent to those that request it.

The Board heard public comment from Nancy Hawkins who noted that she does not value the certificate and knows that many others don't. Discussion followed including a suggestion that it be easier to request the certificate; the value of certificates; support for electronic certificates during the time of COVID; a perspective that it would be wasteful to send out certificates to everyone; that we already ask folks if they wish to be recognized; and a perspective that for this year we should send out the certificates to everyone.

Gov. Higginson sought to amend her motion to clarify that we send the letter to everyone and only a certificate to those that request it. Gov. Peterson offered a friendly amendment that this year we send the certificates to everyone with an option to opt out in future years. Gov. Higginson clarified that the intent is that this year we send certificates to everyone and next year we send out an email and give them an option to opt out of the certificates. Gov. Higginson declined to amend her motion. Discussion followed including a perspective that Board action is unnecessary; the reasons that the shift was made; and a perspective that its wasteful to send certificates to everyone. Gov. Couch moved to call the question. There was a discussion as to the threshold required to pass the motion. The motion to call the question failed 8-4 with Gov. Adewale abstained from the vote.

Discussion followed including a perspective that given that we have not mailed out all certificates since 2013 and that the feedback has been given to the Executive Director, that is sufficient; a suggestion that this topic be discussed at the retreat as a case study for how staff and governors can work better together; and a perspective that the matter was not able to be handled informally, that a policy is necessary, and that it is important to thank people for their pro bono work. The motion was clarified that that beginning in 2022 certificates only be sent when requested. Motion failed 8-5.

Pres. Tollefson announced that the ABA had shifted the meeting scheduled to be held in Seattle to a virtual meeting due to public safety concerns.

LGBTQ+ Experiences in the Legal System: A View from Practitioners and Communities ([link](#))

Denise Diskin and Dana Savage conducted an accredited CLE for the Board of Governors, staff and guests covering the legal issues faced by LGBTQ+ communities, the experiences of LGBTQ+ practitioners, and considerations in representing LGBTQ+ individuals. In terms of opportunities for WSBA allyship, they highlighted support for changes to be proposed to RAP 18.7 and RPC 8.4.

Access to Justice Board Annual Report ([link](#))

ATJ Board Member Esperanza Borboa, Chair-Elect Terry Price, and Chair Francis Adewale presented the annual report of the Access to Justice Board. They highlighted the Board's work to create and work with a community advisory panel to help inform the Board's work to address access to justice for the most impacted communities and encouraged the Board of Governors to consider community representation on its Board. They also touched on fragmentation of the judiciary, lack of adequate court funding, and lack of court user feedback. They reported on the FY21 Access to Justice Conference, which was delayed from FY20 and held virtually. Its focus was on community experiences of the justice system. Discussion followed, including asks of the BOG, get engaged on the court fragmentation issue and consider adding community members to the Board, attending the Goldmark Luncheon.

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

Chair Michael Cherry presented the annual report of the Practice of Law Board, highlighting the Board's efforts in the area of education, innovation and coordination. He reported on the progress of the legal check-up project. He also updated the Board of Governors regarding the POLB's proposal to the Washington Supreme Court to create a regulatory laboratory modeled after Utah's legal sandbox. He noted that they will recommend the Court create a new Supreme Court Board, administered by WSBA and authorized to raise funds in order to allow WSBA to charge back for the cost of administration. He provided details about the comment period for the proposal. He also reported on the Board's work in the area of unauthorized practice of law. Discussion followed including the rationale for having the Board administered by WSBA and cost model; a perspective that it should not be housed at WSBA citing cost and liability concerns; the relationship between WSBA and laboratory participants; national trends in regulatory innovation; legislative interest in regulatory innovation; the diversity of the Practice of Law Board; the anticipated cost of administering a new supreme court board, Chair Cherry noting they are anticipating the cost to participate in the laboratory at \$5,000; how to message the proposal to members that might perceive it as unwelcome competition, including the opportunities it might present for legal professionals; the differentiation between the laboratory and the LLLT program; a perspective that regulation and access to justice cost money and ultimately this is going to help consumers and lawyers who are already losing that market; a perspective that concerns about costs have to be balanced with an understanding of the benefits; and concern about endorsing these new models of service.

ABA Mid-Year Meeting Preview ([link](#))

Delegates Rajeev Majumdar and Kyle Bertie presented a preview of the upcoming mid-year meeting, which will be held virtually and not in Seattle as originally planned. Delegate Majumdar listed WSBA's ABA delegates, as well as the Washington State delegates, which are elected by Washington ABA members. He also walked through the governance structure for the ABA. They both highlighted the kinds of matters that come before the ABA

ADJOURNMENT

There being no further business, Pres. Tollefson adjourned the meeting at 11:59 AM on Friday, January 14, 2022.

Respectfully submitted,

Terra Nevitt
WSBA Executive Director & Secretary

DRAFT

**WASHINGTON STATE
BAR ASSOCIATION**

Office of General Counsel

Nicole Gustine, Assistant General Counsel

TO: WSBA Board of Governors
FROM: Nicole Gustine, Assistant General Counsel
DATE: February 22, 2022
RE: Confidentiality of Client Protection Board Recommendations

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

APR 15**CLIENT PROTECTION FUND PROCEDURAL REGULATIONS
REGULATION 13. CONFIDENTIALITY**

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

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

The following report of CPB recommendations contains only pre-approved applications, and is therefore provided to you as a Trustee, confidentially. The report will not appear in the BOG meeting's public session materials. Please take the time to review the materials thoroughly prior to the BOG public session meeting.

Pursuant to ELC 3.4(l), the Chief Disciplinary Counsel has authorized the release of otherwise confidential disciplinary information to the Board of Governors for the purpose of reviewing and deciding on Client Protection Fund Board recommendations. The Board of Governors is advised of its obligation to maintain the confidentiality of these materials.

Please do not discuss any details regarding the matters, including the names or amounts related to the matter, at the public session meeting.



WASHINGTON STATE BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Tina Aiken, Labor and Employment Law Section Chair, on behalf of the WSBA Labor and Employment Law Section Executive Committee Meeting
 Julianne Unite, WSBA Member Services and Engagement Manager
 Carolyn MacGregor, WSBA Sections Program Specialist
RE: WSBA Labor and Employment Law Section Bylaws Amendments
DATE: January 28, 2021

ACTION: Approve the WSBA Labor and Employment Law Section’s Proposed Bylaws Amendments

- Brief Summary/Purpose of the request

The proposed amendments to the Labor and Employment Law Section Bylaws are intended to modify the composition of the executive committee, add the officer position of Immediate Past Chair, clarify the Chair’s duties, clarify the appointment of interim positions, and clarify the election process of Executive Committee members and officers and the terms of officers.

The Executive Committee has had vacant positions for the past few years and the modification of the composition of the committee and appointment of interim positions is intended to make it easier to fill those positions. For the past two elections, no public sector practitioners have run for the open public sector positions. Vacancies on the executive committee have caused increased volunteer time and work for active committee members. Modifying the composition of the committee and appointment of interim positions will allow interested practitioners to participate on the committee and spread the work among more volunteers.

Adding the officer position of Immediate Past Chair will provide more leadership to the committee. The new position will also serve as a mentor and backup to the acting Chair.

Revisions to the election process for officer are necessary to conform the committee’s bylaws and practices to the Bylaws of the Washington State Bar Association. The committee’s practice has been to elect officers in January of each year, with officer terms running January to December. The proposed amendments will resolve this conflict.

- Process under which the section discussed and voted to approve these amendments

In accordance with Article VIII of the Labor and Employment Law Section Bylaws, these proposed bylaws amendments were approved by a majority vote of the voting members of the executive committee once a quorum was established on January 28, 2022.



Sincerely,

Tina Aiken

Attachments:

- Redline version of the Labor and Employment Law Section bylaws
- Clean version of the Labor and Employment Law Section bylaws

WASHINGTON STATE BAR ASSOCIATION

Labor and Employment Law Section

Bylaws

As last amended and approved by the Washington State Bar Association Board of Governors on ~~July~~
~~27~~ _____, 2022~~17~~.

ARTICLE I – IDENTIFICATION

1.1 *Name and Creation.* The name of this section is the Labor and Employment Law Section (the "Section"). This Section was established pursuant to the Bylaws of the Washington State Bar Association (the "Bar").

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1.2 *Purpose.* The purpose of the Section shall be to seek the participation of all interested members of the Bar including plaintiff's and defense counsel from both the public and private sectors and of state and local bar associations in order to benefit such members, their clients and the general public.

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- a. By providing a forum for members to exchange ideas in all areas of labor and employment law.
- b. By establishing an annual CLE and business meeting.
- c. By undertaking such other service as may be of benefit to the members, the legal profession and the public.

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1.3 *Limitations.* These bylaws have been adopted subject to the applicable Washington statutes and the Bylaws of the Bar.

1.4 *Principal Office.* The principal office of the Section shall be maintained in the offices of the Bar.

1.5 *Fiscal Year.* The fiscal year of the Section shall coincide with that of the Bar.

ARTICLE II – MEMBERSHIP

2.1 *Enrollment.* Any Active member in good standing of the Bar of the State of Washington may be enrolled as a voting member of the Section upon request and payment of annual Section dues in the amount and for the purpose approved by the Board of Governors of the Bar. Inactive members, currently enrolled law students, and certified human resources professionals may also be enrolled as non-voting members ("subscribers") of the Section upon request and payment of annual Section dues. Subscribers shall not be eligible to serve on the executive committee.

2.2 *The Membership.* Members enrolled as provided in Section 2.1 shall constitute the Membership of the Section.

2.3 *Dues.* Dues in the amount approved by the Board of Governors of the Bar shall be paid annually in advance. Any person who shall have failed to pay the annual dues shall cease to be a member of the Section.

ARTICLE III – MEETINGS OF THE MEMBERSHIP

3.1 *Annual Meeting.* The annual meeting, if any, and any other meeting of the Section shall be called by the executive committee at such time and place as it may determine.

3.2 *Quorum.* The voting members of the Section present at any regularly scheduled or specially called meeting shall constitute a quorum for the transaction of business.

3.3 *Controlling Vote.* Action of the Section shall be by majority vote of the voting members present.

3.4 *Meeting Notice.* Notice of meetings will be provided to the members and subscribers prior thereto.

ARTICLE IV – EXECUTIVE COMMITTEE

4.1 *Powers and Duties.* The executive committee shall be vested with the powers and duties necessary for the administration of the affairs of the Section and perform duties assigned to it by the Board of Governors.

4.2 *Composition.* The executive committee shall be composed of the following positions, each of which shall have voting rights:

- Four (4) At-Large positions held by individuals that primarily practice as defense counsel in the private sector;
- ~~One Two (12)~~ One (1) At-Large position held by an individual that practices as defense counsel in the public sector;
- One (1) At-Large position held by an individual that practices labor or employment law;
- One (1) At-Large position held by an individual that primarily practices as a full-time neutral;
- Three (3) At-Large positions held by individuals that primarily practice as plaintiff's counsel;
- Three (3) At-Large positions held by individuals that primarily practice as counsel for a labor union or labor unions; and
- One (1) position held by the WSBA Young Lawyer Liaison to the Section.

4.3 *Controlling vote.* After a quorum (a majority of the voting members of the executive committee) is established, action of the executive committee will be by majority vote or consensus of such quorum.

4.4 *Meetings.* Meetings shall be held at such time and place as may be designated by the Chair or a majority of the executive committee. Section members, subscribers, and members of the public shall be entitled to attend executive committee meetings. Notice of executive committee meetings

will be provided as in section 3.4 of these bylaws. The executive committee shall be expected to conduct a minimum of four meetings annually.

ARTICLE V – OFFICERS

5.1 *Officers.* The officers of the Section shall be the Chair, the Secretary, ~~and the Treasurer, and the Immediate Past Chair.~~

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5.2 *Chair.* The Chair shall preside at all meetings of the Section and of the executive committee. The Chair shall ~~formulate and present at each meeting of the Bar~~ prepare and submit to the Bar an annual report of the work of the Section for the then past year, and shall perform such other duties as usually pertain to this office or as may be delegated by the executive committee. At the conclusion of the executive committee member's term as Chair, they shall serve as the Immediate Past Chair.

5.3 *Secretary.* The Secretary will take minutes at each meeting of the Section and executive committee, and provide approved minutes to the Bar for publication and record retention.

5.4 *Treasurer.* The Treasurer will work with the Bar to ensure that the Section complies with Bar fiscal policies and procedures, work with the Bar to prepare the Section's annual budget, and review the Section's monthly financial statements for accuracy and comparison to budget. In conjunction with the Chair and as authorized by the executive committee, the Treasurer shall attend generally to the business of the Section.

~~5.4.5.5~~ *Immediate Past Chair.* ~~The Immediate Past Chair will largely serve to assist the Chair in exercising their his or her duties, and –The Immediate Past Chair will stand in for the Chair at any meeting in the Chair's his or her absence. –The Immediate Past Chair will perform any additional duties as may be delegated by the executive committee. Consistent with 4.2, should the Immediate Past Chair's term on the executive committee end at the same time their term as Chair ends, in order to serve as Immediate Past Chair, the outgoing Chair may (a) be elected to another term on the Executive Committee consistent with article VI or (b) stay on the Executive Committee as an officer, but in an advisory capacity without voting rights.~~

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~~5.5.5.6~~ *Removal.* Any officer or other member of the executive committee may be removed by a two-thirds majority vote of the executive committee. Grounds for removal include, but are not limited to, regular absence from executive committee meetings and events, failure to perform duties, unprofessional or discourteous conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the Section membership.

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ARTICLE VI – ELECTIONS

6.1 *Elective Offices.*

- a. At-Large Executive Committee Members. Nominations and elections for open At-Large executive committee positions will be held between March and ~~May-June~~ each year. Each of the thirteen elected positions on the executive committee shall be for a three-year term with ~~at least three-four~~ positions expiring each year.
- b. Officers. The executive committee will nominate and elect officers from the existing executive committee. ~~Nominations and elections for open officer positions will be held between March and May-June each year.~~ However, the Immediate Past Chair shall not be

~~a position elected by the executive committee; rather, at the conclusion of the executive committee member's term as Chair, they shall continue to serve as an officer in the role of Immediate Past Chair. If the Chair's term ends simultaneously with their term on the executive committee and they do not continue in an advisory role consistent with 5.5, any past Chair serving a term on the executive committee may be appointed by the committee as Immediate Past Chair. Executive committee members shall serve a minimum of six months on the executive committee before they are eligible to serve as an officer of the committee. Officers serve a ~~one-year~~ one-year term beginning on October 1 in the specified office and shall serve simultaneously as executive committee members. ~~The executive committee may nominate officers from the existing executive committee or officers may be nominated in an alternative process; however, any person not already an elected member of the executive committee must be elected to the executive committee through its ordinary procedures before serving as an officer.~~~~

~~b-c. Chair Transition. Between June and September each year, the current Chair will work with the incoming Chair to transition Chair duties by October 1.~~

~~6.2-Nomination. The Chair of the executive committee shall annually appoint a nominating committee of not less than three members of the Section, including one member who is not currently an executive committee member. The nominating committee shall solicit input from the Executive Committee regarding potential nominees for vacancies on the Executive Committee and keep the Executive Committee updated on the election process. The nominating committee shall contact and encourage interested members of the Section to submit application materials for vacancies on the Executive Committee. The nominating committee shall review application materials submitted by nominees and other applicants and approve the final slate of candidates to include on the Section's election ballot. All applicants candidates will apply through an electronic process administered by the Bar. ~~make and report nominations of the Section at the next executive committee meeting for the members of the executive committee to succeed those whose terms will expire at the close of the annual meeting, and to fill vacancies then existing for~~~~

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~~6.2 unexpired terms. The term "nominees" means those individuals the nominating committee solicits to apply. The term "other applicants" means those individuals who apply but were not solicited by the nominating committee. The term "candidates" means any Section member who submits application materials—both nominees and other applicants—and is included on the Section's election ballot. The executive committee will also have an alternative process to allow for nominations to occur outside of the nomination committee process. It shall be the responsibility of the nomination committee to contact each member nominated and verify their willingness to accept the nomination. All applicants will apply through an electronic process administered by the Bar.~~

In selecting its nominees, the nomination committee shall bear in mind the need for broad representation on the executive committee, based on geography, diversity of practice, special expertise, prior service on the executive committee, and other factors of diversity, equity, and inclusion. ~~No person shall be nominated to serve more than two full terms consecutively.~~ The executive committee will approve a list of candidates ~~nominees~~ for each open position.

6.3 *Voting.* The Bar will administer the elections by electronic means and certify the results, unless the Section develops its own equivalent electronic election process. In the event of a tie, the winner will be determined by a coin toss administered by two members of the executive committee.

6.4 *Term of Office.* The term of office for each executive committee member shall begin on October 1 each year.

6.5 *Interim Appointments.* The executive committee will appoint, by majority vote, members to fill vacancies on the executive committee. Priority will be given to Section members that qualify to fill the role of the vacant position, but if none are available, then a vacancy may be filled by a Section member whose primary practice is different than that assigned to the vacant position. When a member is appointed to fill a vacancy in an unexpired term, the member will do so for the next annual election when an individual will be elected to serve the remainder of the vacated term.

ARTICLE VII – SUBSTANTIVE RESPONSIBILITIES

7.1 *Committees.* The executive committee may appoint committees to perform such duties and exercise such powers as it determines are necessary to further the purposes of the Section.

ARTICLE VIII – AMENDMENTS

These bylaws may be amended at any meeting of the Section by a majority vote of the voting members of the Section present. Additionally, these bylaws may be amended at any regular or special meeting of the executive committee of the Section called for the purpose of amending the bylaws and upon advance notice, by a majority vote of the voting members of the executive committee present after a quorum is established. No amendment shall become effective until approved by the Board of Governors of the Bar.

Original bylaws adopted and approved by the Bar Board of the Governors on February 18, 2000.

Bylaws first amended and adopted by the Bar Labor and Employment Law Section Executive Committee on October 12, 2005, and subsequently approved by the Bar Board of Governors on January 12, 2006.

Bylaws amended and adopted by the Bar Labor and Employment Law Section Executive Committee and subsequently approved by the Bar Board of Governors on July 25, 2008, and on September 22, 2011.

Bylaws amended and adopted by the Bar Labor and Employment Law Section Executive Committee and subsequently approved by the Bar Board of Governors on December 12, 2012, and on March 8, 2013.

Bylaws amended and adopted by the Bar Labor and Employment Law Section Executive Committee and subsequently approved by the Bar Board of Governors on July 9, 2014, July 25, 2014, and on July 27, 2017.

Bylaws amended and adopted by the Bar Labor and Employment Law Section Executive Committee and subsequently approved by the Bar Board of Governors on _____, 2021, and on _____, 2021.

WASHINGTON STATE BAR ASSOCIATION

Labor and Employment Law Section

Bylaws

As last amended and approved by the Washington State Bar Association Board of Governors on _____, 2022.

ARTICLE I – IDENTIFICATION

- 1.1 *Name and Creation.* The name of this section is the Labor and Employment Law Section (the “Section”). This Section was established pursuant to the Bylaws of the Washington State Bar Association (the “Bar”).
- 1.2 *Purpose.* The purpose of the Section shall be to seek the participation of all interested members of the Bar including plaintiff’s and defense counsel from both the public and private sectors and of state and local bar associations in order to benefit such members, their clients and the general public.
 - a. By providing a forum for members to exchange ideas in all areas of labor and employment law.
 - b. By establishing an annual CLE and business meeting.
 - c. By undertaking such other service as may be of benefit to the members, the legal profession and the public.
- 1.3 *Limitations.* These bylaws have been adopted subject to the applicable Washington statutes and the Bylaws of the Bar.
- 1.4 *Principal Office.* The principal office of the Section shall be maintained in the offices of the Bar.
- 1.5 *Fiscal Year.* The fiscal year of the Section shall coincide with that of the Bar.

ARTICLE II – MEMBERSHIP

- 2.1 *Enrollment.* Any Active member in good standing of the Bar of the State of Washington may be enrolled as a voting member of the Section upon request and payment of annual Section dues in the amount and for the purpose approved by the Board of Governors of the Bar. Inactive members, currently enrolled law students, and certified human resources professionals may also be enrolled as non-voting members (“subscribers”) of the Section upon request and payment of annual Section dues. Subscribers shall not be eligible to serve on the executive committee.

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2.3 *Dues.* Dues in the amount approved by the Board of Governors of the Bar shall be paid annually in advance. Any person who shall have failed to pay the annual dues shall cease to be a member of the Section.

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- One (1) At-Large position held by an individual that primarily practices as a full-time neutral;
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- 5.3 *Secretary.* The Secretary will take minutes at each meeting of the Section and executive committee, and provide approved minutes to the Bar for publication and record retention.
- 5.4 *Treasurer.* The Treasurer will work with the Bar to ensure that the Section complies with Bar fiscal policies and procedures, work with the Bar to prepare the Section's annual budget, and review the Section's monthly financial statements for accuracy and comparison to budget. In conjunction with the Chair and as authorized by the executive committee, the Treasurer shall attend generally to the business of the Section.
- 5.5 *Immediate Past Chair.* The Immediate Past Chair will largely serve to assist the Chair in exercising their duties, and will stand in for the Chair at any meeting in the Chair's absence. The Immediate Past Chair will perform any additional duties as may be delegated by the executive committee. Consistent with 4.2, should the Immediate Past Chair's term on the executive committee end at the same time their term as Chair ends, in order to serve as Immediate Past Chair, the outgoing Chair may (a) be elected to another term on the Executive Committee consistent with article VI or (b) stay on the Executive Committee as an officer, but in an advisory capacity without voting rights.
- 5.6 *Removal.* Any officer or other member of the executive committee may be removed by a two-thirds majority vote of the executive committee. Grounds for removal include, but are not limited to, regular absence from executive committee meetings and events, failure to perform duties, unprofessional or discourteous conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the Section membership.

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officer in the role of Immediate Past Chair. If the Chair's term ends simultaneously with their term on the executive committee and they do not continue in an advisory role consistent with 5.5, any past Chair serving a term on the executive committee may be appointed by the committee as Immediate Past Chair. Executive committee members shall serve a minimum of six months on the executive committee before they are eligible to serve as an officer of the committee. Officers serve a one-year term beginning on October 1 in the specified office and shall serve simultaneously as executive committee members.

- c. Chair Transition. Between June and September each year, the current Chair will work with the incoming Chair to transition Chair duties by October 1.

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6.3 *Voting.* The Bar will administer the elections by electronic means and certify the results, unless the Section develops its own equivalent electronic election process. In the event of a tie, the winner will be determined by a coin toss administered by two members of the executive committee.

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Bylaws amended and adopted by the Bar Labor and Employment Law Section Executive Committee and subsequently approved by the Bar Board of Governors on _____, 2021, and on _____, 2021.

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors

CC: Terra Nevitt, Executive Director

FROM: Eleanor Doermann, Chair of Senior Lawyers Section Executive Committee
Carole Grayson, Senior Lawyers Section Executive Committee Member, Chair from 2014-2017
Brian Comstock, Senior Lawyers Section Emeritus Executive Committee Member, Chair from 2017-2019

DATE: January 18, 2022

RE: Request to Modify Senior Lawyers Section Bylaws to Allow Inactive/Honorary Members to Join Section as Voting Members and serve as voting members of the Section's Executive Committee, pursuant to Supreme Court Order of January 6, 2022 modifying WSBA Bylaws Sections III and XI.

By its nature, the WSBA Senior Lawyers Section attracts members who are advanced in age and, consequently, closer to retirement. This may prompt some members of the Section to switch their license status from active to inactive or honorary. The Senior Lawyers Section currently has three members of its executive committee who have switched to inactive or honorary status. They are serving on the executive committee as Emeritus members with no voting rights because the WSBA Bylaws have previously prohibited inactive/honorary members from joining sections as voting members and serving on section executive committees as voting members.

The WSBA Bylaw provisions preventing inactive/honorary members from joining sections and serving on section executive committees as voting members were modified by the Washington State Supreme Court Order of January 6, 2022, allowing any section to opt to allow inactive/honorary members of WSBA to join as voting members of that section and participate in its governance by amending its section bylaws.

Background

Pursuant to the Supreme Court Order of January 6, 2022 modifying Sections III and XI of the WSBA Bylaws, the Senior Lawyers Section wishes to modify its Section Bylaws to allow inactive/honorary members who meet the Section's age and practice requirements to participate as voting members and participate in its governance by modifying Section 3.1.

In researching other bar associations in close proximity to Washington, we found that the [Idaho State Bar Bylaws](#) do not allow inactive members to participate as voting members generally, but they do allow the sections to make exceptions to active membership in their own bylaws. Similarly, the [Utah State Bar Bylaws](#) do not allow inactive members to vote in general bar matters, but do allow them to join sections as voting members. The [Oregon State Bar Bylaws](#) allow those of inactive status to be members of the section, but not serve as officers of the section. The [Nevada State Bar Bylaws](#) allow any member of the State Bar to be a member of the section unless otherwise provided in the section bylaws. This research demonstrates that the act of allowing sections discretion in determining who shall be a voting member of their section is not unique. In fact, three of the state bars above (Idaho, Utah, and Nevada) allow the option recently approved in the WSBA Bylaws.

Stakeholder Input

We sought input from section leaders from August 9th through August 30th 2021 on the WSBA Section Leaders List Serve. We received thirteen responses from seven sections. Responses indicate that 92% of Section Leaders agree with the request to change the Bylaws and 8% disagree. When asked whether a section would affirmatively take action to modify its bylaws to allow inactive members to join as voting members 46% said they would and 8% said they would not. 46% said they would consider changing their bylaws. The Senior Lawyers Section opts to do so now.

Fiscal Impact

From our perspective, the potential fiscal impacts are deemed minimal. Extending the option for sections to include inactive/honorary members as voting members would not negatively impact the WSBA unless members in Active status transfer their license to Inactive status because they are only maintaining an Active license to retain a voting status in a section. The assumption is that members maintain an Active license to practice law or for other career purposes rather than to serve as a voting member in sections. This proposal was run through the CFO's office of the WSBA and there is agreement that the potential fiscal impact is minimal.

Given that this request comports with the recent Supreme Court Order and is in alignment with the way other bar associations handle section membership, that a vast majority of WSBA section leaders who took the survey approve of these proposed changes, and that the fiscal impact is negligible, we ask the Board to approve the proposed the Senior Lawyers Section Bylaws amendments.

Sincerely,

Eleanor Doermann, Chair of Senior Lawyers Section Executive Committee
Carole Grayson, Senior Lawyers Section Executive Committee Member
Brian Comstock, Senior Lawyers Section Emeritus Executive Committee Member

Attachment

Redline and clean copy of requested revisions to Senior Lawyers Section Bylaws

WASHINGTON STATE BAR ASSOCIATION

SENIOR LAWYERS SECTION

Bylaws

As last amended, restated and approved by the WSBA Board of Governors effective July 27, 2017; proposed amendments submitted for Board of Governors approval at its March 2022 meeting, pursuant to Supreme Court Order of January 6, 2022 amending WSBA Bylaws III and XI

ARTICLE I. NAME

The name of this Section shall be the Senior Lawyers Section (the "Section").

ARTICLE II. PURPOSE

The purpose of this Section shall be to benefit the members of the Washington State Bar Association and the general public, by:

2.1

Developing and promoting programs for members 55 years of age and older, or who have been in practice for 25 years or more, to keep them informed as to matters pertinent to their particular status, whether relating to their age, length or type of practice, or interest in continuing to contribute to the legal profession wise.

2.2

Providing the opportunity and forum for members of the Washington State Bar Association to exchange ideas in areas particularly of interest to members in the designated age and/or length of practice groups and to engage in educational and related activities in connection with the continuing legal education committee of the Washington State Bar Association, and to maintain communication through a newsletter or other means, and/or set up social engagements.

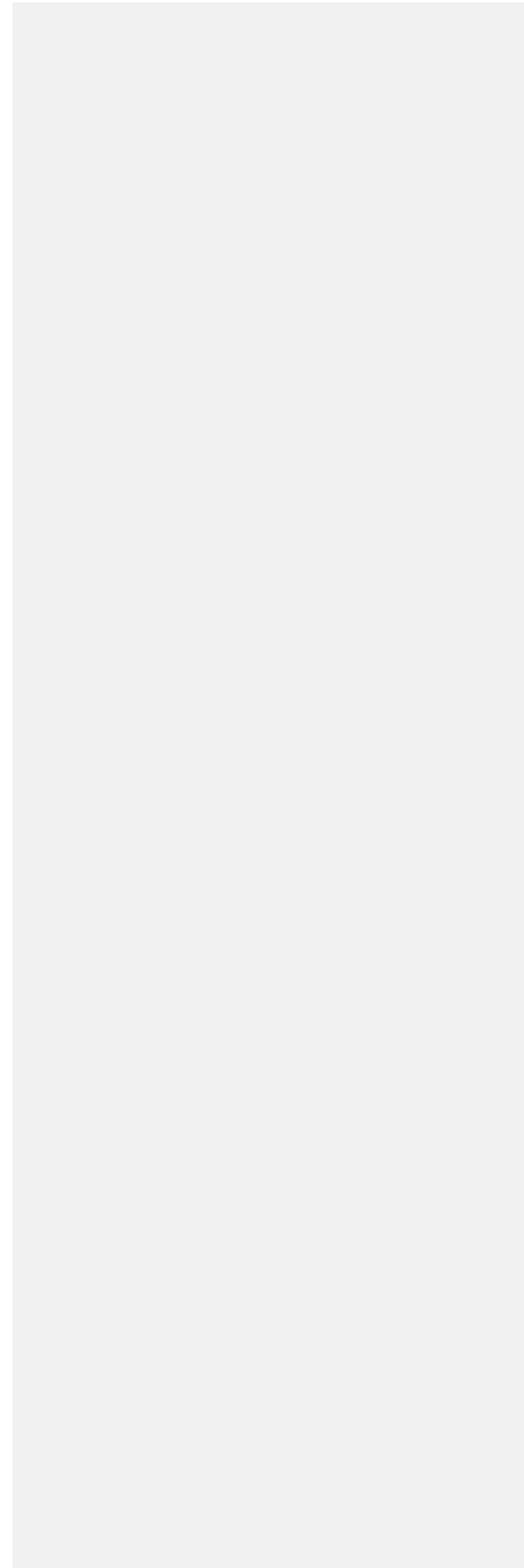
2.3

Undertaking such other service not inconsistent with the Bylaws of the Washington State Bar Association and the State Bar Act as may be of benefit to the members of the legal profession and the Senior Lawyers Section

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ARTICLE III. MEMBERSHIP

3.1 Eligibility for Membership

A. Lawyers within the following categories of WSBA status are eligible for voting membership in the Senior Lawyers Section and also in its governance (i.e., its executive committee). These categories of lawyers will be enrolled as a voting member of the Section upon request and payment of annual Section dues in the amount determined by the executive committee of the Section and approved by the Board of Governors of the Washington State Bar Association:

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A) ~~ny~~ Active members of the Washington State Bar Association 55 years of age and older or whose ~~has been in~~ length of practice in ~~all any~~ jurisdictions ~~is at least for~~ 25 years

2) Inactive members of the Washington State Bar Association who are 55 years of age and older or whose length of practice in all jurisdictions is at least 25 years. Honorary members are included in the category of inactive members ~~including honorary members of the Washington State Bar Association, -~~

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~~may be enrolled as a voting member of the Section upon request and payment of annual Section dues in the amount determined by the executive committee of the Section and approved by the Board of Governors of the Washington State Bar Association.~~ B. The following categories of persons are eligible to join the Section as non-voting members ("subscribers") for the purpose of participating in the activities of the Section upon request and payment of annual Section dues in the amount determined by the executive committee of the Section and approved by the Board of Governors of the Washington State Bar Association. However, they may not be involved in the governance of the Section, i.e., cannot be appointed to the executive committee:

a) ~~Active~~ members of the Washington State Bar Association ~~under 55 years of age and who have been in practice for less than 25 years in all jurisdictions~~

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b) ~~Law students,~~

c) ~~APR 6 law clerks~~

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~~and other persons not otherwise identified may join as non-voting members ("subscribers") for the purpose of participating in the activities of the Section but may not be involved in the governance of the Section.~~

d) ~~-~~

Members enrolled as provided in Section 3.1 A and 3.1B shall constitute the membership of the Section.

3.2 Annual Dues

Each member, to maintain membership in the Section, shall pay annual dues as established by the Executive Committee of the Section, subject to the approval of the Board of Governors of the Washington State Bar Association. The dues of subscribers will be determined by the Board of Governors. New applicants for membership and members desiring to restore their membership shall become members of the Section upon full payment of the annual dues amount then in effect.

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ARTICLE IV. MEETINGS OF THE MEMBERSHIP

4.1 Annual Meeting

Senior Lawyers Section

The annual meeting of the Section shall be held at a time and place determined by the executive committee of the Section.

4.2 Midyear Meeting

The executive committee may schedule a midyear meeting in cooperation with the Washington State Bar Association.

4.3 Quorum

The voting members of the Section present at any regularly scheduled meeting of the Section shall constitute a quorum for the transaction of business.

4.4 Controlling Vote

Acts of the Section shall be made by majority vote of the voting members present at a meeting. Voting by proxy shall not be allowed.

4.5 Special Meetings

Special meetings of the membership of the Section may be called by the executive committee at such time and place as it may determine.

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4.6 Meeting Notice

Members shall be given notice of each meeting of the membership of the Section either in person, or by mail or email, at least seven (7) days prior to the scheduled date of such meeting.

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ARTICLE V. PRINCIPAL OFFICE

The principal office of the Section shall be maintained in the offices of the Washington State Bar Association.

ARTICLE VI. FISCAL YEAR

The fiscal year of the Section shall coincide with that of the Washington State Bar Association.

ARTICLE VII. EXECUTIVE COMMITTEE

7.1 Powers and Duties

The executive committee shall be vested with the powers and duties necessary for the administration of the affairs of the Section including, without limitation, the power and duty to act on behalf of the Section in connection with the activities listed in Article II. The executive committee shall have the authority to approve the content and publishing of the Section newsletter, work with the Washington State Bar Association to prepare the annual section budget, ensure expenditures comply with the Washington State Bar Association's fiscal policies and procedures, and perform duties assigned to it by the Board of Governors. The executive committee shall have the responsibility of establishing and discontinuing committees of the Section.

7.2 Composition

The executive committee shall be composed of thirteen (13) members, consisting of (a) the Chair, Secretary, and Treasurer elected for one-year terms as provided in Section 9.1, (b) the Immediate Past Chair who will automatically serve one year beyond his or her service as Chair, and (c) the additional nine (9) members each elected to serve one-year terms as provided in Sections 10.1 and 10.2. The executive committee may in advance of any upcoming annual election either increase or decrease the number of members to be elected and serve for the ensuing year.

7.3 Term

The term of each member of the executive committee shall begin on October 1.

7.4 Vote

Acts of the executive committee shall be by majority vote of the voting members of the executive committee once a quorum (a majority of the voting members of the executive committee) is established.

7.5 Meetings

Meetings shall be held at such time and place as may be designated by the Chair or a majority of the executive committee. Section members and members of the public shall be entitled to attend executive committee meetings. The executive committee shall conduct a minimum of four (4) meetings per year. Meeting notices shall be given as provided for in these bylaws.

7.6 Emeritus Members

Any member or former member of the executive committee who has served with distinction, may at or following the expiration of his or her term, be designated by a majority of the executive committee as an emeritus member. Such members may attend meetings of the executive committee and participate in discussions, but shall have no vote and shall not be entitled to reimbursement of expenses.

This emeritus member denomination is not to be confused with the emeritus pro bono status category under which a lawyer may engage in the authorized practice of law under the auspices of a Qualified Legal Services Provider. https://www.wsba.org/docs/default-source/legal-community/volunteer/emeritus-flyer-1-12-17.pdf?sfvrsn=58ff3cf1_2

ARTICLE VIII. COMMITTEES

8.1 Standing and Interim Committees

The executive committee shall have the power to designate committees of this Section. Each committee shall have not less than three or more than eleven members. The Chair of each committee shall be selected by the Chair of the Section, upon the approval of the majority of the executive committee.

8.2 Members

The committee members shall be selected by the Chair of the Section from among members of this Section and shall be approved by a majority of the executive committee.

8.3 Term

The terms of the Chair of each committee and the members of each committee shall run concurrently with the term of office of the officers of this Section.

ARTICLE IX. OFFICERS

9.1 Officers

The officers of this Section are the Chair, Secretary and Treasurer, and shall be elected annually by the members to serve one-year terms which may be extended year-to-year also by annual vote of the members. Each such officer so elected by the members shall automatically become and be a voting member of the executive committee for the term or terms of his or her election.

9.2 Removal

Any member of the executive committee may be removed by a two-thirds majority vote of the Senior Lawyers Section

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executive committee. Grounds for removal include, but are not limited to, regular absence from executive committee meetings and events, failure to perform duties, unprofessional or discourteous

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conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the Section membership.

9.3 Chair

The Chair shall be the chief executive officer of the Section and, subject to the executive committee's control, shall supervise and control all of the affairs of the Section. The Chair shall preside at all meetings of the Section and of the executive committee.

9.4 Secretary

The Secretary shall maintain minutes of the proceedings of all meetings of the Section and of all meetings of the executive committee, and provide approved minutes to the Washington State Bar Association for publication and record retention. Upon direction by the Chair, and as authorized by the executive committee, the Secretary shall attend generally to the business of the Section.

9.5 Treasurer

The Treasurer will work with the Washington State Bar Association to ensure that the Section complies with Washington State Bar Association fiscal policies and procedures, work with the Washington State Bar Association to prepare the Section's annual budget, and review the Section's monthly financial statements for accuracy and comparison to budget.

9.6 Term

The term of office of each of the officers shall commence on October 1.

ARTICLE X. ELECTIONS

10.1 Officers and Members of the Executive Committee

The Section shall hold a regular annual election for the election of officers and other members of the executive committee. The regular annual election shall be conducted by the Washington State Bar Association electronically between March and May each year.

10.2 Nominating Committee

Each year, the executive committee shall appoint two of its committee members and one other person to serve as its nominating committee. All applicants will apply through an electronic process administered by the Washington State Bar Association. The executive committee will also have an alternative process to allow for nominations to occur outside of the nominating committee process. The nominating committee shall nominate one or more members of the Section for each office and position up for annual election. The executive committee will review and approve the final list of nominees for each open position which is to be submitted to members of the Section for the regular annual election. The Washington State Bar Association will administer the elections by electronic means and certify the results, unless the Section develops its own equivalent electronic election process.

10.3 Interim Appointments

The executive committee will appoint, by majority vote, members to fill vacancies on the executive committee. When a member is appointed to fill a vacancy in an unexpired term, the member will do so until the next annual election when an individual will be elected to serve the remainder of the vacated term.

ARTICLE XI. AMENDMENTS

These bylaws may be amended at an annual meeting of the Section by a majority vote of the voting members of the Section present. These bylaws may also be amended at any regular or special meeting of the executive committee of the Section called for the purpose of amending the bylaws and upon seven (7) days written notice, by a majority vote of the voting members of the executive committee present, once a quorum is established. No amendment to these bylaws shall become effective until approved by the Board of Governors of the Washington State Bar Association.

ARTICLE XII. LIMITATIONS

These bylaws have been adopted subject to the applicable Washington statutes and the Bylaws of the Washington State Bar Association and shall be construed to be in conformity therewith.

WASHINGTON STATE BAR ASSOCIATION

SENIOR LAWYERS SECTION

Bylaws

As last amended, restated and approved by the WSBA Board of Governors effective July 27, 2017; proposed amendments submitted for Board of Governors approval at its March 2022 meeting, pursuant to Supreme Court Order of January 6, 2022 amending WSBA Bylaws III and XI

ARTICLE I. NAME

The name of this Section shall be the Senior Lawyers Section (the "Section").

ARTICLE II. PURPOSE

The purpose of this Section shall be to benefit the members of the Washington State Bar Association and the general public, by:

2.1

Developing and promoting programs for members 55 years of age and older, or who have been in practice for 25 years or more, to keep them informed as to matters pertinent to their particular status, whether relating to their age, length or type of practice, or interest in continuing to contribute to the legal profession .

2.2

Providing the opportunity and forum for members of the Washington State Bar Association to exchange ideas in areas particularly of interest to members in the designated age and/or length of practice groups and to engage in educational and related activities in connection with the continuing legal education committee of the Washington State Bar Association, and to maintain communication through a newsletter or other means, and/or set up social engagements.

2.3

Undertaking such other service not inconsistent with the Bylaws of the Washington State Bar Association and the State Bar Act as may be of benefit to the members of the legal profession and the Senior Lawyers Section

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- 1) Active members of the Washington State Bar Association 55 years of age and older or whose length of practice in all jurisdictions is at least 25 years
- 2) Inactive members of the Washington State Bar Association who are 55 years of age and older or whose length of practice in all jurisdictions is at least 25 years. Honorary members are included in the category of inactive members of the Washington State Bar Association,

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- a) Active members of the Washington State Bar Association under 55 years of age and who have been in practice for less than 25 years in all jurisdictions
- b) Law students
- c) APR 6 law clerks
- d) Other persons not otherwise identified

Members enrolled as provided in Section 3.1A and 3.1B shall constitute the membership of the Section.

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Each member, to maintain membership in the Section, shall pay annual dues as established by the Executive Committee of the Section, subject to the approval of the Board of Governors of the Washington State Bar Association. The dues of subscribers will be determined by the Board of Governors. New applicants for membership and members desiring to restore their membership shall become members of the Section upon full payment of the annual dues amount then in effect.

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executive committee. Grounds for removal include, but are not limited to, regular absence from executive committee meetings and events, failure to perform duties, unprofessional or discourteous

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conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the Section membership.

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ARTICLE XII. LIMITATIONS

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WASHINGTON STATE BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Executive Director Terra Nevitt
DATE: March 2, 2022
RE: Executive Director's Report

Preliminary Pre-Suspension Notices Go Out Friday

On Friday, WSBA will send certified notices of pre-suspension to approximately 2,000 members (we expect this number will drop before Friday) for non-payment of license fees, MCLE compliance, not answering questions about professional liability insurance, and/or not answering questions about trust accounts. Last year we mailed 1,330 certified notices of pre-suspension. This increase in non-compliance is likely at least partially due to having a double MCLE reporting group this year. The pre-suspension notice provides members another 60 days to complete their license renewal putting the next deadline at May 3. In the last two weeks of March WSBA will attempt to call and email each person on the list and will send another email at the end of April before submitting suspension recommendations to the Court in early May.

Winter Licensing Exams

The Winter 2022 licensing exams were administered in-person, in accordance with the health safety plan approved by the Washington Supreme Court. A total of 332 examinees sat for the different exams as indicated below.

LLLT Exam January 25-26 WSBA Offices	LPO Exam February 21 Lynnwood Convention Center	Lawyer Bar Exam February 22-23 Lynnwood Convention Center	All Examinees
10	79	243	332

The Board of Bar Examiners is meeting in-person for its grading conference on March 11-13, 2022. On March 15, 2022, the Limited Practice Board will meet virtually to grade the practical portion of the LPO Exam. Exam results will be released to applicants on April 8, 2022, and pass lists and exam statistics will be posted on the WSBA website on April 9, 2022. The Summer 2022 LPO and lawyer bar exams will be administered in-person in Yakima. Due to the Court's decision to sunset the LLLT program by July 31, 2022, the last LLLT exam will be administered in May.

Updating our COVID Protocols

Following updated health guidance from the [State of Washington](#) and [King County](#), WSBA will no longer require masking at our offices in Seattle or at events in King County beginning March 12. For events outside of King County,

we will follow local public health guidance. This protocol is subject to change if public health guidance changes. We will continue to support people's choices to wear a mask. WSBA employees and volunteers are still subject to a vaccination requirement prior to attending an in-person event on behalf of WSBA and guests and attendees at our in-person, indoor events must provide proof of vaccination or proof of a negative PCR COVID test within the past 72 hours. You can review our current COVID-19 policies on the WSBA [website](#).

ETHOS Outreach and Communications Strategy

The Board of Governors' bar-structure study is underway (dubbed "ETHOS") and is top priority for communication and outreach to WSBA members. Below is a quick recap of our efforts:

- **Ongoing.** Between now and August, we are publishing ETHOS information and meeting recaps in every TakeNote e-newsletter (sent twice monthly to all members), in each board-meeting recap (sent to all members following board meetings); and in the 'Need to Know' section of each *Bar News*. A link to the ETHOS webpage is our most prominent slider item at wsba.org, and the page itself is continually updated with resources and links to meeting materials and recordings. We have started a series of in-depth blog posts at *NWSidebar*. We also have been including ongoing updates to targeted groups via the county bar list serve, the section-leaders newsletter and list serve, and MBA leader list serve. We are inviting any person or group to request a WSBA speaker(s) on the topic, and we are thrilled that, the Pacific County Association has taken us up on the offer! Please note: Outreach Specialist Mike Kroner, will reach out to you if anyone in your district/representative group makes a request. We are also already on the agenda to present information at the upcoming section and MBA leader meetings in the spring.
- **Tools.** President Tollefson and Executive Director Nevitt are currently creating an "explainer video," which will be about 10 minutes long and go over some of the context and history of the ETHOS process. This will be a valuable resource as we continue to issue invitations for members to participate. We will send you the link when the video is ready so you can share widely. We have also updated the Bar Structure Talking Points (attached), which we encourage you to use as you meet with members.
- **Bar News.** We have five pages reserved for ETHOS information in the June issue of *Bar News* (set to hit member mailboxes in early June). We are tentatively planning an article with history and context about the issue of integrated-bars and federal litigation; a timeline of the WSBA's own incorporation and structural milestones; a pro and con perspective pieces, each written by a member who favors the integrated-bar structure and who does not (challenges and opportunities for both scenarios); respectively; some kind of graphic that shows a breakdown of different bar structures across the country; and, most importantly, and invitation for all members to join the process and provide feedback.
- **Member values.** Our ongoing member survey has many data points about what members find valuable in terms of programs and services that the WSBA is able to offer as an integrated bar (i.e., those things the board will likely want to take into consideration when deciding what an "optimal" bar structure would look like for members). We plan to synthesize those findings for the board at the April ETHOS meeting.

Board of Governors Election Update

Firstly, congratulations to Congressional District 9 Governor-elect Kevin Fay. The candidates for the remaining congressional district elections are: Geoff Gibbs and Kari Petrasek for District 2 and Nam Nguyen and Patrick Rawnsley for District 10. You can learn more about the candidates, including their video statements, [here](#).

The WSBA Bylaws direct that the Congressional District election take place from March 15 – April 1. As of the date of this memo, we are moving forward with this timeline. However, it is possible that we will be seeking an emergency Bylaw amendment to alter the dates of the election(s) this year due to the recent changes to congressional districting. If necessary, such Bylaw amendment will be in before you for consideration at the upcoming March meeting. All candidates are aware of this possibility.

Governor At-Large & President Elect Application Deadlines

Friday, April 15 is the application deadline for the Board of Governors Governor At Large and President-elect positions. Information about these opportunities is available [here](#).

Fiscal Year 2023 Volunteer Application

The Volunteer Application in [myWSBA](#) is now open and we need your help recruiting volunteers. Please [click here](#) to view more information, including an updated [Volunteer with WSBA Guide](#) to help members learn about the various volunteer opportunities and apply for the one(s) that meets their interests.

Fiscal Year 2022 Listening Tour Planning Underway

The Listening Tour has historically been a summer event, which can tend to feel like a frenzy to schedule and race across the state. This year and moving forward, I hope to make the Listening Tour more of a year-round endeavor. After looking at historic data about where we have and have not been lately, a tentative plan for this year is to initially target Wenatchee, Ellensburg, Ephrata, and Okanogan. Please let us know if you feel strongly about visiting additional locations. (Note: Outreach Specialist Mike Kroner will continue to work with you as individual governors to set up local listening sessions or events with your local bars.) Our priority in scheduling is to look at dates that work for the President, Executive Director, and the local county bar leaders. As we go through that process, we will notify the governor in the corresponding district to tentatively mark their calendar. As we confirm dates, we will issue invitations to all governors to attend, if they would like to do so.

2022 State of the Judiciary Report

The Washington Supreme Court and the Administrative Office of the Courts have published the 2022 *State of the Judiciary* report, which can be viewed and downloaded [here](#). This annual report is intended to highlight significant activities of the courts and the judicial branch for lawmakers and the public. Among other subjects, this year's report highlights a range of efforts to better understand the accessibility of courts, research about how race and gender affect outcomes and access to justice, the ways in which court fines and fees can work criminalize poverty, and the impact of the pandemic on courts.

Update on JIS-Link User Fees

The Judicial Information Systems Committee is the entity charged with overseeing our state's Judicial Information system, which is operated by the Administrative Office of the Courts. One seat on the Committee is designated for a WSBA member and that seat is newly held by Donald Graham. In an update to the WSBA, Mr. Graham shared that the JISC has established a process to annually update JIS-Link user fees and to coordinate implementation of those fees with the State's July 1 fiscal year start date. Attached is some additional information about the JIS-Link Fee Schedule. If you have any questions or feedback, please let me know so that I can pass it on to Mr. Graham.

Disaster Legal Aid Line

Last November, a series of floods and landslides in Washington left a devastating impact on many of our neighbors, especially residents of Clallam, Skagit, and Whatcom counties and the Lummi Nation, Nooksack Indian Tribe, and Quileute Tribe. The Washington State Bar Association, Northwest Justice Project and the Pro Bono Council were contacted by members of the American Bar Association and FEMA to recruit and train pro bono volunteers and set up a statewide disaster legal services line to assist these disaster victims.

The Pro Bono Council is the host of this statewide line, with cases assigned by local Volunteer Lawyer Programs (VLPs) including LAW Advocates, Skagit Legal Aid, and Clallam Jefferson Pro Bono Lawyers. The Northwest Justice Project is working to recruit and coordinate trainings for volunteers, with support from the Washington State Bar Association. A press release about these efforts can be found [here](#). Victims of the disaster in need of legal assistance can call 509-557-0301. Attorneys who wish to volunteer can fill out [this form](#) or contact [Charlotte Keenan](#), Pro Bono Coordinator at the Northwest Justice Project. Trainings on FEMA Applications and Appeals are available to volunteers.

WSBA Demographic Study

WSBA is currently in the process of preparing to do a Membership Demographic Study. A prior demographic study was conducted in 2012, which informed the creation of the 2013 WSBA Diversity and Inclusion Plan. In that plan, the WSBA committed to conducting a Membership Demographic Study every 10 years. Following through on our commitment, the Board approved \$50,000 for this study as part of the FY22 budget. The study will be used to inform how WSBA can better support underrepresented and historically marginalized legal professionals, promote diversity, equity and inclusion, and inform a new Diversity and Inclusion Plan.

Like the 2012 study, the 2022 study will be designed and conducted by an outside consultant with expertise in membership demographic studies and analysis. The consultant will work closely with a WSBA project team, which will include Governor Alec Stephens, Diversity Committee Co-Chair Nam Nguyen and other Diversity Committee members, and key WSBA staff from relevant departments, including the Executive Director. The project will be staffed by the Equity and Justice Lead Barbara Nahourai and Chief Equity and Justice Officer Diana Singleton. The project team will work with the consultant to seek input from many stakeholders including the Board of Governors and Minority Bar Associations. Our goal is to complete the study by the end of this fiscal year.

Attachments

Talking Points: National Litigation Regarding Integrated Bars

JIS-Link Fee Schedule

Fourth Quarter Discipline Report

Litigation Report

Media Report

Demographics Report

UPDATE: In December 2021, the Washington Supreme Court has asked the WSBA Board of Governors to examine pending federal litigation and make a recommendation regarding three questions:

1. *Does current federal litigation regarding the constitutionality of integrated bars require the WSBA to make a structure change?*
2. *Even if the WSBA does not have to alter its structure now, what is the contingency plan if the U.S. Supreme Court does issue a ruling that forces a change?*
3. *Litigation aside, what is the ideal structure for the WSBA to accomplish its mission?*

*The Board of Governors came up with a study process called **ETHOS** (Examining the Historical Organization and Structure of the Bar). The process comprises eight full-day meetings between January and August 2022—open to the public via Zoom and in person at the WSBA offices—to gather information and build a common understanding of the issue, to explore other bar structures, and to form a recommendation. Throughout each phase, the board has committed to gathering wide stakeholder feedback. More information is at wsba.org (the main slider on the homepage links to the 2022 Bar Structure Study webpage).*

More comprehensive version:

- Compelled association came into the national spotlight in a big way in 2018 when the United States Supreme Court ruled in *Janus v. American Federation of State, County, and Municipal Employees, Council 31* that it violates the First Amendment for state law to compel non-union members to pay “agency fees” to unions for things like collective bargaining and union administration.
- While the *Janus* case did not involve bar associations, the decision overruled a key case that provided the rationale for *Keller v. State Bar of California*, a 1991 U.S. Supreme Court case upholding the constitutionality of integrated bars. (An integrated bar is one that performs both regulatory and professional-association-like functions.)
- In the wake of *Janus* and the commencement of multiple integrated-bar First Amendment lawsuits in federal courts around the country, in late 2018 the Washington Supreme Court convened the Washington Supreme Court Work Group on Bar Structure, which evaluated federal law developments, as well as the WSBA’s historical and existing structure and practices.
- In September 2019, the Work Group issued a final report with the recommendation to retain an integrated bar structure “for now.”
- Recently, inconsistent integrated-bar decisions have emerged from multiple federal circuit courts of appeal, including a ruling in July 2021 from the Fifth Circuit Court of Appeals (*McDonald v. Longley*) declaring it unconstitutional to mandate membership in a bar association that conducts “non-germane” activities. (A germane activity is one that relates to regulating the legal profession or improving the quality of legal services.)
- The WSBA and the Washington Supreme Court are aware of these developments, keeping abreast of the recent case law, and considering next steps, if any. The WSBA Board of Governors has met several times with legal counsel to analyze emerging federal precedent and receive advice.
- What do we know right now? The U.S. Supreme Court has not yet granted review in any integrated-bar lawsuit. In fact, the Supreme Court recently denied certiorari in a Ninth Circuit decision involving a First Amendment challenge to the structure of the Oregon State Bar.
- For now, *Keller* remains good law. WSBA leaders have worked and will continue to work diligently to analyze the bar’s activities to closely adhere to the requirements of existing state and federal law regarding “germane” activities.
- What is ahead? We are not sure, and that’s why we have been evaluating the legal landscape—to guide next steps, if any are necessary. But we do know WSBA leaders will not make any major structural decisions without robust member education and feedback opportunities.

- Overall issue: A 2018 U.S. Supreme Court decision, *Janus*, undercut the foundation of *Keller v. State Bar of California*, a key case supporting the constitutionality of the integrated bar structure, and several constitutional challenges have since cropped up throughout the country against integrated bar associations.
- Recent developments: Several federal circuit courts of appeal have issued decisions this year, including the Fifth Circuit Court of Appeals, which declared it unconstitutional to mandate membership in a bar association that conducts “non-germane” activities. The U.S. Supreme Court has not yet granted review in any of these cases.
- What’s next: The WSBA and the Washington Supreme Court are following these cases very closely, and considering next steps, if any. We are ensuring close adherence to current state and federal law regarding “germane” activity.
- Most importantly: WSBA leaders will not make any major structural decisions without robust member education and feedback opportunities.



JIS-LINK FEE SCHEDULE: Effective May 1, 2021

General Public and State Agencies:

[RCW 2.68.030](#) states in part: "The judicial information system committee shall develop a schedule of user fees for in-state non-court users and all out-of-state users of the judicial information computer system and charges for judicial information system products and licenses for the purpose of distributing and apportioning the full cost of operation and continued development of the system among the users."

County and City Governmental Agencies:

[RCW 2.68.010](#) states in part: ". . . no fee may be charged to county or city governmental agencies within the state of Washington using the judicial information system for the business of the courts." Therefore, all fees and transaction charges are waived for these agencies.

Authority

The following schedule of user fees has been established pursuant to the requirement of RCW 2.68.030.

Installation Charges

The Subscriber shall pay a non-refundable initial installation charge of Two Hundred Dollars (\$200.00). The installation charge is due prior to connection to any JIS-Link services.

The Subscriber will be furnished user IDs as requested. If additional user IDs are required, they shall be provided at no additional cost.

Monthly Usage Charges

The Subscriber shall pay a charge of \$.145 (14½ cents) per transaction. A transaction equates to the execution of a command. A command is executed each time the user tells the system to respond; by pressing the ENTER key, or clicking to see additional case information.

Subscribers will be billed monthly for JIS-Link usage charges incurred during the billing period. The account is payable in full on the date shown on the front of the invoice, under the heading "Due Date" (30 calendar days from the Invoice Date).



The AOC will apply a minimum charge of \$13.00 to all JIS-Link invoices. If transaction charges are less than \$13.00, the subscriber will be billed \$13.00; if transaction charges total \$13.00 or more, actual charges will be billed with no additional charge. If a subscriber has no transaction charges for the month, and no invoice needs to be mailed, no charges will be billed.

Pursuant to subparagraph 12.c. of the JIS-Link Basic Access Subscription and License Agreement, an account may be terminated, without notice, for non-payment if the account has not been paid in full within fifteen (15) calendar days of the "Due Date" (date shown on the front of the invoice under the heading "Due Date"). Accounts more than 30 days past due are subject to collection.

To have a terminated account reinstated, the subscriber will be required to re-apply, pay all amounts previously due, and pay the installation fee.

Taxes

Installation and usage charges are not subject to tax.

WASHINGTON STATE
BAR ASSOCIATION
Office of Disciplinary Counsel

MEMO

To: Terra Nevitt, WSBA Executive Director

From: Douglas J. Ende, WSBA Chief Disciplinary Counsel & Director of the Office of Disciplinary Counsel

Date: February 28, 2022

Re: Quarterly Discipline Report, 4th Quarter (October – December 2021)

A. Introduction

The Washington Supreme Court’s exclusive responsibility to administer the systems for discipline of licensed legal professionals (including disability systems) is delegated by court rule to WSBA. See GR 12.2(b)(6). Staff and volunteers carrying out the functions delegated by the Rules for Enforcement of Lawyer Conduct (ELC) act under the Supreme Court’s authority. The investigative and prosecutorial function is discharged by the employees in the Office of Disciplinary Counsel (ODC), which is responsible for investigating allegations and evidence of professional misconduct and incapacity and prosecuting violations of the Washington Supreme Court’s Rules of Professional Conduct.

The Quarterly Discipline Report provides a periodic overview of the functioning of the Office of Disciplinary Counsel. The report graphically depicts key discipline-system indicators for the 4th Quarter 2021 along with the full year. Note that all numbers and statistics herein are considered tentative/approximate. Final figures will be issued in the 2021 Discipline System Annual Report.

B. Public Dispositions & Other Information

- **Supreme Court Opinion**

In **re Geoffrey Cross, 500 P.3d 958 (Dec. 23, 2021)**. The Supreme Court affirmed the Disciplinary Board’s unanimous recommendation of a nine-month suspension for revealing information that related to representation of client in criminal matter which was sought by client’s adversary in personal injury suit.

- **Other Public Dispositions**

Disbarments:

Souphavady Bounlutay #30552

Florian Purganan #36291 (*Stipulation*)

Suspensions:

Geoffrey Cross #3089, Nine-month suspension

Matthew Furness #43649, One-year suspension (*Stipulation*)

Kevin Johnson #24784, One-year suspension (*Stipulation*)

Douglas Prestrud #29913, Six-month suspension

Patricia Toy #20178, One-year suspension (*Stipulation*)

Reprimands:

Jeff Crollard #15561 (*Stipulation*)

John Gibson #19407 (*Stipulation*)

Lori Haskell #15779 (*Stipulation*)

Walter Peale #7889

Gywn Staton #9419 (*Stipulation*)

Resignation in Lieu of Discipline:

Nathan Choi #41610

Reciprocal Discipline:

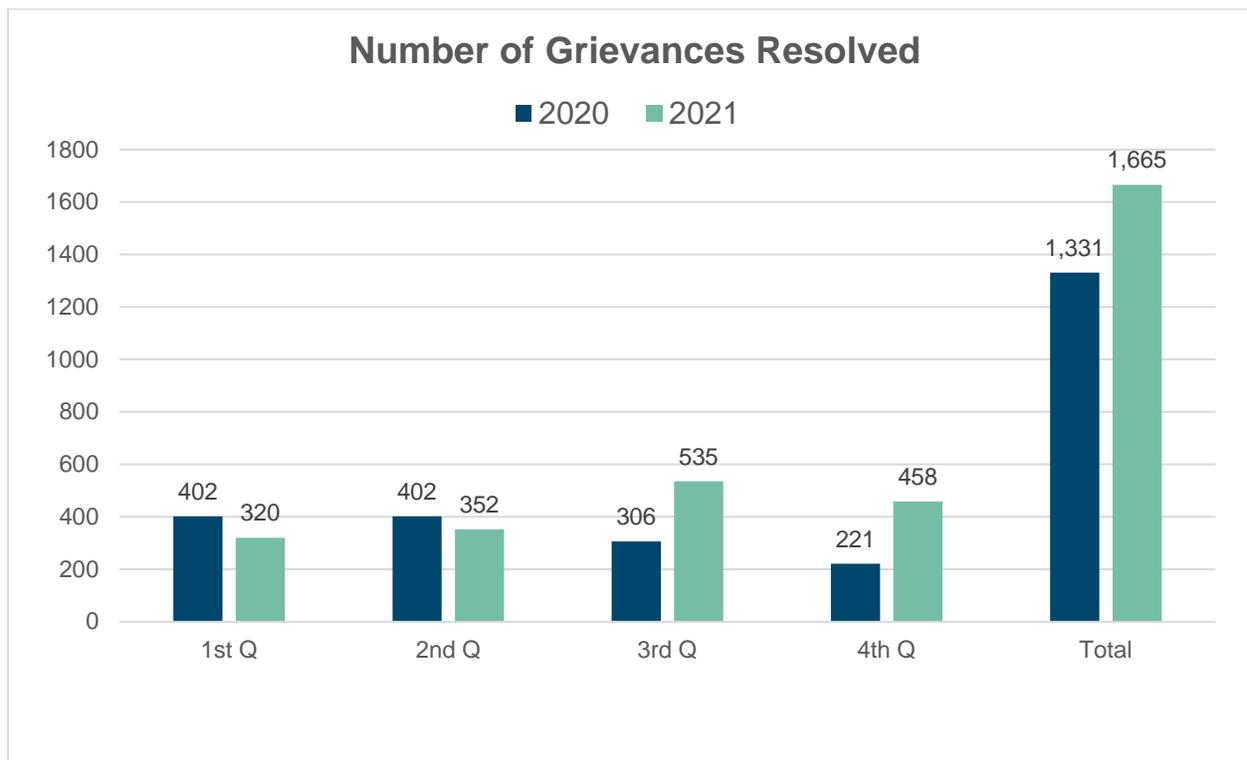
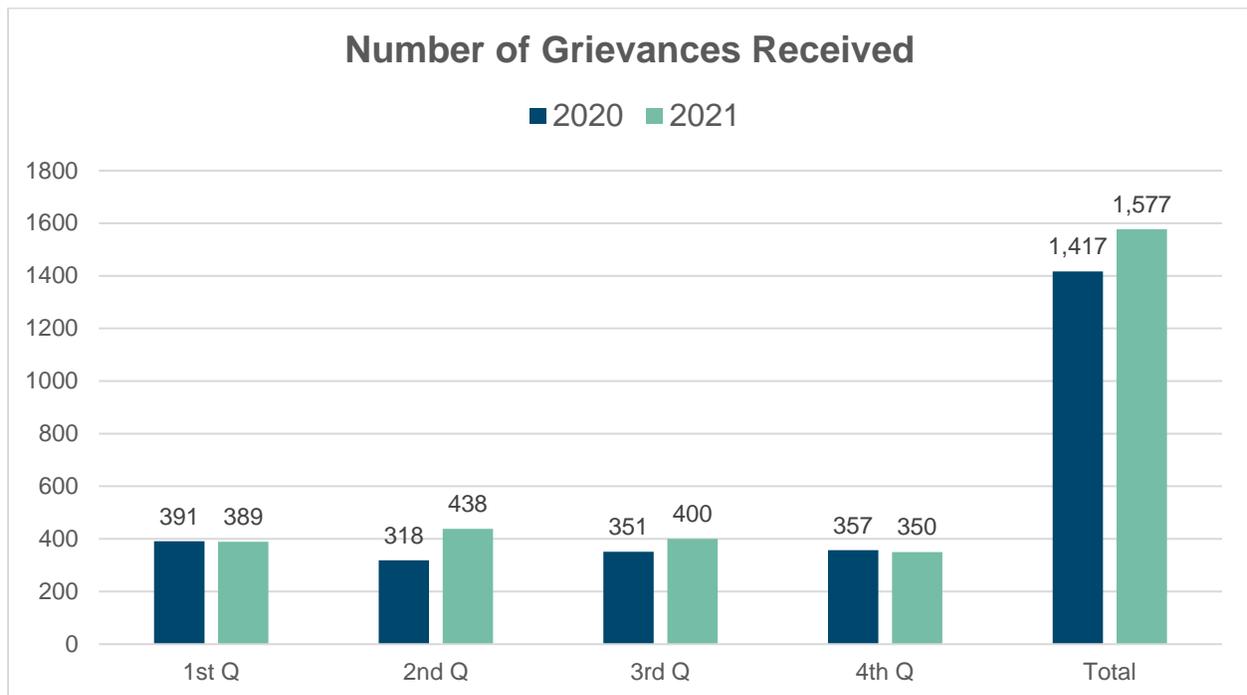
John Cimino #11698, Six-month suspension (Colorado)

Traci Mears #30463, Disbarment (Wyoming)

• **Hearings, Appeals, and Other Proceedings**

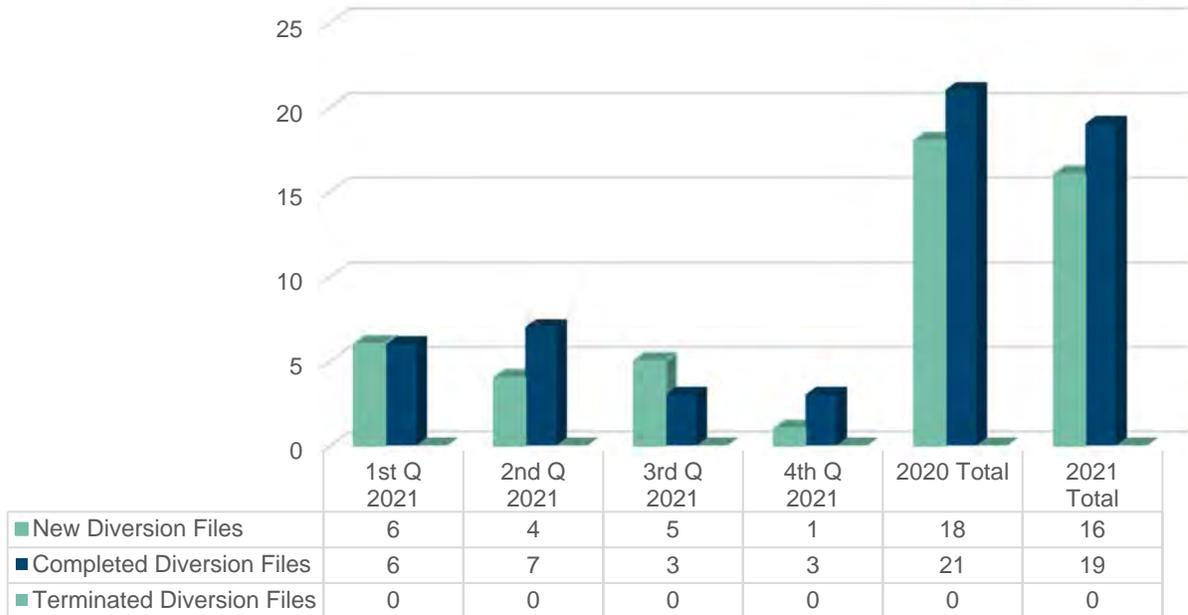
One hearing was held this quarter for a total of seven hearings in calendar year 2021, more than double the number held in the prior year. Because of an overall reduction in the number of contested hearings in 2020-2021, there has been a corresponding lull in the number of pending appeals and review proceedings before the Disciplinary Board and Supreme Court.

C. Grievances and Dispositions¹

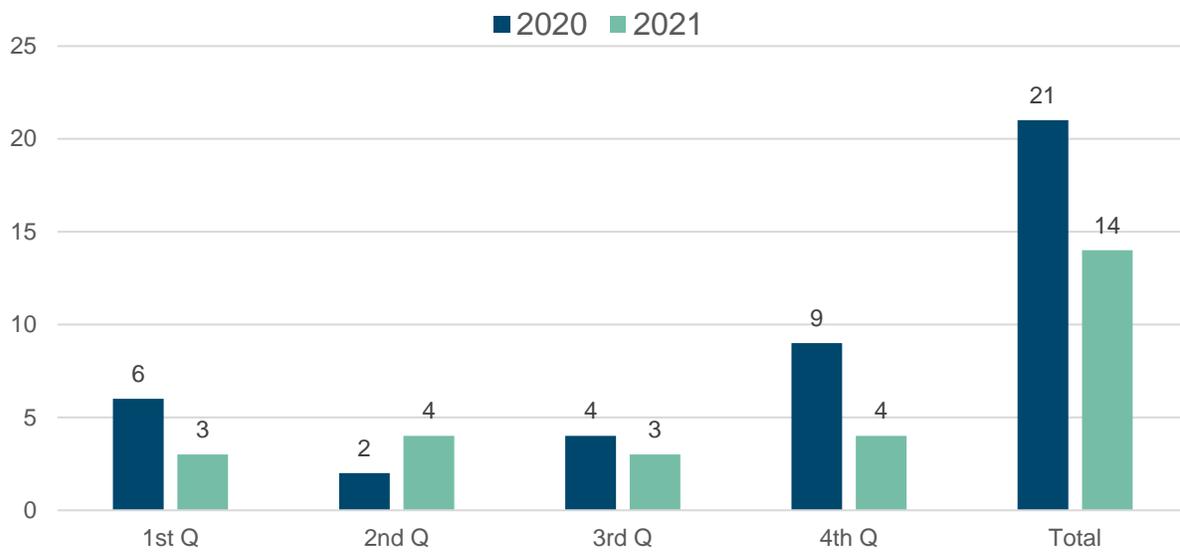


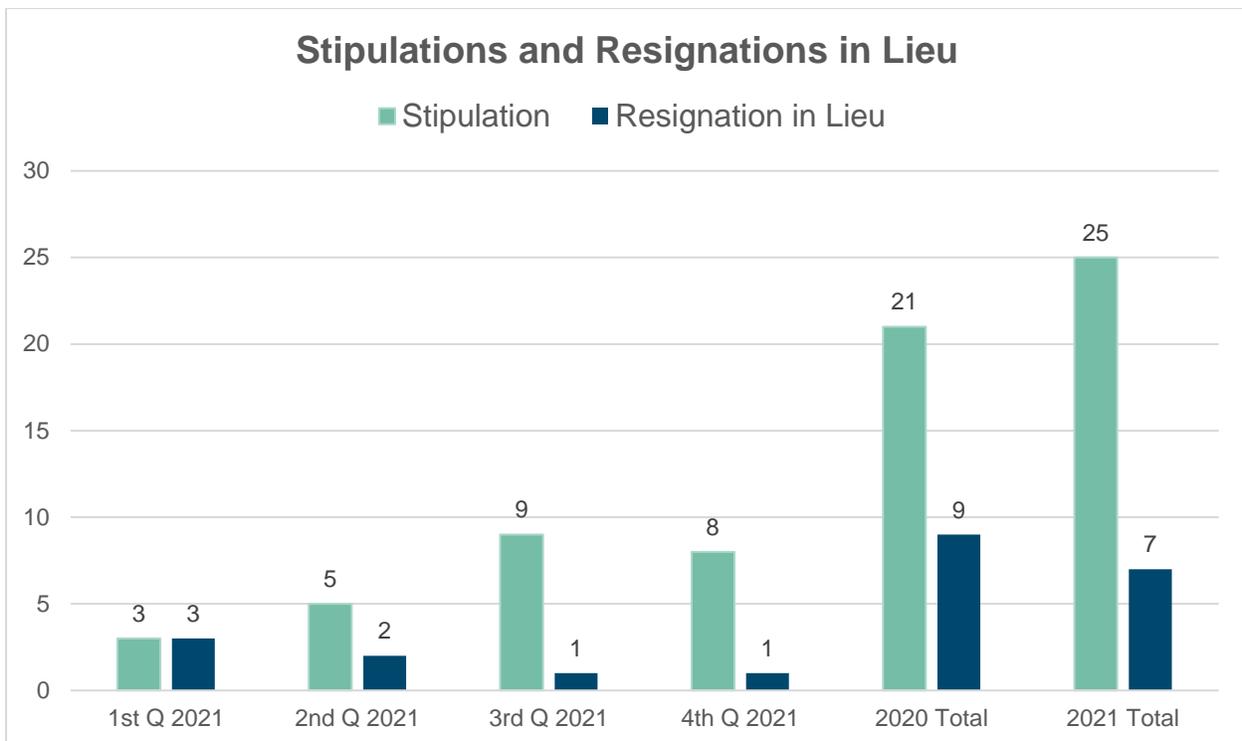
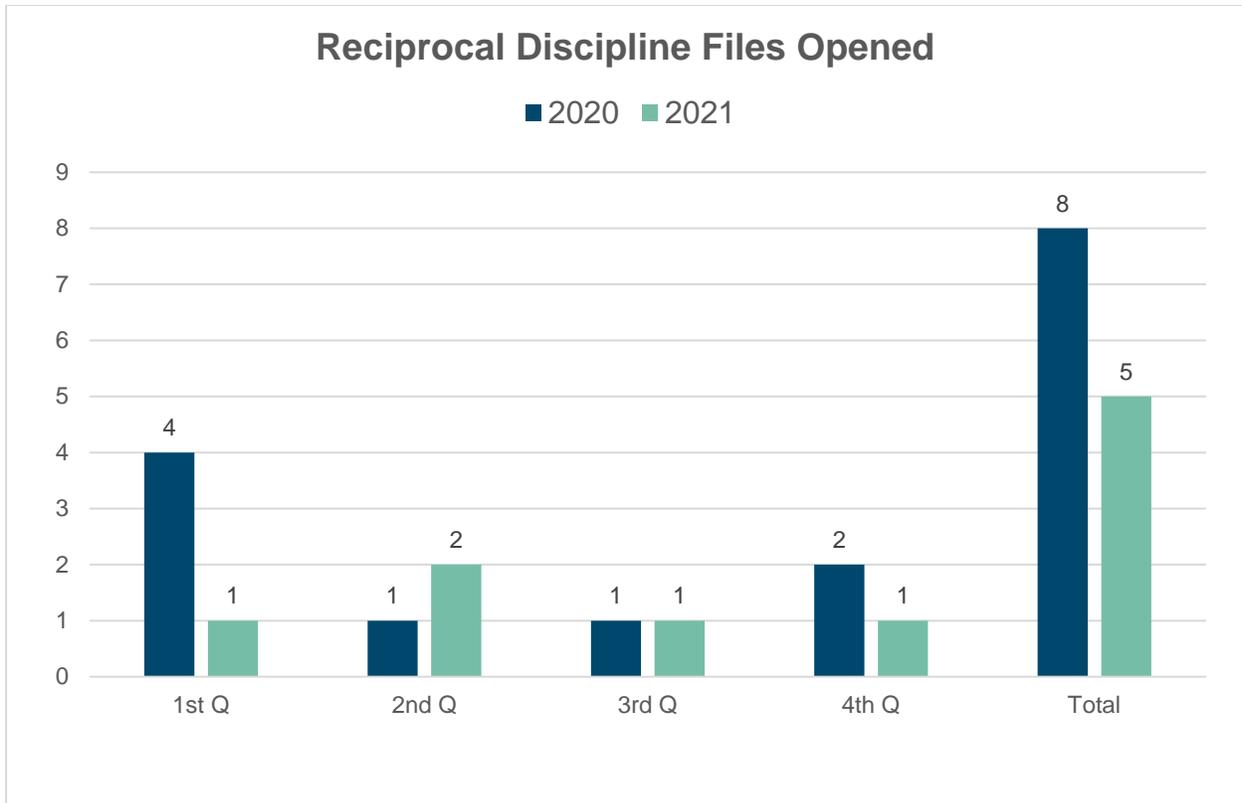
¹ These figures may vary from previous quarterly reports and statistical summaries owing to limitations on data availability at the time of issuance of these quarterly reports.

Diversion Statistics



Formal Complaints Filed



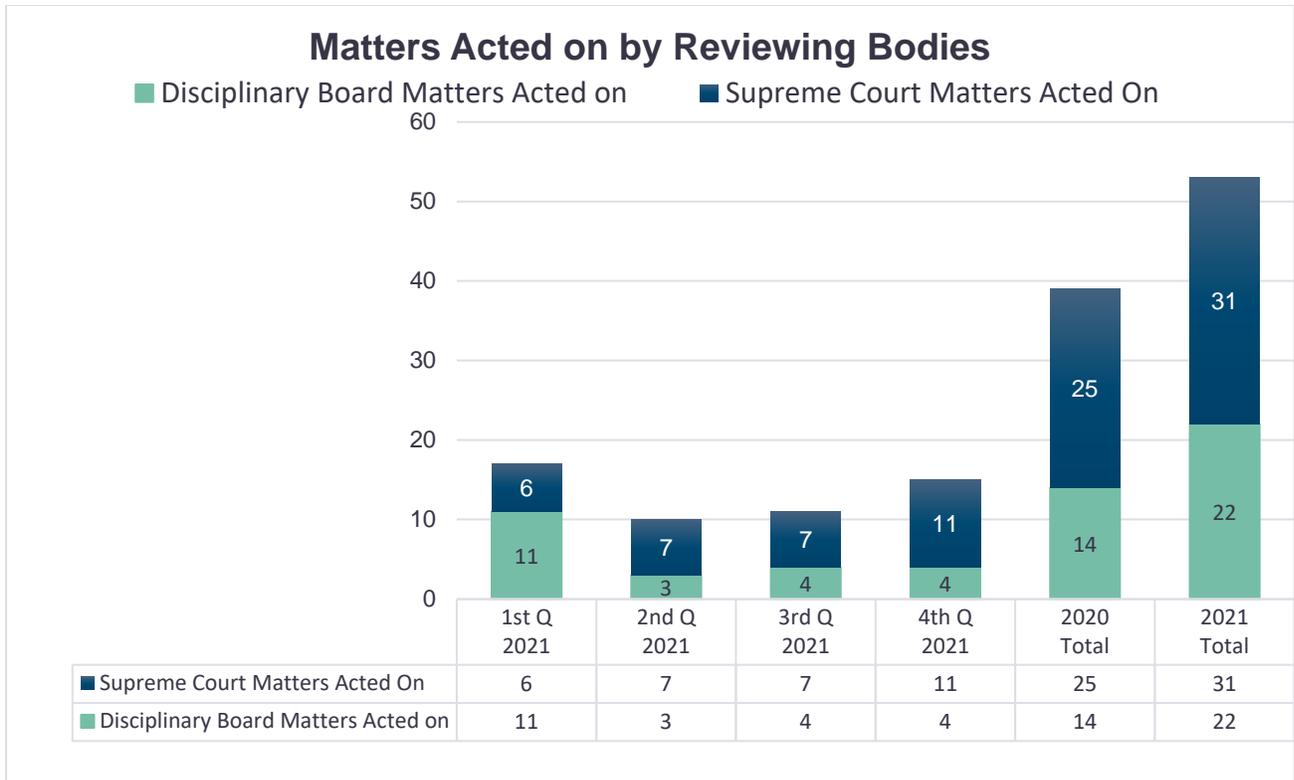


Hearings Held	Quarter Total
1 st Quarter 2021	0
2 nd Quarter 2021	4 (one was a default)
3 rd Quarter 2021	2 (one was a default)
4 th Quarter 2021	1
2020 Total	3
2021 Total	7

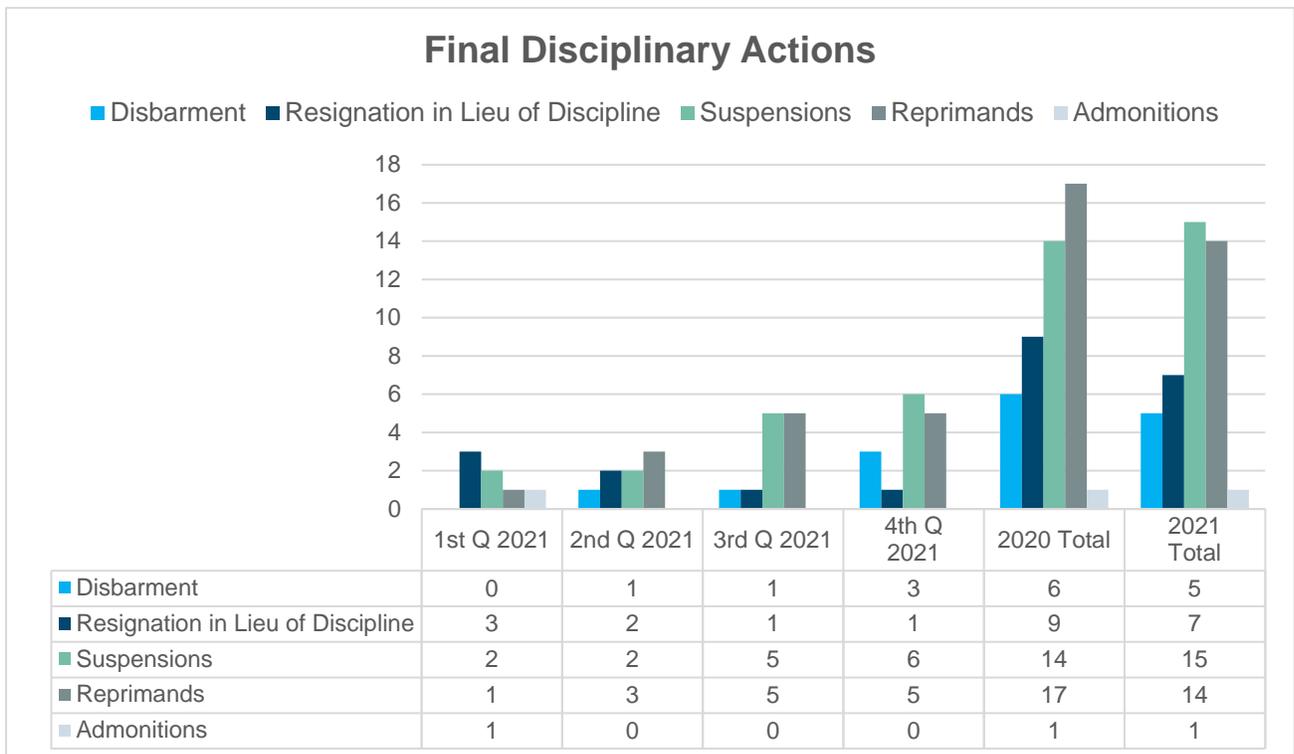
D. Pending Proceedings²

Open Proceedings	2020	2021
Ending 1 st Quarter	40	37
Ending 2 nd Quarter	40	38
Ending 3 rd Quarter	40	34
Ending 4 th Quarter	40	36

² In the second table in this section, the Disciplinary Board numbers reflect Board orders on stipulations and following review after an appeal of a hearing officer's findings.



E. Final Disciplinary Actions



F. Disability Found

Disability Found	Quarter Total
1st Quarter 2021	3
2nd Quarter 2021	1
3rd Quarter 2021	0
4th Quarter 2021	0
2020 Total	7
2021 Total	4

G. Discipline Costs³

Quarterly Discipline Costs Collected	Total
1st Quarter 2021	\$30,648.71
2nd Quarter 2021	\$27,730.33
3rd Quarter 2021	\$20,087.96
4th Quarter 2021	\$26,922.72
2020 Total	\$93,512.44
2021 Total	\$105,389.72

³ The cost figures may vary from amounts indicated in previous quarterly reports, statistical summaries, and annual reports, owing to limitations on the data available at the time of issuance of these quarterly reports and the final cost figures available after Accounting closes the monthly books.

Office of General Counsel

To: The President, President-elect, Immediate Past-President, and Board of Governors
 From: Julie Shankland, General Counsel
 Lisa Amatangel, Associate Director, OGC
 Date: February 22, 2022
 Re: Litigation Update

No.	Name	Brief Description	Status
1.	<i>Sangha v. Knapp et al</i> , No. 21-2-00-769-37 (Whatcom Sup. Ct.)	Addresses handling of letters of complaint.	Complaint filed 08/02/21; WSBA filed motion to dismiss on 08/24/21. WSBA's motion to dismiss granted 09/24/21. Notice of appeal received 11/22/21.
2.	<i>Block v. Scott et al</i> , No. 21-2-01394-31 (Snohomish Sup. Ct.) (" <i>Block IV</i> ")	Alleges civil rights and public records violations.	Complaint filed 03/26/21. This matter was dismissed in part as of 08/12/21. WSBA Motion for Protective Order and to Quash Notice of Deposition and to Stay Deposition Pending Order to Quash filed on 11/09/21. Motion was heard and granted on 11/23/21. WSBA's Motion to Dismiss was noted for 12/17/21. Block filed an Objection and Notice of Appeal. On 01/12/22 WSBA filed Motion for Protective Order to stay discovery and quash deposition notice. On 01/14/22 Block filed Motion for Voluntary Dismissal without Prejudice. The matter was dismissed on 01/21/22.
3.	<i>Block v. WSBA et al.</i> , No. 18-cv-00907 (W.D. Wash.) (" <i>Block II</i> ")	See <i>Block I</i> (below).	<p>On 03/21/19, the Ninth Circuit stayed <i>Block II</i> pending further action by the district court in <i>Block I</i>. On 12/17/19, Block filed a status report with the Ninth Circuit informing the Court of the <i>Block I</i> Court's reimposition of the vexatious litigant pre-filing order against Block. On 06/18/20, the Ninth Circuit lifted the stay order and ordered the appellees who have not yet filed their answering briefs to do so by 08/17/20 (WSBA filed its answer brief before the stay order was entered). Block's reply was due 10/09/20, then extended to 12/28/20.</p> <p>Block filed a reply brief four months late along with a motion for extension of time. The Ninth Circuit Court denied Block's motion for an extension and declined to accept the</p>



			<p>reply brief. Block has filed a Motion for Reconsideration of the Order denying her motion for an extension. The Ninth Circuit set this matter for consideration without oral argument on 06/08/21. On 07/02/21, the Ninth Circuit affirmed the dismissal of Block II pursuant to the original vexatious litigant order.</p> <p>Block filed in the district court a Motion to Issue Indicative ruling and an amended version of the same motion, which was denied.</p> <p>Block filed a second notice of appeal in this matter (21-35261). Block's opening brief and excerpts of record were due 06/07/21. On 08/27/21, the Ninth Circuit denied the appellees' requests for dismissal of the appeal for failure to prosecute and set a new briefing schedule; Block's opening brief was due 09/22/21. On 09/29/21 Block filed a motion to stay the appeal or extend the deadline for her to file the opening brief by 90 days.</p> <p>On 09/09/21, Block filed a motion to vacate all decisions in this matter; WSBA opposed and the motion was denied on 09/28/21.</p> <p>Block appealed the order issued on 9/28/21. The amended notice of appeal was added to the earlier appeal in No. 21-35261.</p>
4.	<i>Block v. WSBA, et al.</i> , No. 15-cv-02018-RSM (W.D. Wash.) (" <i>Block I</i> ")	Alleges conspiracy among WSBA and others to deprive plaintiff of law license and retaliate for exercising 1st Amendment rights.	<p>On 02/11/19, 9th Cir. affirmed dismissal of claims against WSBA and individual WSBA defendants; the Court also vacated the pre-filing order and remanded this issue to the District Court. On 12/09/19, the United States Supreme Court denied plaintiff's Petition of Writ of Certiorari.</p> <p>On 12/13/19, the District Court reimposed the vexatious litigant pre-filing order against Block; Block filed a notice of appeal regarding this order on 01/14/20. Block filed an</p>

		<p>opening brief on 11/06/20; WSBA filed its answering brief on 01/07/21. Block's optional Reply Brief was due on 01/28/21. Block filed a reply brief on 04/26/21 along with a motion for extension. The Ninth Circuit set this matter for consideration without oral argument on 06/08/21. On 07/02/21 the Ninth Circuit affirmed the dismissal of Block II pursuant to the original vexatious litigant order.</p> <p>On 09/10/20, Block moved to vacate the vexatious litigant order; WSBA opposed the motion and it was denied. In response to the district court's denial of Block's motion to vacate, on 10/01/20, Block filed a motion for an indicative ruling on whether the district court would vacate the vexatious litigant order if the appellate court remanded the case for that purpose. WSBA opposed the motion. Block filed a reply on 10/16/20. This motion was denied.</p> <p>On 09/09/21, Block filed a motion to vacate all decisions in this matter; WSBA filed an opposition on 09/20/21. This motion was denied on 09/28/21.</p> <p>Block appealed the order issued on 09/28/21. The Ninth Circuit opened a new appeal (No. 21-35922) in which Block's opening brief was due 01/05/22. Block filed an untimely motion to extend the time to file her opening brief; WSBA opposed the motion on 02/07/22.</p>
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WASHINGTON STATE BAR ASSOCIATION

MEMO

To: WSBA Board of Governors

From: Jennifer Olegario, Communications and Outreach Manager

CC: Sara Niegowski, Chief Communications and Outreach Officer

Date: Feb. 22, 2022

RE: Summary of Media Contacts, Jan. 2 – Feb. 22, 2022

Date	Journalist and Media Outlet	Inquiry
Jan.11	Greg Mason, <i>Spokesman-Review</i> (Spokane)	Sought information about new WA law school partnership w/Heritage University to increase Latinx and Indigenous law students. Referred several sources from Alliance for Equal Justice who can speak directly about issue.
Feb. 8	Davis Winkie, <i>Army Times</i>	Inquired about ethics investigation of Jared Ausserer. Sent standard media response for inquiries regarding grievances/discipline.
Feb. 8	Mark Hyrwna, <i>NonProfit Times</i>	Sought information and subject matter expert on new changes for the Washington Nonprofit Corporations Act that went into effect Jan. 1.
Feb. 8	Cara Bayles, Law360	Inquired whether people taking the February bar exam in Washington will be required to wear masks, and if they have to show proof of vaccination or a recent negative COVID test. Sent WA Supreme Court Order/Bar Exam Health Safety Plan.

Media Coverage

- Washington state suspends lawyer for "Pattern of Neglect" in immigration cases (Law.com, Jan. 5)
- New program through Gonzaga, state law schools aims to narrow attorney shortage in Central Washington, (*Spokesman-Review*, Jan. 18)
 - New program at Heritage University aims to narrow attorney shortage in Central Washington (*Yakima Herald*, Jan. 18)
- Lack of law firm oversight during pandemic could make "Ghost Clients" a lot more common (Law360, Jan. 14)
- Washington state passes new NPO regulations (*Nonprofit Times*, Feb. 14)

WSBA Member* Licensing Counts 3/1/22 8:11:39 AM GMT-08:00

Member Type	In WA State	All
Attorney - Active	26,295	33,367
Attorney - Emeritus	113	120
Attorney - Honorary	355	405
Attorney - Inactive	2,762	6,000
Judicial	642	672
LLLT - Active	67	67
LLLT - Inactive	6	7
LPO - Active	778	788
LPO - Inactive	147	167
	31,165	41,593

Misc Counts	
All License Types **	41,977
All WSBA Members	41,593
Members in Washington	31,165
Members in western Washington	27,046
Members in King County	17,375
Members in eastern Washington	3,929
Active Attorneys in western Washington	22,875
Active Attorneys in King County	15,129
Active Attorneys in eastern Washington	3,264
New/Young Lawyers	6,443
MCLE Reporting Group 1	10,824
MCLE Reporting Group 2	11,186
MCLE Reporting Group 3	11,857
Foreign Law Consultant	19
House Counsel	355
Indigent Representative	10

By District		
	All	Active
0	4,688	3,577
1	2,948	2,438
2	2,166	1,747
3	2,097	1,742
4	1,370	1,151
5	3,298	2,689
6	3,479	2,880
7N	4,998	4,246
7S	6,345	5,190
8	2,285	1,936
9	5,018	4,235
10	2,901	2,391
	41,593	34,222

By State and Province	
Alabama	27
Alaska	199
Alberta	10
Arizona	368
Arkansas	18
Armed Forces Americas	2
Armed Forces Europe, Middle East	23
Armed Forces Pacific	9
British Columbia	93
California	1,950
Colorado	273
Connecticut	46
Delaware	7
District of Columbia	360
Florida	285
Georgia	89
Guam	13
Hawaii	142
Idaho	497
Illinois	165
Indiana	47
Iowa	27
Kansas	29
Kentucky	40
Louisiana	46
Maine	13
Maryland	117
Massachusetts	83
Michigan	74
Minnesota	111
Mississippi	4
Missouri	71
Montana	175
Nebraska	18
Nevada	168
New Hampshire	13
New Jersey	63
New Mexico	79
New York	255
North Carolina	85
North Dakota	10
Northern Mariana Islands	6
Nova Scotia	1
Ohio	88
Oklahoma	45
Ontario	17
Oregon	2,743
Pennsylvania	75
Puerto Rico	6
Quebec	2
Rhode Island	16
South Carolina	33
South Dakota	9
Tennessee	60
Texas	416
Utah	191
Vermont	15
Virginia	279
Virgin Islands	2
Washington	31,165
Washington Limited License	1
West Virginia	5
Wisconsin	50
Wyoming	19

By WA County		By Admit Yr	
Adams	16	1946	1
Asotin	26	1947	2
Benton	400	1948	2
Chelan	263	1949	1
Clallam	163	1950	4
Clark	990	1951	13
Columbia	8	1952	18
Cowlitz	151	1953	15
Douglas	39	1954	21
Ferry	9	1955	9
Franklin	61	1956	31
Garfield	3	1957	20
Grant	123	1958	25
Grays Harbor	116	1959	28
Island	158	1960	27
Jefferson	121	1961	21
King	17,375	1962	27
Kitsap	839	1963	29
Kittitas	93	1964	30
Klickitat	30	1965	46
Lewis	120	1966	56
Lincoln	14	1967	54
Mason	95	1968	74
Okanogan	88	1969	88
Pacific	28	1970	87
Pend Oreille	13	1971	92
Pierce	2,450	1972	143
San Juan	94	1973	225
Skagit	294	1974	215
Skamania	19	1975	265
snohomish	1	1976	319
Snohomish	1,715	1977	332
Spokane	2,058	1978	352
Stevens	55	1979	391
Thurston	1,697	1980	412
Wahkiakum	11	1981	451
Walla Walla	119	1982	431
Whatcom	609	1983	470
Whitman	72	1984	1,067
Yakima	439	1985	537
		1986	729
		1987	698
		1988	612
		1989	674
		1990	851
		1991	822
		1992	804
		1993	901
		1994	864
		1995	804
		1996	784
		1997	894
		1998	883
		1999	898
		2000	901
		2001	899
		2002	981
		2003	1,043
		2004	1,078
		2005	1,104
		2006	1,174
		2007	1,253
		2008	1,091
		2009	970
		2010	1,069
		2011	1,051
		2012	1,079
		2013	1,217
		2014	1,348
		2015	1,586
		2016	1,304
		2017	1,379
		2018	1,303
		2019	1,360
		2020	1,556
		2021	1,414
		2022	179

By Section ***		
	All	Previous Year
Administrative Law Section	239	237
Alternative Dispute Resolution Section	315	314
Animal Law Section	86	82
Antitrust, Consumer Protection and Unfair Business Practice	183	198
Business Law Section	1,192	1,252
Cannabis Law Section	63	95
Civil Rights Law Section	167	180
Construction Law Section	484	518
Corporate Counsel Section	1,047	1,102
Creditor Debtor Rights Section	445	466
Criminal Law Section	366	384
Elder Law Section	583	624
Environmental and Land Use Law Section	743	801
Family Law Section	947	990
Health Law Section	370	391
Indian Law Section	314	332
Intellectual Property Section	818	869
International Practice Section	216	226
Juvenile Law Section	133	146
Labor and Employment Law Section	933	983
Legal Assistance to Military Personnel Section	77	79
Lesbian, Gay, Bisexual, Transgender (LGBT) Law Section	112	108
Litigation Section	992	1,045
Low Bono Section	67	85
Real Property Probate and Trust Section	2,179	2,316
Senior Lawyers Section	209	233
Solo and Small Practice Section	826	907
Taxation Section	604	628
World Peace Through Law Section	126	144

* Per WSBA Bylaws 'Members' include active attorney, emeritus pro-bono, honorary, inactive attorney, judicial, limited license legal technician (LLLT), and limited practice officer (LPO) license types.

** All license types include active attorney, emeritus pro-bono, foreign law consultant, honorary, house counsel, inactive attorney, indigent representative, judicial, LPO, and LLLT.

*** The values in the All column are reset to zero at the beginning of the year (Jan 1). The Previous Year column is the total from the last day of the prior year (Dec 31). WSBA staff with complimentary membership are not included in the counts.

By Years Licensed	
Under 6	8,296
6 to 10	6,322
11 to 15	5,445
16 to 20	4,945
21 to 25	4,080
26 to 30	3,718
31 to 35	2,951
36 to 40	2,343
41 and Over	3,493
Total:	41,593

By Age	All	Active
21 to 30	1,795	1,728
31 to 40	9,171	8,239
41 to 50	10,270	8,584
51 to 60	9,078	7,142
61 to 70	7,418	5,405
71 to 80	3,246	2,107
Over 80	615	162
Total:	41,593	33,367

By Gender	
Female	12,258
Male	16,179
Non-Binary	26
Not Listed	27
Selected Mult Gender	31
Transgender	1
Two-spirit	4
Respondents	28,526
No Response	13,067
All Member Types	41,593

By Disability	
Yes	1,296
No	19,903
Respondents	21,199
No Response	20,394
All Member Types	41,593

By Sexual Orientation	
Asexual	25
Gay, Lesbian, Bisexual, Pansexual, or Queer	627
Heterosexual	5,436
Not Listed	122
Selected multiple orientations	29
Two-spirit	4
Respondents	6,243
No Response	35,350
All Member Types	41,593

By Ethnicity	
American Indian / Native American / Alaskan Native	226
Asian-Central Asian	27
Asian-East Asian	292
Asian-South Asian	85
Asian-Southeast Asian	88
Asian—unspecified	1,016
Black / African American / African Descent	667
Hispanic / Latinx	712
Middle Eastern Descent	30
Multi Racial / Bi Racial	1,089
Not Listed	217
Pacific Islander / Native Hawaiian	63
White / European Descent	22,788
Respondents	27,300
No Response	14,293
All Member Types	41,593

Members in Firm Type	
Bank	37
Escrow Company	64
Government/ Public Sector	5,135
House Counsel	3,205
Non-profit	511
Title Company	128
Solo	5,017
Solo In Shared Office Or	1,201
2-5 Members in Firm	4,128
6-10 Members in Firm	1,626
11-20 Members in Firm	1,214
21-35 Members in Firm	753
36-50 Members In Firm	541
51-100 Members in Firm	583
100+ Members in Firm	1,826
Not Actively Practicing	2,148
Respondents	28,117
No Response	13,476
All Member Types	41,593

By Practice Area	
Administrative-regulator	2,263
Agricultural	235
Animal Law	112
Antitrust	315
Appellate	1,657
Aviation	181
Banking	427
Bankruptcy	830
Business-commercial	5,230
Cannabis	147
Civil Litigation	386
Civil Rights	1,082
Collections	482
Communications	218
Constitutional	647
Construction	1,351
Consumer	750
Contracts	4,282
Corporate	3,605
Criminal	3,631
Debtor-creditor	879
Disability	570
Dispute Resolution	1,232
Education	468
Elder	815
Employment	2,771
Entertainment	313
Environmental	1,266
Estate Planning-probate	3,202
Family	2,549
Foreclosure	442
Forfeiture	93
General	2,499
Government	2,857
Guardianships	768
Health	962
Housing	330
Human Rights	307
Immigration-naturaliza	994
Indian	568
Insurance	1,614
Intellectual Property	2,293
International	897
Judicial Officer	442
Juvenile	787
Labor	1,104
Landlord-tenant	1,191
Land Use	861
Legal Ethics	290
Legal Research-writing	831
Legislation	442
Lgbtq	94
Litigation	4,752
Lobbying	167
Malpractice	730
Maritime	306
Military	385
Municipal	897
Non-profit-tax Exempt	638
Not Actively Practicing	2,054
Oil-gas-energy	257
Patent-trademark-copyr	1,333
Personal Injury	3,153
Privacy And Data Securit	419
Real Property	2,661
Real Property-land Use	2,071
Securities	779
Sports	179
Subrogation	126
Tax	1,297
Torts	2,040
Traffic Offenses	575
Workers Compensation	679

By Languages Spoken	
Afrikaans	5
Akan /twi	6
Albanian	2
American Sign Language	19
Amharic	21
Arabic	49
Armenian	8
Bengali	13
Bosnian	15
Bulgarian	12
Burmese	3
Cambodian	6
Cantonese	108
Cebuano	6
Chamorro	5
Chaozhou/chiu Chow	1
Chin	1
Croatian	20
Czech	7
Danish	19
Dari	5
Dutch	22
Egyptian	2
Estonian	1
Farsi/persian	70
Finnish	8
French	696
French Creole	2
Fukienese	3
Ga/kwa	2
German	405
Gikuyu/kikuyu	1
Greek	33
Gujarati	15
Haitian Creole	3
Hebrew	41
Hindi	106
Hmong	1
Hungarian	17
Ibo	4
Icelandic	2
Ilocano	9
Indonesian	12
Italian	166
Japanese	212
Javanese	1
Kannada/canases	5
Kapampangan	2
Khmer	3
Korean	241
Kurdish/kurmanji	1
Lao	5
Latvian	6
Lithuanian	4
Malay	4
Malayalam	8
Mandarin	410
Marathi	6
Mien	1
Mongolian	1
Navajo	1
Nepali	5
Norwegian	36
Not_listed	50
Oromo	3
Pashto	1
Persian	23
Polish	34
Portuguese	132
Portuguese Creole	1
Punjabi	71
Romanian	23
Russian	235
Samoan	7
Serbian	17
Serbo-croatian	13
Sign Language	19
Singhalese	2
Slovak	3
Spanish	1,852
Spanish Creole	3
Swahili	8
Swedish	52
Tagalog	69
Taishanese	5
Taiwanese	23
Tamil	11
Telugu	4
Thai	12
Tigrinya	4
Tongan	1
Turkish	16
Ukrainian	44
Urdu	47
Vietnamese	88
Yoruba	10
Yugoslavian	3

* Includes active attorneys, emeritus pro-bono, honorary, inactive attorneys, judicial, limited license legal technician (LLLT), and limited practice officer (LPO).

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Paris Eriksen, Volunteer Engagement Advisor
DATE: February 28, 2022
RE: ABA Mid-Year Meeting Report

INFORMATION: WSBA ABA Delegates Report following the ABA Mid-Year Meeting held February 10-11, 2022.

The control and administration of the ABA are vested in the House of Delegates, the policymaking body of the ABA. The House, composed of approximately 550 delegates, elects the ABA officers and board, and meets out of state twice a year.

The WSBA currently has seven (7) delegates to the ABA House of Delegates. The term for each delegate is two-years. Delegates may serve a maximum of three consecutive terms and must be an ABA member in good standing. Additionally, the WSBA provides an expense reimbursement allowance for \$800 per year per delegate.

Delegates attend the annual and mid-year meetings of ABA House of Delegates and are asked to report to the Board of Governors before and after each meeting.

The WSBA current delegates are as follows:

Kyle Berti (Young Lawyer Delegate)
Lisa Dickinson
John Felleisen
Rajeev Majumdar
Kari Petrasek
Maggie Smith
Kinnon Williams
Austin Hatcher (alternate)

Delegate Majumdar has provided the enclosed materials summarizing the action items and discussion topics of the ABA House of Delegates at the mid-year meeting held February 10 – 11, 2022.

Attachments

American Bar Association House of Delegates 2022 Virtual Midyear Meeting Daily Journal
Memo – Summary of Action of the February 10-11, 2022, Board of Governors Meetings



Alpha M. Brady
Senior Associate Executive Director, &
Chief Governance Officer
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MEMORANDUM

TO: House of Delegates
Section and Committee Chairs
Presidents and Executive Directors of State and Local Bar
Associations
ABA Senior Managers, Directors, and Staff Liaisons

FROM: Alpha M. Brady

SUBJECT: Summary of Action of the February 10-11, 2022, Board of
Governors Meeting

DATE: February 14, 2022

Attached is the Summary of Action of the February 10-11, 2022, meeting of the Board of Governors. This Summary does not constitute official Minutes of the meeting. Minutes of the meeting will be presented to the Board for approval at its meeting in June 2022.

If you have any questions with respect to the action taken, please do not hesitate to contact me.

cc: Board of Governors

**BOARD OF GOVERNORS
SUMMARY OF ACTION**

**Virtual Meeting
February 11, 2022**

REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR

The Board received the reports of the President, President-Elect, Chair of the House of Delegates, Immediate Past President, Secretary, Treasurer, and Executive Director. The Minutes of the Board's November 5, 2021 were approved. The Minutes of the Executive Committee's October 13 and 26, November 4 and 16, 2021, January 11, 2022 meetings were received.

The Board received the Report of the Secretary on the Exercise of Blanket Authority.

The Board, sitting as members of the Board of the American Bar Association Fund for Justice and Education (ABA/FJE): a) approved the Minutes of the November 5, 2021 meeting; b) accepted the ABA/FJE restricted grants and contributions received or awarded through September 30, 2021, and not previously reported, as requested by the Association's Financial Services Division.

The Board adopted memorial resolutions for James Bracken Lee of Salt Lake City, Utah, and Bettina P. Plevan of New York, New York, former members of the ABA Board of Governors.

MATTERS FOR DIRECT BOARD ACTION

2.1 Consideration of House Reports

The Board did not consider any House Reports.

2.2 Request from National Judicial College

The Board, sitting as members of the National Judicial Corporation (NJC), re-elected Brandon Barkhuff of Las Vegas, Nevada; Edward Blumberg of Miami, Florida; and Angelina Tsu of Salt Lake City, Utah for second three-year terms each on the NJC Board of Trustees. In addition, the Board elected Susan Briggs of Charlotte, North Carolina and Kellye Testy of Newtown, Pennsylvania for three-year terms each. Finally, the NJC elected Darcee Siegel of Bal Harbour, Florida, as the NJC representative to the A-E-F-C Pension Plan Administration Committee.

2.3 Consideration of Florida Continuing Legal Education Ruling

In executive session, the Board discussed the Florida Continuing Legal Education ruling.

2.4 Report from ABA Legal Opportunity Scholarship Fundraising Committee

The Board received a report from Jamie Davis, ABA Board of Governor's Liaison to the Legal Opportunity Scholarship Fundraising Committee (Committee) and Myra McKenzie-Harris, Chair of the Committee, regarding the Committee's fundraising efforts.

2.5 Report on ABA Day

The Board received a report from William R. Bay, Chair, ABA Day in Washington Planning Committee, regarding the format and schedule of the 2022 ABA Day and the significant advocacy successes the ABA achieved in the first session of the 117th Congress.

2.6 Reports of Committee Chairs

The Board received reports regarding the work of the Board Committees from Christine Hayes Hickey, Chair of the Profession, Public Service and Diversity Committee; James Durant, Chair of the Member Services Committee; and Andrew M. Schpak, Chair of the Finance Committee.

2.7 Consent Calendar

The Board adopted the Consent Calendar as set forth in items 3 through 5 (except for 4.4b) of this Summary of Action relating to the reports of the Board Committees.

2.8 Update Regarding ABA Paywall

The Board received a report from Jim Walsh, ABA Director Digital Content and Cara DiPasquale, ABA Associate Director Digital Content Creative, regarding the ABA Paywall.

2.9 Report of Working Group on Sections, Divisions, and Forums

The Board received a report from William R. Bay, Chair, Working Group on Section, Divisions and Forums (Working Group), regarding the Working Group's analysis and suggestions with regard to the relationship of the ABA with Sections, Divisions, and Forums.

2.10 In executive session, the Board discussed additional matters.

INFORMATIONAL REPORTS

2.25 The Board received a written report from the ABA Journal Board of Editors Report.

2.26 The Board received a written update from William R. Bay and Laura Farber, Co-Chairs, Coordinating Group on Practice Forward (Coordinating Group), regarding the work of the Coordinating Group and the follow-up survey.

2.27 The Board received a written update from Patricia D. Lee Chair, Standing Committee on Public Education (Standing Committee), regarding the work of the Standing Committee and the Division for Public Education.

3.30 The Board received a written update from William T. Garcia, Chair, Standing Committee on Membership, and Joseph Brownlee, Director, ABA Center for Member Operations, regarding membership.

MEMBER SERVICES

A. MATTERS FOR REVIEW BY THE BOARD

3.1 Request to Amend Bylaws

The Board approved the request from the Section of Legal Education and Admissions to the Bar (Section) to amend its bylaws to allow the Council's Executive Committee to approve or reject teach-out plans submitted by law schools between Council meetings due to their time sensitive nature, subject to approval by the Section's membership at the 2022 Annual Meeting.

3.2 Request from Standing Committee on Publishing Oversight to Amend Policy and Procedures Handbook Regarding the Usage of 'ABA' in Title of Book

The Board approved the request of the Standing Committee on Publishing Oversight to amend the Policy and Procedures Handbook to provide guidelines for the Board to evaluate any entity requests to use 'ABA' in the title of a book.

3.3 Request from Standing Committee on Publishing Oversight and General Counsel's Office Regarding Requirements for Editorial Policies

The Board approved the request from the Standing Committee on Publishing Oversight and the ABA General Counsel to establish requirements for editorial policies prescribed by the Board, and suggested language in applying each requirement, and set forth in Chapter 6 of the ABA Policy and Procedures Handbook.

3.4 Litigation Section to Renew Memorandum of Understanding with Judicial Resources Committee-Just the Beginning—A Pipeline Organization's Summer Judicial Internship Diversity Project

The Board approved the request of the Litigation Section's Judicial Intern Opportunity Program Committee (Committee) to renew a Memorandum of Understanding (MOU) with the Judicial Resources Committee-Just the Beginning—A Pipeline Organization's (JRC-JTB) Summer Judicial Internship Diversity Project. The agreement was formalized beginning with the summer 2021 program with the understanding to review and renew the MOU annually. The Board approved the request subject to review and approval of the MOU by the ABA Office of General Counsel and signed copies filed with the Policy and Planning Division.

3.5 Request to Approve 2022-2023 Board of Governors Meetings

The Board approved the request of President-Elect Deborah Enix-Ross to hold the stand-alone meetings of the Board for 2022-2023 as follows: November 9-10, 2022 (Virtual Meeting) and June 8-9, 2023, Chicago, Illinois. The scheduled Board Meetings held in conjunction with the 2023 ABA Midyear Meeting are February 2-3, New Orleans, Louisiana and held in conjunction with the 2023 ABA Annual Meeting are August 3-4, Denver, Colorado.

3.6 Request from Section of Environment, Energy, and Resources to Amend Jurisdictional Statement of Task Force on Environmental Justice

The Board approved the request of the Section of Environment, Energy, and Resources (SEER) to amend its jurisdictional statement of the ABA Environmental Justice Task Force (Task Force) as follows: 1) the Task Force shall have 11 members and will be led by two co-chairs, and one representative from each ABA entity with an interest in environmental justice issues, including SEER, the Section of Civil Rights and Social Justice, the Center for Human Rights, the Business Law Section, and five members-at-large; and 2) the Task Force will also have two special advisors. It may include lawyer and nonlawyer experts from the public and private sectors. The Board approved the request with the understanding that diversity will be taken into account with regard to the composition of the Task Force.

PROFESSION, PUBLIC SERVICE AND DIVERSITY**A. MATTERS FOR REVIEW BY THE BOARD****4.1 Request for Nomination to Foundation for Advancement of Diversity in Intellectual Property Law**

The Board elected Marylee Jenkins, New York, NY to the Board of Trustees of the Foundation for the Advancement of Diversity in Intellectual Property Law for a three-year term beginning on July 1, 2022 and concluding on June 30, 2025.

4.2 Request from Judicial Division to Join Diversity Equity and Inclusion Collaborative

The Board approved the request of the Judicial Division to join the Diversity Equity and Inclusion Collaborative, with the condition that no action undertaken by the Diversity, Equity, and Inclusion Collaborative shall be binding upon the ABA.

4.3 Request from ABA Rule of Law Initiative to Enter Into Memoranda of Understanding

The Board approved the request of the ABA Rule of Law Initiative to enter into Memoranda of Understanding (MOU), subject to review and approval of the MOUs by the ABA Office of General Counsel and signed copies filled with the Policy and Planning Division, with the following thirty-five (35) organizations:

- Bosnia and Herzegovina: Faculty of Law Sarajevo
- Bosnia and Herzegovina: Faculty of Law Tuzla
- Bosnia and Herzegovina: Faculty of Law Mostar
- Bosnia and Herzegovina: Faculty of Law Banja Luka
- Bosnia and Herzegovina: Municipal Court Sarajevo
- Bosnia and Herzegovina: Cantonal Court Sarajevo
- Bosnia and Herzegovina: Cantonal Prosecutor Office of Canton Sarajevo
- Bosnia and Herzegovina: Bar Association of the Federation of Bosnia and Herzegovina
- Bosnia and Herzegovina: Regional Bar Association Sarajevo
- Bosnia and Herzegovina: Municipal Court Tuzla
- Bosnia and Herzegovina: Cantonal Court Tuzla
- Bosnia and Herzegovina: Cantonal Prosecutor's Office of Canton Tuzla
- Bosnia and Herzegovina: Regional Bar Association Tuzla
- Bosnia and Herzegovina: Municipal Court Mostar
- Bosnia and Herzegovina: Cantonal Court Mostar
- Bosnia and Herzegovina: Cantonal Prosecutor's Office of Canton Mostar
- Bosnia and Herzegovina: Regional Bar Association Mostar
- Bosnia and Herzegovina: Basic Court in Banja Luka
- Bosnia and Herzegovina: District Court in Banja Luka
- Bosnia and Herzegovina: District Public Prosecutor's Office in Banja Luka
- Bosnia and Herzegovina: Republic Public Prosecutor's Office of Republika Srpska / the Special Department for Combating Corruption, Organized and Serious Forms of Economic Crime
- Bosnia and Herzegovina: Bar Association of Republika Srpska
- Bosnia and Herzegovina: Assembly of Attorneys Banja Luka
- Bosnia and Herzegovina: High Judicial and Prosecutorial Council of BiH
- Bosnia and Herzegovina: Judicial and Prosecutorial Training Center of the FBiH and Judicial and Prosecutorial Training Center of the RS
- Bosnia and Herzegovina: Association of Judges in BiH
- Bosnia and Herzegovina: Association of Women Judges in Bosnia and Herzegovina

- Bosnia and Herzegovina: The Association of Judges in the Federation of Bosnia and Herzegovina
- Bosnia and Herzegovina: The Association of Judges in the Republic Srpska
- Bosnia and Herzegovina: The Association of Prosecutors of the Federation of Bosnia and Herzegovina
- Bosnia and Herzegovina: The Association of Prosecutors of the Republic Srpska
- Bosnia and Herzegovina: ELSA (The European Law Students' Association)
- Indonesia: Indonesian Government Ministries (Ministry of Environment and Forestry, Ministry of Law and Human Rights, Ministry of Maritime Affairs and Fisheries, Ministry of religious Affairs)
- Mongolia: Mongolian Judges Association
- Paraguay: Supreme Court of Justice

4.4 Awards

a. Request from Criminal Justice to Rename Norm Maleng Minister of Justice Award Recognizing Prosecutors to Curtin-Maleng Minister of Justice Award

The Board approved the request of the Criminal Justice Section to rename the Norm Maleng Minister of Justice Award to the Curtin-Maleng Minister of Justice Award to honor the late Kevin Curtin, who was Senior Appellate Counsel in the Middlesex County District Attorney's Office and a member of the ABA Board of Governors.

b. Request from Judicial Division to Rename the John Marshall Award

The Board approved the request of the Judicial Division to rename the John Marshall Award to the Justice and Rule of Law Award.

c. ABA Day Special Award Request

The Board approved the request of the ABA Day Planning Committee and the Governmental Affairs Office to present up to two one-time Special Recognition Awards at the American Bar Association 2022 Annual Meeting in celebration of the 25th Anniversary of ABA Day.

4.5 Request from Fund for Justice and Education to create a Program Support Fund on behalf of Criminal Justice Section for its Kevin Curtin Diversity Fund and To Seek Outside Funding

The Board approved the request of the ABA Fund for Justice and Education to establish a Program Support Fund, on behalf of the Criminal Justice Section, named "The Kevin Curtin Diversity Fund" and to seek outside funding.

4.6 Request from Criminal Justice Create a Fellowship Honor of Kevin Curtin

The Board approved the request of the Criminal Justice Section (Section) to establish the "Kevin Curtin Diversity Fellowship", intended to assist attorneys of diverse backgrounds to join the Section for one bar year, as well as attend the Section's Fall Institute.

4.7 Request from Standing Committee on Legal Assistance for Military Personnel to Enter Into a Memorandum of Understanding

The Board approved the request of the Standing Committee on Legal Assistance for Military Personnel (LAMP) to enter into a Memorandum of Understanding (MOU) with the Military Spouse J.D. Network Foundation (MSJDNF), subject to review and approval of the MOU by the ABA Office of General Counsel and a signed copy filed with the Policy and Planning Division. The purpose of the MOU is to allow the ABA Military Pro Bono

Project to accept case referrals from the MSJDNF on behalf of unrepresented family members of deceased servicemembers who are eligible under the Military Pro Bono Project's existing guidelines.

4.8 Request from Center for Human Rights for Presidential Appointment of Advisory Boards to CHR Initiatives

The Board approved the request of the ABA Center for Human Rights (Center) to establish presidentially appointed advisory boards for the following Center initiatives: Atrocity Crimes Initiative (jointly with Criminal Justice Section; Business & Human Rights Initiative; Dignity Rights Initiative; and Health & Human Rights Initiative (jointly with Civil Rights and Social Justice Section). All initiatives were established to implement and effectuate relevant ABA policies. The Board approved the request with the stipulation that no more than ten (10) ABA members or non-members be appointed to each advisory board.

FINANCE

A. MATTERS FOR REVIEW BY THE BOARD

5.1 Request from Business Law Section to Make a Charitable Contribution to Our Lady of Good Counsel High School

The Board approved the request of the Business Law Section to contribute \$1,000.00 derived from Section funds to Our Lady of Good Counsel High School in Olney, Maryland, a 501c3 organization, in honor of Brian Munro (husband of Nikki Munro who currently serves as the Business Law Section Vice-Chair) who passed away unexpectedly on October 2, 2021. The Board also recommends that the appropriate ABA entity review and consider modifications, if necessary, to applicable ABA policies.

5.2 Requests from Standing Committee on Audit

a. Acceptance of Audited Financial Statements

The Board received the consolidated statement of financial position, details of consolidation and other information for the years ended August 31, 2021 and 2020.

b. Approval of Updated Governing Documents

The Board approved the request of the ABA Standing Committee on Audit (Audit Committee) to amend its charter to reflect the elimination of the Internal Audit function and approved the Audit Committees' Guidelines for Non-Audit Services Provided by an Independent Auditor, developed by the Audit Committee and utilizing the Ethics Office Procedures provided by the ABA General Counsel which addresses the "whistleblowing" procedures in the Charter.

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

NO.	SUBMITTED BY	SHORT TITLE	ACTION
500	SECTION OF INTERNATIONAL LAW	Adopts the International Law Section's report, <i>FARA: Issues and Recommendations for Reform, Report of the Task Force on the Foreign Agents Registration Act</i> , dated July 16, 2021, including the recommendations contained in the Executive Summary of the report, and urges Congress and the Department of Justice to implement those recommendations.	Approved
501	YOUNG LAWYERS DIVISION COMMISSION ON WOMEN IN THE PROFESSION	Urges bar admissions authorities, law schools, bar associations, and legal employers to adopt clear and uniform policies allowing for accommodations for lactating individuals.	Approved
502	SECTION OF INTELLECTUAL PROPERTY LAW SECTION OF INTERNATIONAL LAW	Adopts policy supporting a definition of utilitarian functionality based on whether features of a claimed trade dress are <i>essential</i> to the use or purpose of the associated good or service or affect their cost or quality.	Approved
600	STANDING COMMITTEE ON PARALEGALS	Grants approval of 2 programs, reapproval to 18 programs, withdraws the approval of 3 programs at the request of the institutions, and extends the term of approval of 43 programs.	Approved
601	COMMISSION ON LAW AND AGING HEALTH LAW SECTION SENIOR LAWYERS DIVISION	Urges Congress and the Centers for Medicare and Medicaid Services (CMS) to take certain actions, with broad interagency input, to enhance the transparency and accountability of nursing home ownership and management.	Approved

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

602	COMMISSION ON LAW AND AGING SECTION OF REAL PROPERTY, TRUST, AND ESTATE LAW SENIOR LAWYERS DIVISION	Adopts the recommendations of the Fourth National Guardianship summit and encourages incorporation of the recommendations by courts, legislatures, and policy makers in efforts to improve adult guardianship laws, policies and practices.	Approved as Revised*
603	STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL COMMISSION ON DISABILITY RIGHTS	Urges the Department of Defense, the Administration, and Congress to review the processes and procedures used when determining Veterans' discharge upgrade petitions to ensure that Veterans seeking relief will not be treated inconsistently with principles of fundamental fairness.	Approved
604	COMMISSION ON HOMELESSNESS AND POVERTY SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION SECTION OF LITIGATION	Encourages governments to redesign policy and repurpose funding to prevent youth homelessness and adopt a variety of best practices; encourages the judiciary to recognize and remove legal barriers to housing stability; and encourages bar associations and attorneys to review model state statutes to facilitate understanding of the legal needs and structures related to youth homelessness.	Approved as Revised*
605	CENTER FOR HUMAN RIGHTS RULE OF LAW INITIATIVE SECTION OF INTERNATIONAL LAW	Urges the permanent members of the United Nations Security Council (UNSC) to commit in principle to voluntary restraint in exercising their veto power with respect to resolutions proposing measures to prevent genocide, serious war crimes, ethnic cleansing, or crimes against humanity.	Approved as Revised*

* See attached.

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

606	CENTER FOR HUMAN RIGHTS RULE OF LAW INITIATIVE SECTION OF INTERNATIONAL LAW	Urges the United States and the international community to prioritize efforts to combat kleptocracy in countries where government institutions have been captured by corrupt actors.	Approved
607	STANDING COMMITTEE ON LAWYER REFERRAL AND INFORMATION SERVICE	Urges the consolidation of the Model Supreme Court Rules Governing Lawyer Referral and Information Services and the Model Rules for Operating a Lawyer Referral Service and amends rules to reflect modern practices.	Withdrawn
608	COMMISSION ON IMMIGRATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE	Seeks to support Afghans at home and abroad to allow for advocacy for both legislation and other administrative remedies that would facilitate continued evacuation and streamline processing of immigration benefits.	Approved as Revised*
609	COMMISSION ON IMMIGRATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE	Urges the federal government to maintain and provide to all persons seeking protection from persecution or torture an asylum system that affords them transparency, due process, access to counsel, and a full and fair adjudication that comports with U.S. and international law and urges an end to the use of Section 265 of Title 42 of the U.S. Code by the Department of Health and Human Services and the Department of Homeland Security to block and expel asylum seekers at the U.S. Border.	Approved

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

- | | | | |
|-----|---|--|--------------------------|
| 610 | COMMISSION ON
IMMIGRATION
SECTION OF CIVIL RIGHTS
AND SOCIAL JUSTICE | Urges the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, to identify and eradicate actual and perceived racial bias, discrimination, and xenophobia in the enforcement of the Immigration and Nationality Act, 8 U.S.C. § 1101, <i>et. seq.</i> | Approved |
| 611 | COALITION ON RACIAL
AND ETHNIC JUSTICE
COMMISSION ON
HISPANIC LEGAL RIGHTS
AND RESPONSIBILITIES
COMMISSION ON
IMMIGRATION
SECTION OF CIVIL RIGHTS
AND SOCIAL JUSTICE | Urges all federal officials to adopt and follow laws and policies to ensure that all persons in each state, regardless of immigration status, are included in the apportionment count used to redistribute seats in the United States House of Representatives following each decennial census. | Approved |
| 612 | STANDING COMMITTEE
ON LEGAL AID AND
INDIGENT DEFENSE
COMMISSION ON
DOMESTIC AND SEXUAL
VIOLENCE
COMMISSION ON
HOMELESSNESS AND
POVERTY
SECTION OF CIVIL RIGHTS
AND SOCIAL JUSTICE
SECTION OF STATE AND
LOCAL GOVERNMENT
LAW
GOVERNMENT AND
PUBLIC SECTOR
LAWYERS DIVISION | Adopts the ABA Ten Guidelines for Residential Eviction Laws, black letter and commentary, dated February 2022, and urges federal, state, local, territorial, and tribal legislative, judicial, and other governmental bodies to promulgate law and policy consistent with, and otherwise adhere to, the proposed guidelines. | Approved
as Revised * |

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

613	COMMISSION ON YOUTH AT RISK COMMISSION ON DISABILITY RIGHTS COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE COMMISSION ON HOMELESSNESS AND POVERTY CRIMINAL JUSTICE SECTION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF LITIGATION	Urges the adoption of laws to establish a legal presumption that children involved in dependency (child welfare) cases are present and actively engaged in their own court proceedings unless a child, in consultation with counsel, has waived the right to be present.	Approved
300	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in making amendments dated February 2022 to Standards 205, 303, 507, and 508 of the <i>ABA Standards and Rules of Procedure for Approval of Law Schools</i> .	Approved
700	NATIONAL BAR ASSOCIATION CRIMINAL JUSTICE SECTION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE	Urges federal, state, local territorial and tribal governments to align court decisions on pretrial release from jail with the presumption of innocence by refraining from the use of risk assessment tools and pretrial release evaluations where data demonstrates continued conscious or unconscious racial and economic bias.	Approved as Revised*
701	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform College Athlete Name, Image, or Likeness Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

702	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Cohabitants' Economic Remedies Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
703	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Community Property Disposition at Death Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for non-community property states desiring to adopt the specific substantive law suggested therein.	Approved
704	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Personal Data Protection Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Withdrawn
705	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Restrictive Employment Agreement Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Withdrawn
706	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Unregulated Child Custody Transfer Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2022 VIRTUAL MIDYEAR MEETING
FEBRUARY 14, 2022**

DAILY JOURNAL

800	<p>CRIMINAL JUSTICE SECTION SECTION OF SCIENCE AND TECHNOLOGY LAW CYPERSECURITY LEGAL TASK FORCE</p>	<p>Urges federal, state, local, territorial, and tribal governments to preserve and protect the right to vote in U.S. elections. To that end the ABA opposes laws and regulations that have the purpose, intent, or effect of restricting voting rights, the core of our democracy.</p>	<p>Motion to postpone failed 98-200; Approved 290-39</p>
801	<p>STANDING COMMITTEE ON ELECTION LAW SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION</p>	<p>Urges Congress to amend the Electoral Count Act (ECA) to include several provisions regarding the role of the Vice-President and objections to a state's electoral count or electors, as well as to amend the ECA to clarify and modernize its language and structure.</p>	<p>Motion to postpone failed 56-270; Approved 305-19</p>

RESOLUTION

1 RESOLVED, That the American Bar Association adopts the Recommendations of the
2 Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring
3 Accountability held in May 2021; and
4

5 FURTHER RESOLVED, That the American Bar Association urges ~~courts, as well as~~
6 national, state, local, tribal and territorial law and policy-making bodies, to incorporate the
7 Recommendations when considering improvements to guardianship laws, policies and
8 practices.

Deletions struck through; additions underlined

RESOLUTION

1 RESOLVED, that the American Bar Association encourages federal, state, territorial,
2 tribal, and local governments to redesign policy and repurpose funding towards a wide
3 range of prevention approaches to dramatically reduce the number of youth experiencing
4 homelessness each year and enhance their safety, permanency, and well-being, as well
5 as reduce the disproportionate impact of homelessness on youth of color, indigenous
6 youth, and youth who identify as LGBTQ;

7
8 FURTHER RESOLVED, that the American Bar Association encourages the ~~judiciary and~~
9 justice system to consider barriers to youth achieving stable family support, to work to
10 ease access to petition courts to review kinship and family custody matters that resolve
11 guardianship responsibilities, and to allow youth access to vital records and legal
12 identification for matters of education and receipt of public assistance;

13
14 ...

Deletions struck through; additions underline

RESOLUTION

1 RESOLVED, That the American Bar Association urges the
2 permanent members of the United Nations Security Council
3 (UNSC) to commit in principle to voluntary restraint in exercising
4 their veto power with respect to credible, non-pretextual
5 resolutions proposing measures to prevent genocide, serious war
6 crimes, ethnic cleansing, or crimes against humanity, or to bring to
7 justice persons accused of committing such crimes, consistent with
8 the UN Charter and applicable rules of international law; and

9
10 FURTHER RESOLVED, That the American Bar Association urges
11 Member States of the United Nations, individually and collectively,
12 in conformity with the UN Charter, to seek to achieve the objectives
13 of the General Assembly Declaration on Responsibility to Protect
14 populations from genocide, war crimes, ethnic cleansing and
15 crimes against humanity, as set forth in General Assembly
16 resolution 60/1.

Deletions struck through; additions underlined

RESOLUTION

1 RESOLVED, That the American Bar Association urges the federal government to take
2 all appropriate measures to guarantee the continued departure~~evacuation~~ to safety of
3 citizens of Afghanistan who worked for or collaborated with the United States of
4 America and to facilitate their prompt admission to the United States with
5 streamlined adjudication of their applications for status and related benefits;
6

7 FURTHER RESOLVED, That the American Bar Association also urges the federal
8 government to engage in efforts to facilitate the exit ~~or evacuation~~ of individuals at risk
9 ~~under the Taliban rule~~ in Afghanistan as the result of their contributions to civil
10 society, including lawyers and judges, journalists, academics and educators,
11 and especially women and girls within those groups and to facilitate their prompt
12 admission to the United States with streamlined adjudication of their applications for
13 status and related benefits;
14

15 FURTHER RESOLVED, That the American Bar Association supports measures to
16 ensure that Afghan nationals paroled into the United States following their
17 departure~~evacuation~~ or escape from Afghanistan under exigent circumstances should
18 be eligible to apply for lawful permanent resident status under criteria similar to those
19 applicable to individuals processed abroad and admitted as refugees, and further
20 encourages the incorporation of provisions for:
21

- 22 1. Waiver of administrative and application fees;
- 23 2. Eligibility for work authorization during the pendency of such applications;
- 24 3. Discretion to waive inadmissibility grounds; and
- 25 4. Reasonable measures to expedite family reunification for immediate
26 relatives;

27
28 FURTHER RESOLVED, That the American Bar Association urges Congress, as
29 swiftly as possible, to authorize adequate appropriations to facilitate and
30 streamline the adjustment of status to lawful permanent residence for those
31 Afghans paroled into the United States based on urgent humanitarian grounds or
32 significant public benefit to this country; and
33

34 FURTHER RESOLVED, That the American Bar Association urges all relevant
35 federal agencies to take other appropriate steps to facilitate and support additional
36 humanitarian protections for Afghan nationals and to streamline the processing of any
37 immigration benefits available to them.

RESOLUTION

- 1 RESOLVED, That the American Bar Association adopts the ABA Ten Guidelines for
2 Residential Eviction Laws, black letter and commentary, dated February 2022; and
3
4 FURTHER RESOLVED, That the American Bar Association urges all federal, state, local,
5 territorial, and tribal legislative, ~~judicial~~, and other governmental bodies to implement the
6 ABA Ten Guidelines for Residential Eviction Laws.

Deletions struck through; additions underlined.

RESOLUTION

1 RESOLVED, that the American Bar Association urges federal, state, local, territorial and
2 tribal governments to ensure due process and refrain from using pretrial risk assessment
3 tools unless the data supporting the risk assessment is transparent, publicly disclosed,
4 and validated to demonstrate the absence of conscious or unconscious racial, and ethnic,
5 or other demographic, geographic, or socioeconomic bias;

6
7 FURTHER RESOLVED, That the American Bar Association urges federal, state, local,
8 territorial and tribal governments to recognize that an individual's criminal history and
9 other criteria, as reflected in risk assessment tools or pretrial release evaluations, may
10 reflects structurally biased application of laws, policies or practices, as well as conscious
11 or unconscious racial, and ethnic, or other demographic, geographic, or socioeconomic
12 bias on the part of law enforcement, prosecutor offices, judges and all other personnel
13 utilizing risk assessment tools in connection with pretrial release;

14
15 FURTHER RESOLVED, That the American Bar Association urges federal, state, local,
16 territorial and tribal governments to educate judges who make or review pretrial release
17 decisions that an individual's criminal history and other criteria used in risk assessment
18 tools or pretrial evaluations may reflects structurally biased application of laws, policies
19 or practices, as well as conscious or unconscious racial, and ethnic, or other
20 demographic, geographic, or socioeconomic bias on the part of law enforcement,
21 prosecutor offices, judges and all other personnel utilizing risk assessment tools in
22 connection with pretrial release;

23
24 FURTHER RESOLVED, the American Bar Association urges federal, state, local,
25 territorial and tribal governments to require the proponent of any pretrial risk assessment
26 tool or pretrial release evaluation in use or considered to publicly disclose the technical,
27 procedural, and administrative steps that it has taken to eliminate from the assessment
28 the effects of structurally biased application of laws, policies or practices, as well as
29 conscious or unconscious racial and economic bias on the part of law enforcement,
30 prosecutor offices, judges, and all other personnel utilizing risk assessment tools in
31 connection with pretrial release;

32
33 FURTHER RESOLVED, the American Bar Association urges federal, state, local,
34 territorial and tribal governments to require that pretrial risk assessment tools and pretrial
35 release evaluations ~~be~~ undergo ongoing independent and objective ~~evaluated~~ and
36 monitoring at six months to determine whether they have had an adverse racial ~~or~~ ethnic,
37 or other demographic, geographic, or socioeconomic impact and, if so, to require
38 modifications to address such impact.

Deletions struck through; additions underlined

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: WSBA Diversity Committee
DATE: February 22, 2022
RE: Comments on Proposed Amendments to RPC 8.4 and Other Court Rules

REQUEST FOR OFFICIAL COMMENTS FROM BOARD OF GOVERNORS: The WSBA Diversity Committee requests authorization to submit comments in support of proposed amendments to RPC 8.4 and other court rules.

Background

The Supreme Court of Washington published for comment proposed amendments to the Rules of Professional Conduct (RPC) 8.4 and General Rules. The Court is accepting comments on these proposed amendments until April 30, 2022.

Proposed Amendments to Rules for Professional Conduct (RPC) 8.4

The proponent for the proposed amendments to RPC 8.4 is QLAW. The proposed amendments are designed to conform the antidiscrimination provision of the RPC with RCW 49.60 and WAC 162-32-040 which are the laws prohibiting discrimination based on gender identity.

Specifically, the proposed amendments would add in language that explicitly names *gender expression* or *gender identity* as protected identities like other protected classes such as race, sexual orientation, ethnicity, etc. named in the rule. Changing RPC 8.4 to include *gender expression* and *gender identity* as protected classes is making explicit what has been implicit in the rule. Engaging in prejudicial conduct based on gender has always been included in the catchall provision 8.4 (d); however, having it defined makes it clear that discrimination based on gender is a violation of the rule. This will provide further enforcement mechanisms for persons whose gender identity or expression has been disrespected by an attorney, including by opposing counsel. We have known many attorneys who do not put enough effort in to ensuring they use the correct pronouns, names, or gendered terms (mother/father) for parties in the practice of law, which inevitably harms the person who is being mis-gendered or called by the wrong name.

Proposed Amendments to Court Rules to Address Bias and Non-Inclusive Language

The Consortium to Address Biased and Non-Inclusive Language in Court Rules (which includes Justice Mary Yu, QLAW, the LGBTQ+ Bar Association of Washington, and students from Seattle University School of Law) worked on the Identifying Biased or Non-Inclusive Language in Court Rules Project and are proponents of proposed amendments to the General Rules; the Code of Judicial Conduct; the Discipline Rules for Judges; the Board for Judicial Administration Rules; the Rules of Professional Conduct; the

Admission and Practice Rules; the Rules for Enforcement of Lawyer Conduct; the Judicial Information System Committee Rules; and the Rules of Evidence. The purpose of the amendments is to replace biased and non-inclusive language in the court rules with neutral word(s) or are rewritten to utilize neutral language that does not change the substantive meaning of the rule. Specifically, the proposed changes replace gendered language with more inclusive gender-neutral language. Please see Supreme Court Order No. 25700-A-1375 attached.

Request to the Board of Governors

Supporting the adoption of these proposed changes promotes diversity and inclusion of those who have historically felt excluded from the legal system. Our 2012 Membership Demographic Study illustrates the lack of diversity in our legal profession, and that retention and inclusion of underrepresented lawyers has long been a challenge of the legal field. Following the 2012 Study, the WSBA Diversity and Inclusion Plan was created in 2013, which set out goals to retain diverse attorneys, increase their participation within the profession, and create opportunities for leadership. The proposed amendments are a step in the right direction towards inclusion of gender diverse persons and advancing the WSBA's commitment to diversity and inclusion. Further, these proposed amendments would improve access to justice, providing a more inclusive legal system.

More inclusive language sends a message that gender diverse people are welcome and included in the legal profession. Having your gender respected increases accessibility in the judicial system at every level. It is important that all facets of the legal field treat gender diverse people with respect and dignity – which includes the use of a person's correct pronouns and name.

We ask for approval for the Diversity Committee to submit comments in support of the proposed amendments.

Stakeholder Input

This comment comes from members of the Diversity Committee who bring a diversity of social identities, experiences and perspectives. Its membership has seen the need for this rule change for clients, third parties, witnesses who experience discrimination based on gender identity frequently.

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

GR 12 Analysis:

GR 12.1(j) states that in regulating the practice of law in Washington, the Washington Supreme Court's objectives include diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

GR 12.2(6) states that one of the general purposes of the WSBA is to promote diversity and equality in the courts and the legal profession.

GR 12.2(c)(2) states that the WSBA is not authorized to take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice.

Commenting on this proposed change is supported by the WSBA's purposes and is not prohibited by GR 12.2(c)(2).

This comment appears to be low risk.

Attachments

Supreme Court Order No. 25700-A-1372 and Supreme Court Order No. 25700-A-1375

WASHINGTON STATE BAR ASSOCIATION

MEMO

To: Washington State Supreme Court

From: Nam Nguyen and Gov. Sunitha Anjilvel, Co-Chairs of the WSBA Diversity Committee

Date: February 22, 2022

Re: Support for Proposed Amendments to Washington General Rules and Rule of Professional Conduct 8.4

The Washington State Bar Association's Diversity Committee respectfully submits the following comments in support of the proposed changes in the Washington General Rules of Practice and the Rules of Professional Conduct 8.4. These changes are outlined in two Orders signed by the Court on October 5th, 2021: Court Order No. 25700-A-1375 and Court Order No. 25700-A-1372. The Diversity Committee respectfully asks the Supreme Court to authorize these rule changes because they advance the WSBA's mission with respect to diversity and inclusion, particularly with respect to gender identity.

The first set of changes with respect to Washington General Rules will replace gendered language with more inclusive gender-neutral language. The rule changes would use more gender-neutral language when gendered language is not needed – i.e., there is no change to the meaning of the rule if the language is changed. These changes are varied and broad in scope, covering many general rules and comments to those rules.

The other proposed rule change addresses the Rule of Professional Conduct 8.4, which would add in language that explicitly names *gender expression* and *gender identity* as protected identities, like other protected classes such as race, sexual orientation, ethnicity, etc. named in the rule. Changing RPC 8.4 to include *gender expression* and *gender identity* as protected classes serves to define explicitly what has heretofore been implicit in the rule. Engaging in prejudicial conduct based on gender has always been included in the catchall provision 8.4 (d); however, having it defined makes it clear that discrimination based on gender is a violation of the rule. This will provide further enforcement mechanisms for persons whose gender identity or expression have been disrespected by an attorney, including by opposing counsel. We have known many attorneys who do not put enough effort in to ensure they use the correct pronouns, names, or gendered terms (mother/father) for parties in the practice of law, which inevitably harms the person who is being misgendered or called by the wrong name.

The legal system's failure to recognize diverse identities must be remedied. These rule changes constitute another step in the right direction towards inclusion of gender diverse persons in the legal system. The proposed amendments are a step in the right direction towards inclusion of gender diverse persons and advancing the WSBA's commitment to diversity and inclusion. Further, these proposed amendments would improve access to justice, providing a more inclusive legal system.

More inclusive language sends a message that gender diverse people are welcome and included in the legal profession. Having your gender respected increases accessibility in the judicial system at every level. It is

important that all facets of the legal field treat gender diverse people with respect and dignity – which includes the use of a person’s correct pronouns and name.

We ask the Supreme Court to adopt these changes to the Washington General Rules and to RPC 8.4.

Stakeholder Input

This comment comes from members of the Diversity Committee, who represent both diverse members and diverse member communities at large. Our members see the need for this rule change for clients, third parties, and witnesses who experience discrimination based on gender identity frequently. More inclusive language sends a message that gender-diverse people are welcome and included in the legal profession. Having one’s gender respected increases accessibility in the judicial system at every level. It is important that all facets of the legal field treat gender diverse people with respect and dignity – which includes the use of a person’s correct pronouns and name.

PROPOSED

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED)
AMENDMENT TO RPC 8.4—MISCONDUCT)
)
)
)
)
_____)

ORDER

NO. 25700-A-1372

QLaw, having recommended the suggested amendment to RPC 8.4—Misconduct, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as attached hereto is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2022.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2022. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov.

Comments submitted by e-mail message must be limited to 1500 words.

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ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENT TO RPC 8.4—MISCONDUCT

DATED at Olympia, Washington this 5th day of October, 2021.

For the Court


González, C.J.

GENERAL RULE 9
RULE AMENDMENT COVER SHEET
PROPOSED AMENDMENT TO RPC 8.4

1. Proponent Organization: QLaw
2. Spokesperson & Contact Info: Dana Savage; savagedm@gmail.com
3. Purpose of Proposed Rule Amendment:

Washington State law prohibits discrimination based on gender identity. RCW 49.60.030; RCW 49.60.040(27); WAC 162-32-040. This amendment would conform the antidiscrimination provision of the rules of professional conduct with chapter 49.60 RCW and WAC 162-32-040.

4. Is Expedited Consideration Requested?

No.

5. Is a Public Hearing Recommended?

No, because it conforms RPC with WAC and RCW updates.

RPC 8.4
MISCONDUCT

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) knowingly

(1) assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law, or

(2) assist or induce an LLLT in conduct that is a violation of the applicable rules of professional conduct or other law;

(g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, gender expression or gender identity, honorably discharged veteran or military status, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation, gender expression or gender identity, if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, honorably discharged veteran or military status or marital status. This Rule shall not limit the ability of a lawyer to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;

(h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward judges, lawyers, or LLLTs, other parties, witnesses, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, gender expression or gender identity, honorably discharged veteran or military status, or marital status. This Rule does not restrict a lawyer from representing a client by advancing material factual or legal issues or arguments.

(i) commit any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of his or her conduct as a lawyer, or otherwise, and whether the same constitutes a felony or

misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;

(j) willfully disobey or violate a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear;

(k) violate his or her oath as an attorney;

(l) violate a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter; including, but not limited to, the duties catalogued at ELC 1.5;

(m) violate the Code of Judicial Conduct; or

(n) engage in conduct demonstrating unfitness to practice law.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED)
AMENDMENTS TO THE GENERAL RULES; THE)
CODE OF JUDICIAL CONDUCT; THE)
DISCIPLINE RULES FOR JUDGES; THE BOARD)
FOR JUDICIAL ADMINISTRATION RULES; THE)
RULES OF PROFESSIONAL CONDUCT; THE)
ADMISSION AND PRACTICE RULES; THE)
RULES FOR ENFORCEMENT OF LAWYER)
CONDUCT; THE JUDICIAL INFORMATION)
SYSTEM COMMITTEE RULES; AND THE RULES)
OF EVIDENCE)
_____)

ORDER

NO. 25700-A-1375

The Identifying Biased or Non-Inclusive Language in Court Rules Project, having recommended the suggested amendments to the General Rules; the Code of Judicial Conduct; the Discipline Rules for Judges; the Board for Judicial Administration Rules; the Rules of Professional Conduct; the Admission and Practice Rules; the Rules for Enforcement of Lawyer Conduct; the Judicial Information System Committee Rules; and the Rules of Evidence, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2022.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

Page 2
ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO THE GENERAL RULES;
THE CODE OF JUDICIAL CONDUCT; THE DISCIPLINE RULES FOR JUDGES; THE
BOARD FOR JUDICIAL ADMINISTRATION RULES; THE RULES OF PROFESSIONAL
CONDUCT; THE ADMISSION AND PRACTICE RULES; THE RULES FOR
ENFORCEMENT OF LAWYER CONDUCT; THE JUDICIAL INFORMATION SYSTEM
COMMITTEE RULES; AND THE RULES OF EVIDENCE

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2022. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 5th day of October, 2021.

For the Court


González, C.J.

GENERAL RULE 9 RULE AMENDMENT COVER SHEET

Suggested Amendments to the General Rules; the Code of Judicial Conduct; the Discipline Rules for Judges; the Rules of Professional Conduct; the Admission to Practice Rules (LPO RPC, ELPOC); the Rules for Enforcement of Lawyer Conduct; and the Rules of Evidence: [GR 3.1, 5, 10, 12.4, 21, 22, 23, 26, 29, 30, 31.1, 33, 34; CJC II, III, 1.3 Comment, 2.11, 2.12 Comment, 3.4, 3.7, 3.8, 3.11, 3.14, 4.1, 4.1 Comment, 4.2, 4.4, 4.5; DRJ 13; APR 8, 9, 12, 14, 15, 15 Regulation, 19, 22.1, 23, 24.1, 25.2, 28, 28 Regulation; LPO RPC Terminology, 1.2; 1.6, 1.8, 1.10; ELPOC 2.3, 2.8, 4.1, 5.1, 5.7, 8.1, 8.3, 9.2, 10.14, 11.12, 12.6, 314.1, 14.2, 14.4; LLLT RPC Fundamental Principles, 1.2, 1.10, 5.5 Comment, 8.4; RPC Fundamental Principles, 1.0, 1.2 Comment, 1.6 Comment, 1.8 Comment, 1.10 Comment, 1.13, 1.13 Comment, 1.14 Comment, 1.18 Comment, 4.2 Comment, 4.3 Comment, 6.1 Comment, 8.4, 8.5, 8.5 Comment; ELC 2.3, 2.5, 2.7, 2.10, 4.1, 4.9 Title and Rule, 5.1, 5.8, 8.1, 8.2, 8.3, 9.3, 10.14, 11.14, 12.4, 12.6, 14.1, 14.2, 14.4; ER 803; 1101].

- 1. Proponent:** Consortium to Address Biased and Non-Inclusive Language in Court Rules (Justice Mary Yu; QLaw, the LGBTQ+ Bar Association of Washington; and students from Seattle University School of Law)
- 2. Spokesperson & Contact Info:** Madeline Pfeiffer, mpfeiffer@seattleu.edu; Gabriel Neuman, neumang@seattleu.edu; Laura Del Villar, Lauradelvill@seattleu.edu
- 3. Purpose of Proposed Rule Amendment:** To identify biased and non-inclusive language in the court rules and to replace such language with neutral word(s) or re-write the rule utilizing neutral language that does not change the substantive meaning of the rule.
- 4. Is Expedited Consideration Requested?** No, the proposed changes are not time-sensitive.
- 5. Is a Public Hearing Recommended?** No

GR 3.1

**SERVICE AND FILING BY AN INCARCERATED INDIVIDUAL PERSON?
INMATE CONFINED IN AN INSTITUTION**

- (a) If an incarcerated individual person ~~inmate confined in an institution~~ files a document in any proceeding, the document is timely filed if deposited in the institution's internal mail system within the time permitted for filing.
- (b) Whenever service of a document on a party is permitted to be made by mail, the document is deemed "mailed" at the time of deposit in the institution's internal mail system addressed to the parties on whom the document is being served.
- (c) If an institution has a system designed for legal mail, the incarcerated individual person inmate must use that system to receive the benefit of this rule. Timely filing or mailing may be shown by a declaration or notarized affidavit in form substantially as follows:

DECLARATION

I, [*name of incarcerated individual person inmate*], declare that, on [*date*], I deposited the foregoing [*name of document*], or a copy thereof, in the internal mail system of [*name of institution*] and made arrangements for postage, addressed to: [*name and address of court or other place of filing*]; [*name and address of parties or attorneys to be served*].

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

DATED at [*city, state*] on [*date*].

[*signature*]

- (d) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after filing or service of a document, and if an incarcerated individual person inmate files or serves the document under this rule, that period shall begin to run on the date the document is received by the party.

[Adopted effective September 1, 2006.]

AUDITS

The judicial branch of the government of the State of Washington is a separate and co-equal division of said state government. The funds for operation of the judicial branch and many funds which pass through the courts are public funds of the state and/or of various subdivisions, agencies, or municipalities of the state. Every court in this state must, upon demand, submit all financial records of such court to the State Auditor or ~~his~~their agents for inspection and audit, as to all funds received, disbursed, or in possession of said court.

[Adopted effective February 8, 1977.]

GR 10
ETHICS ADVISORY COMMITTEE REGARDING ADVISORY
OPINIONS ON JUDICIAL CONDUCT

- (a) The Chief Justice shall appoint an Ethics Advisory Committee consisting of seven members. Of the members first appointed, four shall be appointed for 2 years, and three shall be appointed for 3 years. Thereafter, appointments shall be for a 2-year term. One member shall be appointed from the Court of Appeals, two members from the superior courts, two members from the courts of limited jurisdiction, one member from the Washington State Bar Association, and the Administrator for the Courts or a designee. The Chief Justice shall designate one of the members as ~~chairman~~ chair^[1]. The committee (1) is designated as the body to give advice with respect to the application of the provisions of the Code of Judicial Conduct to officials of the Judicial Branch as defined in article 4 of the Washington Constitution and (2) shall from time to time submit to the Supreme Court recommendations for necessary or advisable changes in the Code of Judicial Conduct.
- (b) Any judge may in writing request the opinion of the committee. Compliance with an opinion issued by the committee shall be considered as evidence of good faith by the Supreme Court.
- (c) Every opinion issued pursuant to this rule shall be circulated by the Administrator for the Courts. A request for an opinion is confidential and not public information unless the Supreme Court otherwise directs. The Administrator for the Courts shall publish regularly opinions issued pursuant to this rule.

[Adopted effective September 1, 1983; Amended effective November 11, 1983; May 25, 1984; April 25, 2017.]

GR 12.4**WASHINGTON STATE BAR ASSOCIATION ACCESS TO RECORDS**

- (a) **Policy and Purpose.** It is the policy of the Washington State Bar Association to facilitate access to Bar records. A presumption of public access exists for Bar records, but public access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.
- (b) **Scope.** This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.3 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.
- (c) **Definitions.**
- (1) “Access” means the ability to view or obtain a copy of a Bar record.
 - (2) “Bar record” means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the Bar and its staff or stored under Bar ownership and control in facilities or servers. Records solely in the possession of hearing officers, non-Bar staff members of boards, committees, task forces, commissions, sections, councils, or divisions that were prepared by the hearing officers or the members and in their sole possession, including private notes and working papers, are not Bar records and are not subject to public access under this rule. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.
 - (3) “Writing” means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital, or other format.

(d) Bar Records--Right of Access.

- (1) The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule, or any other state statute (including the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be applied to a public agency, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules and associated regulations, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes, or orders, the Bar shall delete identifying details in a manner consistent with those rules, statutes, or orders when it makes available or

publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

- (2) In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may expressly be made public by court rule:
- (A) Records of the personnel committee, and personal information in Bar records for employees, appointees, members, or volunteers of the Bar to the extent that disclosure would violate their right to privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. Membership class and status, bar number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Executive Director approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.
- (B) Specific information and records regarding
- (i) internal policies, guidelines, procedures, or techniques, the disclosure of which would reasonably be expected to compromise the conduct of disciplinary or regulatory functions, investigations, or examinations;
- (ii) application, investigation, and hearing or proceeding records relating to lawyer, Limited Practice Officer, or Limited License Legal Technician admissions, licensing, or discipline, or that relate to the work of ELC 2.5 hearing officers, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law Board, or the Disciplinary Board in conducting investigations, hearings or proceedings; and
- (iii) the work of the Judicial Recommendation Committee and the Hearing Officer selection panel, unless such records are expressly categorized as public information by court rule.
- (C) Valuable formulae, designs, drawings, computer source code or object code, and research data created or obtained by the Bar.
- (D) Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.
- (E) Applications for licensure by the Bar and annual licensing forms and related records, including applications for license fee hardship waivers and any decision or determinations on the hardship waiver applications.
- (F) Requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

Information covered by exemptions will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed.

(3) Persons Who Are Subjects of Records.

- (A) Unless otherwise required or prohibited by law, the Bar has the option to give notice of any records request to any member or third party whose records would be included in the Bar's response.
- (B) Any person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker.
- (C) If the Bar decides to allow access to a requested record, a person who is named in that record, or to whom the records specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. The deadlines that apply to a requester apply as well to a person who is a subject of a record.

(e) Bar Records--Procedures for Access.

- (1) *General Procedures.* The Bar Executive Director shall appoint a Bar staff member to serve as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the Bar public records officer, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and adopt and publish on its website the public records officer's work mailing address, telephone number, fax number, and e-mail address, and the procedures and fee schedules for accepting and responding to records requests by the effective date of this rule. The Bar shall acknowledge receipt of the request within 14 days of receipt, and shall communicate with the requester as necessary to clarify any ambiguities as to the records being requested. Records requests shall not be directed to other Bar staff or to volunteers serving on boards, committees, task forces, commissions, sections, councils, or divisions.

(2) *Charging of Fees.*

- (A) A fee may not be charged to view Bar records.
- (B) A fee may be charged for the photocopying or scanning of Bar records according to the fee schedule established by the Bar and published on its web site.
- (C) A fee not to exceed \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

- (f) **Extraordinary Requests Limited by Resource Constraints.** If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on time, resources, and personnel, the Bar shall communicate this information to the requester along with a good faith estimate of the time needed to complete the Bar's response. The Bar must attempt to reach agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable, clarify how and why the response differs from the request, and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial as well as a written summary of the procedures under which the requesting party may seek further review.

(h) Review of Records Decisions.

(1) *Internal Review.* A person who objects to a record decision or other action by the Bar's public records officer may request review by the Bar's Executive Director.

(A) A record requester's petition for internal review must be submitted within 90 days of the Bar's public records officer's decision, on such form as the Bar shall designate and make available.

(B) The review proceeding is informal, summary, and on the record.

(C) The review proceeding shall be held within five working days. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.

(2) *External Review.* A person who objects to a records review decision by the Bar's Executive Director may request review by the Records Request Appeals Officer (RRAO) for the Bar.

(A) The requesting party's request for review of the Executive Director's decision must be deposited in the mail and postmarked or delivered to the Bar not later than 30 days after the issuance of the decision, and must be on such form as the Bar shall designate and make available.

(B) The review will be informal and summary, but in the sole discretion of the RRAO may include the submission of briefs no more than 20 pages long and of oral arguments no more than 15 minutes long.

(C) Decisions of the RRAO are final unless, within 30 days of the issuance of the decision, a request for discretionary review of the decision is filed with the Supreme Court. If review is granted, review is conducted by the Chief Justice of the Washington Supreme Court or ~~his or her~~their designee in accordance with procedures established by the Supreme Court. A designee of the Chief Justice shall be a current or former elected judge. The review proceeding shall be on the record, without additional briefing or argument unless such is ordered by the Chief Justice or ~~his or her~~their designee.

(D) The RRAO shall be appointed by the Board of Governors. The Bar may reimburse the RRAO for all necessary and reasonable expenses incurred in the completion of these duties, and may provide compensation for the time necessary for these reviews at a level established by the Board of Governors.

(i) Monetary Awards Not Allowed. Attorney fees, costs, civil penalties, or fines may not be awarded under this rule.

(j) Effective Date of Rule.

GR 20
SECURITY IN HANDLING COURT EXHIBITS

- (a) **Hazardous, Valuable, and Bulky Exhibits.** Upon petition of the clerk or any party and order of the court, a hazardous exhibit, money, an item of negotiable value, or an item deemed to be excessively bulky may be admitted and then withdrawn upon the substitution of photograph(s), videotape(s), samples or other facsimile representations as provided by the order. The photograph(s), videotape(s), samples or other facsimile representations may be used to demonstrate the existence, quantity, and physical characteristic of the evidence. The order shall direct the disposition of the original evidence and shall state whether the evidence shall be further documented by a descriptive certificate issued by an authorized agency.
- (b) **Controlled Substances.** When controlled substances or samples thereof are presented in court, such items shall be presented under sealed evidence tape in containers whose labels describe their contents. Sealed controlled substances presented as exhibits shall be unsealed in open court and, upon completion of the action for which unsealing was ordered, the item shall be sealed again.
- (c) **Original Exhibit.** When a photograph, videotape, or other facsimile representation is substituted, the original exhibit must be retained by the presenting party or agency until at least sixty (60) days following case completion and must produce the original exhibit upon the court's direction. Case completion is defined as the date of filing of the judgment of acquittal, final judgment, or dismissal, or the date the judgment becomes final after appeal.
- (d) **Appeal.** Exhibits handled under these rules shall have the same standing for purposes of appeal as would the original exhibits.
- (e) **Hazardous Exhibits.** For purposes of this rule, "hazardous exhibit" means an exhibit that unreasonably threatens the health and safety of persons handling the exhibit, including exhibits having potentially toxic, explosive, or disease-carrying characteristics. Nonexclusive examples of hazardous exhibits include firearms, knives and other weapons, live ammunition, controlled substances, bodily fluid samples, and bloody clothing.

[Adopted effective September 1, 1997; Amended effective September 1, 2000.]

GR 21
EMERGENCY COURT CLOSURE

- (a) **Generally.** A court may be closed if weather, technological failure or other hazardous or emergency conditions or events are or become such that the safety and welfare of the employees are threatened or the court is unable to operate or demands immediate action to protect the court, its employees or property. Closure may be ordered by the chief justice, the presiding chief judge, presiding judge or other judge so designated by the affected court in ~~their~~^{his or her} discretion during the pendency of such conditions or events.
- (b) **Order and Notification.** Whenever a court is closed in accordance with section (a), the chief justice, presiding chief judge, presiding judge or other judge directing the closure of the court shall enter an administrative order closing the court which shall be filed with the clerk of the affected court. It shall also be the responsibility of the chief justice, the presiding chief judge, the presiding judge or other judge so designated by the affected court to notify the Office of the Administrator for the Courts of any decision to close a court. All oral notifications to the Office

of the Administrator for the Courts shall be followed as soon as practicable with a written statement outlining the condition or event necessitating such action and the length of such closure.

(c) Filings and Hearings--Time Extended. Reserved. See GR 3.

[Adopted effective October 19, 1999.]

GR 22

ACCESS TO FAMILY LAW AND GUARDIANSHIP COURT RECORDS

(a) Purpose and Scope of this Rule. This rule governs access to family law and guardianship court records, whether the records are maintained in paper or electronic form. The policy of the courts is to facilitate public access to court records, provided that such access will not present an unreasonable invasion of personal privacy, will not permit access to records or information defined by law or court rule as confidential, sealed, exempted from disclosure, or otherwise restricted from public access, and will not be unduly burdensome to the ongoing business of the courts.

(b) Definition and Construction of Terms.

- (1) “Court record” is defined in GR 31 (c)(4).
- (2) “Family law case or guardianship case” means any case filed under Chapters 11.88, 11.92, 26.09, 26.10, 26.12, 26.18, 26.21, 26.23, 26.26, 26.27, 26.50, 26.52, 73.36 and 74.34 RCW.
- (3) “Personal Health Care Record” means any record or correspondence that contains health information that: (1) relates to the past, present, or future physical or mental health condition of an individual including past, present, or future payments for health care; or (2) involves genetic parentage testing.
- (4) “Personal Privacy” is unreasonably invaded only if disclosure of information about the person or the family (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.
- (5) “Public access” means unrestricted access to view or copy a requested court record.
- (6) “Restricted personal identifiers” means a party’s social security number, a party’s driver’s license number, a party’s telephone number, financial account numbers, social security number of a minor child and date of birth of a minor child.

Comment

A party is not required to provide a residence address. Petitioners or counsel to a family law case will provide a service or contact address in accordance with CR 4.1 that will be publicly available and all parties and counsel should provide a contact address if otherwise required. Pattern forms shall be modified, as necessary, to reflect the intent of this rule.

- (7) “Retirement plan order” means a supplemental order entered for the sole purpose of implementing a property division that is already set forth in a separate order or decree in a family law case. A retirement plan order may not grant substantive relief other than what is set forth in a separate order. Examples of retirement plan orders are orders that implement a division of retirement, pension, insurance, military, or similar benefits as already defined in a decree of dissolution of marriage.

(8) “Sealed financial source documents” means income tax returns, W-2s and schedules, wage stubs, credit card statements, financial institution statements, checks or the equivalent, check registers, loan application documents, and retirement plan orders, as well as other financial information sealed by court order.

(c) Access to Family Law or Guardianship Court Records.

(1) *General Policy.* Except as provided in RCW 26.26.610(2) and subsections (c)(2) and (c)(3) below, all court records shall be open to the public for inspection and copying upon request. The Clerk of the court may assess fees, as may be authorized by law, for the production of such records.

(2) *Restricted Access.* The Confidential Information Form, Sealed Financial Source Documents, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Sealed Personal Health Care Record, Retirement Plan Order, Confidential Reports as defined in (e)(2)(B), copies of any unredacted Judicial Information System (JIS) database information considered by the court for parenting plan approval as set forth in (f) of this rule, and any Personal Information Sheet necessary for JIS purposes shall only be accessible as provided in sections (h) and (i) herein.

(3) *Excluded Records.* This section (c) does not apply to court records that are sealed as provided in GR 15, or to which access is otherwise restricted by law.

(d) Restricted Personal Identifiers Not Required—Except. Parties to a family law case or the protected person in a guardianship case shall not be required to provide restricted personal identifiers in any document filed with the court or required to be provided upon filing a family law or guardianship case, except:

- (1) “Sealed financial source documents” filed in accordance with (g)(1).
- (2) The following forms: Confidential Information Form, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Vital Statistics Form, Law Enforcement Information Form, Foreign Protection Order Information Form, and any Personal Information Sheet necessary for JIS purposes.
- (3) Court requested documents that contain restricted personal identifiers, which may be submitted by a party as financial source documents under the provisions of section (g) of this rule.

Comment

Court records not meeting the definition of “Sealed Financial Source Documents,” “Personal Health Care Records,” Retirement Plan Orders, Confidential Reports or court records that otherwise meet the definition but have not been submitted in accordance with (g)(1) are not automatically sealed. Section (3) provides authority for the court to seal court records containing restricted personal identifiers upon motion of a party, or on the court’s own motion during a hearing or trial.

(e) Filing of Reports in Family Law and Guardianship cases--Cover Sheet.

(1) This section applies to documents that are intended as reports to the court in Family law and Guardianship cases including, but not limited to, the following:

- (A) Parenting evaluations;
- (B) Domestic Violence Assessment Reports created by Family Court Services or a qualified expert appointed by the court;
- (C) Risk Assessment Reports created by Family Court Services or a qualified expert;
- (D) CPS Summary Reports created by Family Court Services or supplied directly by Children's Protective Services;
- (E) Sexual abuse evaluations; and
- (F) Reports of a guardian ad litem or Court Appointed Special Advocate.

(2) Reports shall be filed as two separate documents, one public and one sealed.

(A) Public Document. The public portion of any report shall include a simple listing of:

- (i) Materials or information reviewed;
- (ii) Individuals contacted;
- (iii) Tests conducted or reviewed; and
- (iv) Conclusions and recommendations.

(B) Sealed Document. The sealed portion of the report shall be filed with a coversheet designated: "Sealed Confidential Report." The material filed with this coversheet shall include:

- (i) Detailed descriptions of material or information gathered or reviewed;
- (ii) Detailed descriptions of all statements reviewed or taken;
- (iii) Detailed descriptions of tests conducted or reviewed; and
- (iv) Any analysis to support the conclusions and recommendations.

(3) The sealed portion may not be placed in the court file or used as an attachment or exhibit to any other document except under seal.

(f) Information Obtained from JIS Databases with Regard to Approval of a Parenting Plan.

When a judicial officer proposes to consider information from a JIS database relevant to the placement of a child in a parenting plan, the judicial officer shall either orally disclose on the record or disclose the relevant information in written form to each party present at the hearing and, on timely request, provide any party an opportunity to be heard regarding that information.

The judicial officer has discretion not to disclose information that ~~he or she does~~ they do not propose to consider. The judicial officer may restrict secondary dissemination of written unredacted JIS database information not available to the public.

(g) Sealing Financial Source Documents, Personal Health Care Records, and Sealed Confidential Reports in Family Law and Guardianship cases--Cover Sheet.

- (1) Financial source documents, personal health care records, confidential reports as defined in (e)(2)(B) of this rule, and copies of unredacted JIS database records considered by the court for parenting plan approval as set forth in (f) of this rule, shall be submitted to the clerk under a cover sheet designated “SEALED FINANCIAL SOURCE DOCUMENTS,” “SEALED PERSONAL HEALTH CARE RECORDS,” “SEALED CONFIDENTIAL REPORT” or “JUDICIAL INFORMATION SYSTEM DATABASE RECORDS” for filing in the court record of family law or guardianship cases.
- (2) All financial source documents, personal health care records, confidential reports, or JIS database records so submitted shall be automatically sealed by the clerk. The cover sheet or a copy thereof shall remain part of the public court file.
- (3) The court may order that any financial source documents containing restricted personal identifiers, personal health care records, any report containing information described in (e)(2)(B), or copies of unredacted JIS database records considered by the court for parenting plan approval as described in (f) be sealed, if they have not previously automatically been sealed pursuant to this rule.
- (4) These cover sheets may not be used for any documents except as provided in this rule. Sanctions may be imposed upon any party or attorney who violates this rule.

Comment

See comment to (d)(3) above.

(h) Access by Courts, Agencies, and Parties to Restricted Documents.

- (1) Unless otherwise provided by statute or court order, the following persons shall have access to all records in family law or guardianship cases:
 - (A) Judges, commissioners, other court personnel, the Commission on Judicial Conduct, and the Certified Professional Guardian Board may access and use restricted court records only for the purpose of conducting official business of the court, Commission, or Board.
 - (B) Any state administrative agency of any state that administers programs under Title IV-A, IV-D, IV-E, or XIX of the federal Social Security Act.
- (2) Except as otherwise provided by statute or court order, the following persons shall have access to all documents filed in a family law or guardianship case, except the Personal Information Sheet, Vital Statistics Form, Confidential Information Form, Domestic Violence Information Form, Law Enforcement Information Form, and Foreign Protection Order Form.

- (A) Parties of record as to their case.

- (B) Attorneys as to cases where they are attorneys of record.
- (C) Court appointed Title 11 guardians ad litem as to cases where they are actively involved.

(i) Access to Court Records Restricted Under This Rule.

- (1) The parties may stipulate in writing to allow public access to any court records otherwise restricted under section (c)(2) above.
- (2) Any person may file a motion, supported by an affidavit showing good cause, for access to any court record otherwise restricted under section (c)(2) above, or to be granted access to such court records with specified information deleted. Written notice of the motion shall be provided to all parties in the manner required by the Superior Court Civil Rules. If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by the Superior Court Rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful, or if the motion requests access to redacted JIS database records.
 - (A) The court shall allow access to court records restricted under this rule, or relevant portions of court records restricted under this rule, if the court finds that the public interests in granting access or the personal interest of the person seeking access outweigh the privacy and safety interests of the parties or dependent children.
 - (B) Upon receipt of a motion requesting access, the court may provide access to JIS database records described in (f) after the court has reviewed the JIS database records and redacted pursuant to GR 15(c), any data which is confidential or restricted by statute or court rule.
 - (C) If the court grants access to restricted court records, the court may enter such orders necessary to balance the personal privacy and safety interests of the parties or dependent children with the public interest or the personal interest of the party seeking access, consistent with this rule.

[Adopted effective October 1, 2001; Amended effective July 1, 2006; August 11, 2009.]

GR 23
RULE FOR CERTIFYING PROFESSIONAL GUARDIANS

(a) **Purpose and Scope.** This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians nor is it a mechanism to appeal a court decision regarding the appointment or conduct of a guardian.

(b) **Jurisdiction.** All professional guardians who practice in the state of Washington are subject to these rules and regulations. Jurisdiction shall continue whether or not the professional guardian retains certification under this rule, and regardless of the professional guardian's residence.

(c) **Certified Professional Guardian Board.**

(1) *Establishment.*

(i) **Membership.** The Supreme Court shall appoint a Certified Professional Guardian Board (Board) of 12 or more members. The Board shall include representatives from the following areas of expertise: professional guardians; attorneys; advocates for incapacitated persons; courts; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships. No more than one-third of the Board membership shall be practicing professional guardians.

(ii) **Terms.** The term for a member of the Board shall be three years. No member may serve more than three consecutive full three-year terms, not to exceed nine consecutive years, including any unfilled term. Terms shall be established such that one-third shall end each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later.

(iii) **Leadership.** The Supreme Court shall designate the Chair of the Board. The Board shall designate the Vice-Chair, who shall serve in the absence of or at the request of the Chair.

(iv) **Vacancies.** Any vacancy occurring in the terms of office of Board members shall be filled for the unexpired term.

(2) *Duties and Powers.*

(i) **Applications.** The Board shall process applications for professional guardian certification under this rule. The Board may delay or deny certification if an applicant fails to provide required basic or supplemental information.

(ii) **Standards of Practice.** The Board shall adopt and implement policies or regulations setting forth minimum standards of practice which professional guardians shall meet.

(iii) **Training Program.** The Board shall adopt and implement regulations establishing a professional guardian training program.

- (iv) Examination. The Board may adopt and implement regulations governing the preparation and administration of certification examinations.
- (v) Recommendation of Certification. The Board may recommend certification to the Supreme Court. The Supreme Court shall review the Board's recommendation and enter an appropriate order.
- (vi) Denial of Certification. The Board may deny certification. If the Board denies certification, it shall notify an applicant in writing of the basis for denial of certification and inform the applicant of the appeal process.
- (vii) Continuing Education. The Board may adopt and implement regulations for continuing education.
- (viii) Grievances and Disciplinary Sanctions. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians. The Board may take disciplinary action and impose disciplinary sanctions based on findings that establish a violation of an applicable statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.
- (ix) Investigation. The Board may investigate to determine whether an applicant for certification meets the certification requirements established in this rule. The Board may also investigate to determine whether a professional guardian has violated any statute, duty, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians.
- (x) Authority to Conduct Hearings. The Board may adopt regulations pertaining to the orderly conduct of hearings.
 - (a) Subpoenas. The Chair of the Board, Hearing Officer, or a party's attorney shall have the power to issue subpoenas.
 - (b) Orders. The Chair or Hearing Officer may make such pre-hearing or other orders as are necessary for the orderly conduct of any hearing.
 - (c) Enforcement. The Board may refer a Subpoena or order to the Supreme Court for enforcement.
- (xi) Disclosure of Records. The Board may adopt regulations pertaining to the disclosure of records in the Board's possession.
- (xii) Meetings. The Board shall hold meetings as determined to be necessary by the chair. Meetings of the Board will be open to the public except for executive session, review panel, or disciplinary meetings prior to filing of a disciplinary complaint.
- (xiii) Fees. The Board shall establish and collect fees in such amounts as are necessary to support the duties and responsibilities of the Board.

- (3) *Board Expenses.* Board members shall not be compensated for their services. Consistent with the Office of Financial Management rules, Board members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid pursuant to a budget submitted to and approved by the Supreme Court. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray Board expenses.
- (4) *Agency.* Hearing officers are agents of the Board and are accorded rights of such agency.
- (5) *Immunity from Liability.* The Board, its members, or agents, including duly appointed hearing officers, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.
- (6) *Conflict of Interest.* A Board member should disqualify **himself or herself** from making any decisions in a proceeding in which **his or her** impartiality might reasonably be questioned, including but not limited to, when the Board member has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.
- (7) *Leave of Absence.* The Board may adopt regulations specifying that a Board member who is the subject of a disciplinary investigation by the Board must take a leave of absence from the Board. A Board member may not continue to serve as a member of the Board if the Board or Supreme Court has imposed a final disciplinary sanction on the Board member.
- (8) *Administration.* The Administrative Office of the Courts (AOC) shall provide administrative support to the Board and may contract with agencies or organizations to carry out the Board's administrative functions.

(d) Certification Requirements. Applicants, Certified Professional Guardians, and Certified Agencies shall comply with the provisions of Chapter 11.88 and 11.92 RCW. In addition, individuals and agencies must meet the following requirements.

(1) *Individual Certification.* The following requirements apply to applicants and do not apply to currently certified professional guardians, except as stated in subsection (d)(1)(vii). An individual applicant shall:

- (i) Be at least 18 years of age;
- (ii) Be of sound mind;
- (iii) Have no felony or misdemeanor convictions involving moral turpitude;
- (iv) Possess an associate's degree from an accredited institution and at least four full years' experience working in a discipline pertinent to the provision of guardianship services, or a baccalaureate degree from an accredited institution and at least two full years' experience working in a discipline pertinent to the provision of guardianship services, or a Masters, J.D., Ph.D., or equivalent advanced degree from an accredited institution and at least one year's experience working in a discipline pertinent to the provision of guardianship services;
- (v) The experience required by this rule is experience in which the applicant has developed skills that are transferable to the provision of guardianship services and must include

decisionmaking or the use of independent judgment for the benefit of others, not limited to incapacitated persons, in the area of legal, financial, social services or healthcare or other disciplines pertinent to the provision of guardianship services;

- (vi) Have completed the mandatory certification training.
- (vii) Applicants enrolled in the mandatory certification training on September 12, 2008, and who satisfactorily complete that training, shall meet the certification requirements existing on that date, or the date the applicant submitted a complete application for certification, whichever date is earlier, and not the requirements set forth in this rule.

(2) *Agency Certification.* Agencies must meet the following additional requirements:

- (i) All officers and directors of the corporation must meet the qualifications of RCW 11.88.020 for guardians;
 - (ii) Each agency shall have at least two (2) individuals in the agency certified as professional guardians, whose residence or principal place of business is in Washington State and who are so designated in minutes or a resolution from the Board of Directors; and
 - (iii) Each agency shall file and maintain in every guardianship court file a current designation of each certified professional guardian with final decision-making authority for the incapacitated person or their estate.
- (3) *Training Program and Examination.* Applicants must satisfy the Board's training program and examination requirements.
- (4) *Insurance Coverage.* In addition to the bonding requirements of chapter 11.88 RCW, applicants must be insured or bonded at all times in such amount as may be determined by the Board and shall notify the Board immediately of cancellation of required coverage.
- (5) *Financial Responsibility.* Applicants must provide proof of ability to respond to damages resulting from acts or omissions in the performance of services as a guardian. Proof of financial responsibility shall be in such form and in such amount as the Board may prescribe by regulation.
- (6) *Application Under Oath.* Applicants must execute and file with the Board an approved application under oath.
- (7) *Application Fees.* Applicants must pay fees as the Board may require by regulation.
- (8) *Disclosure.* An applicant for certified professional guardian or certified agency shall disclose upon application:
- (i) The existence of a judgment against the applicant arising from the applicant's performance of services as a fiduciary;
 - (ii) A court finding that the applicant has violated its duties as a fiduciary, or committed a felony or any crime involving moral turpitude;
 - (iii) Any adjudication of the types specified in RCW 43.43.830 and RCW 43.43.842;

- (iv) Pending or final licensing or disciplinary board actions or findings of violations;
- (v) The existence of a judgment against the applicant within the preceding eight years in any civil action;
- (vi) Whether the applicant has filed for bankruptcy within the last seven years. Disclosure of a bankruptcy filing within the past seven years may require the applicant or guardian to provide a personal credit report from a recognized credit reporting bureau satisfactory to the Board;
- (vii) The existence of a judgment against the applicant or any corporation, partnership or limited liability corporation for which the applicant was a managing partner, controlling member or majority shareholder within the preceding eight years in any civil action.

(9) *Denial of Certification.* The Board may deny certification of an individual or agency based on any of the following criteria:

- (i) Failure to satisfy certification requirements provided in section (d) of this rule;
- (ii) The existence of a judgment against the applicant arising from the applicant's performance of services as a fiduciary;
- (iii) A court finding that the applicant has violated its fiduciary duties or committed a felony or any crime involving moral turpitude;
- (iv) Any adjudication of the types specified in RCW 43.43.830 and RCW 43.43.842;
- (v) Pending or final licensing or disciplinary board actions or findings of violations;
- (vi) A Board determination based on specific findings that the applicant lacks the requisite moral character or is otherwise unqualified to practice as a professional guardian;
- (vii) A Board determination based on specific findings that the applicant's financial responsibility background is unsatisfactory.

(10) *Designation/Title.* An individual certified under this rule may use the initials "CPG" following the individual's name to indicate status as "Certified Professional Guardian." An agency certified under this rule may indicate that it is a "Certified Professional Guardian Agency" by using the initials "CPGA" after its name. An individual or agency may not use the term "certified professional guardian" or "certified professional guardian agency" as part of a business name.

(e) Guardian Disclosure Requirements.

(1) A Certified Professional Guardian or Certified Agency shall disclose to the Board in writing within 30 days of occurrence:

- (i) The existence of a judgment against the professional guardian arising from the professional guardian's performance of services as a fiduciary;

- (ii) A court finding that the professional guardian violated its fiduciary duties, or committed a felony or any crime involving moral turpitude;
- (iii) Any adjudication of the types specified in RCW 43.43.830 and RCW 43.43.842;
- (iv) Pending licensing or disciplinary actions related to fiduciary responsibilities or final licensing or disciplinary actions resulting in findings of violations;
- (v) Residential or business moves or changes in employment; and
- (vi) Names of Certified Professional Guardians they employ or who leave their employ.

(2) Not later than June 30 of each year, each professional guardian and guardian agency shall complete and submit an annual disclosure statement providing information required by the Board.

- (f) **Regulations.** The Board shall adopt regulations to implement this rule.
- (g) **Personal Identification Number.** The Board shall establish an identification numbering system for professional guardians. The Personal Identification Number shall be included with the professional guardian's signature on documents filed with the court.
- (h) **Ethics Advisory Opinions.**
 - (1) The Board may issue written ethics advisory opinions to inform and advise Certified Professional Guardians and Certified Agencies of their ethical obligations.
 - (2) Any Certified Professional Guardian or Certified Agency may request in writing an ethical advisory opinion from the Board. Compliance with an opinion issued by the Board shall be considered as evidence of good faith in any subsequent disciplinary proceeding involving a Certified Professional Guardian or Certified Agency.
 - (3) The Board shall publish opinions issued pursuant to this rule in electronic or paper format. The identity of the person requesting an opinion is confidential and not public information.

(i) **Existing Law Unchanged.** This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to, Title 11 RCW.

[Adopted effective January 25, 2000; Amended effective April 30, 2002; April 1, 2003; September 1, 2004; January 13, 2009; September 1, 2010.]

GR 26
MANDATORY CONTINUING JUDICIAL EDUCATION

Preamble. The protection of the rights of free citizens depends upon the existence of an independent and competent judiciary. The challenge of maintaining judicial competence requires ongoing education of judges in the application of legal principles and the art of judging in order to meet the needs of a changing society. This rule establishes the minimum requirements for continuing judicial education of judicial officers.

(a) **Minimum Requirement.** Each judicial officer shall complete a minimum of 45 credit hours of continuing judicial education approved by the Board for Judicial Administration's Court Education Committee (CEC) every three years, commencing January 1 of the calendar year following the adoption of this rule. If a judicial officer completes more than 45 such credit hours in a three-year reporting period, up to 15 hours of the excess credit may be carried forward and applied to the judicial officer's education requirement for the following three-year reporting period. At least six credit hours for each three-year reporting period shall be earned by completing programs in judicial ethics approved by the CEC. The fifteen credit hours that may be carried forward may include two credit hours toward the judicial ethics requirement.

(b) **Judicial College Attendance.**

(1) A judicial officer shall attend and complete the Washington Judicial College program within twelve months of the initial appointment or election to the judicial office.

(2) A judicial officer who attended the Washington Judicial College during ~~his or her~~their term of office in a court of limited jurisdiction shall attend and complete the Washington Judicial College within twelve (12) months of any subsequent appointment or election to the Superior Court. A judicial officer who attended the Washington Judicial College during ~~his or her~~their term of office in the Superior Court shall attend and complete the Washington Judicial College within twelve (12) months of any subsequent appointment or election as a judicial officer in a court of limited jurisdiction. A judicial officer who attended the Washington Judicial College during ~~his or her~~their term of office in a superior court or court of limited jurisdiction and is subsequently appointed or elected to an appellate court position is not required to attend the Washington Judicial College.

(3) A judicial officer of a District Court, Municipal Court, Superior Court, or an appellate court, who has been a judicial officer at the time of the adoption of this rule for less than four (4) years but has not attended the Washington Judicial College, shall attend and complete the Washington Judicial College program within twelve (12) months of the adoption of this rule.

(c) **Accreditation.** The CEC shall, subject to the approval of the Supreme Court, establish and publish standards for accreditation of continuing judicial education programs and may choose to award continuing judicial education credits for self-study or teaching. Continuing judicial education credit shall be given for programs the CEC determines enhance the knowledge and skills that are relevant to the judicial office.

(d) **Compliance Report.** Each judicial officer shall file a report with the Administrative Office of the Courts (AOC) on or before January 31 each year in such form as the Administrative Office of the Courts shall prescribe concerning the judicial officer's progress toward the continuing judicial education requirements of sections (a) and (b) of this rule during the previ021

calendar year. If a judicial officer does not respond by January 31, their credits will be confirmed by default. Judicial officers who do not have the requisite number of hours at the end of their three-year reporting period will have until March 1 to make up the credits for the previous three-year reporting period. These credits will not count toward their current three-year reporting period. The AOC shall publish a report with the names of all judicial officers who do not fulfill the requirements of sections (a) and (b) of this rule. The AOC report shall be disseminated by means that may include, but are not limited to, publishing on the Washington Courts Internet web site, publishing the information as part of any voter's guide produced by or under the direction of the AOC, and releasing the information in electronic or printed form to media organizations throughout the Washington State.

(e) Delinquency. Failure to comply with the requirements of this rule may be deemed a violation of the Code of Judicial Conduct that would subject a judicial officer to sanction by the Commission on Judicial Conduct.

(f) Definition. The term "judicial officer" as used in this rule shall not include judges pro tempore but shall otherwise include all full or part time appointed or elected justices, judges, court commissioners, and magistrates.

[Adopted effective July 1, 2002; Amended effective November 26, 2002; December 31, 2003; December 31, 2007; January 1, 2013; December 8, 2015.]

GR 26 Standards
WASHINGTON STATE JUDICIAL EDUCATION
MANDATORY CONTINUING JUDICIAL EDUCATION STANDARDS

Section I: Organization and Administration

1. Supreme Court

The Supreme Court is the rule-making authority for the integrated judicial branch of government in Washington.

2. Board for Judicial Administration (BJA)

The Board for Judicial Administration provides policy review and program leadership for the courts at large, including recommending rules to the Supreme Court that improve the judicial branch of government in our state.

3. Court Education Committee (CEC)

The Court Education Committee is a standing committee of the BJA and assists the Supreme Court and the BJA in developing educational policies and standards for the court system. The CEC provides budget and appropriation support, monitors the quality of educational programs, coordinates in-state and out-of-state educational programs and services, recommends changes in policies and standards, and approves guidelines for accrediting training programs.

4. Mandatory Continuing Judicial Education (MCJE)

The responsibilities of the CEC will be to:

- (a) Administer General Rule (GR) 26;
- (b) Establish operating procedures consistent with this rule;
- (c) Report annually to the Supreme Court and publicly release names of judicial officers who have not complied with the rule.

5. Administrative Office of the Courts (AOC)

(a) *Administrative Office the Courts.* Under the direction of the Supreme Court and CEC, the (AOC) shall develop guidelines for the implementation of the standards, and shall develop, administer, and coordinate judicial education programs throughout the state. The AOC will also track and monitor attendance at continuing judicial education programs accredited by the CEC.

(b) *Office of Trial Court Services and Judicial Education.* The Judicial Education Unit of AOC shall work with the CEC educational committees of the judicial associations and other ad hoc groups to prepare and implement judicial education programs. The unit shall coordinate all CEC judicial education programs, provide staff for the CEC, and evaluate educational programs. Further, the Judicial Education Unit staff shall provide support and assistance to judicial advisory committees in the planning, development, implementation, and evaluation of education programs consistent with established standards and requirements for judicial education.

AOC shall maintain the official transcript for each judicial officer based on: (1) attendance records at all CEC accredited education programs; (2) the attendance records of accredited sponsors based on their submissions; and (3) the individual education reports. Based on that official record, AOC will report annually to the Supreme Court.

Section II: General Standards for Continuing Judicial Education

1. Credit for Continuing Judicial Education (CJE)

During ~~his or her~~their three (3)-year reporting cycle, each judicial officer must complete fortyfive (45) hours of CJE credits, six (6) of which are in the area of judicial ethics. This requirement may be met either by attending approved courses or completing other continuing judicial or legal education activity approved for credit by the CEC, as described below.

(a) At least thirty (30) hours, of which at least four (4) hours are in the area of judicial ethics, must be completed by attending accredited courses. “Attending” is defined as (1) presenting for, or being present in the audience at, an accredited CJE course when and where the course is being presented; (2) presenting for, or participating through an electronic medium in, an accredited CJE course at the time the course is being presented; or (3) participating through an electronic medium in an accredited CJE course that has been prerecorded, but for which faculty are available to answer questions while the course is being presented.

(b) Up to fifteen (15) hours, of which up to two (2) hours are in the area of judicial ethics, may be completed through self-study by listening to, or watching, pre-recorded accredited CJE courses. Judicial officers completing credits by self-study must report them to the AOC.

(c) Up to fifteen (15) hours, of which up to two (2) hours are in the area of judicial ethics, may be completed through teaching at accredited CJE courses and/or publishing legal writing. A judicial officer may complete up to three (3) hours of teaching credits for each hour of presentation. Credits for published legal writing must be approved by the CEC. Judicial officers completing credits by teaching or writing must report them to the AOC.

(d) Up to three (3) hours may be completed by visits to correctional and similar institutions. Judicial officers completing credits by institutional visits must report them to the AOC.

(e) Judicial officers may attend a combination of approved local, state, or national programs.

(f) A judicial officer may complete credits through other courses that directly aid the judicial officer in performing ~~his or her~~their specific judicial duties and are approved by the CEC.

2. Carry-Over

If a judicial officer completes more than forty-five (45) such credit hours in a three (3)-year reporting period, up to fifteen (15) hours of excess credits may be carried forward and applied to the judicial officer’s education requirement for the following three (3)-year reporting period. The fifteen (15) credit hours that may be carried forward may include two (2) credit hours toward the ethics requirement.

Each judicial officer shall attend and complete the Washington Judicial College program within twelve (12) months of initial appointment or election to the judicial office.

4. Credit Calculation

Credit is calculated on the basis of one (1) credit for each sixty (60) minutes of actual subject presentation/participation, not including introductions, overviews, closing remarks, presentation during meals, or keynote addresses unless clearly identified in the agenda as a substantive legal presentation.

Section III: Program Accreditation

1. Washington State Judicial Branch Sponsors

Attendance at any education program sponsored by the following shall be presumed to meet standards and be accredited:

- (a) Washington State Supreme Court,
- (b) Administrative Office of the Courts,
- (c) Judicial education programs of Court Education Committee (CEC),
- (d) Court of Appeals (COA),
- (e) Superior Court Judges' Association (SCJA),
- (f) District and Municipal Court Judges Association (DMCJA),
- (g) Minority and Justice Commission,
- (h) Commission on Gender and Justice.

2. Other Judicial Education Sponsors

Attendance at any education program sponsored by the following shall be presumed to meet standards and be accredited:

- (a) The National Judicial College in Reno, including the University of Nevada Masters and PhD in Judicial Studies and Web-based programs.
- (b) American Academy of Judicial Education,
- (c) New York University's Appellate Judges Seminar,
- (d) University of Virginia's Master of Laws in the Judicial Process (LLM),

(e) The National Center for State Courts (NCSC) programs such as those sponsored by the American Judges Association, the Institute for Court Management, National Council of Probate Judges, and the National Association of Women Judges,

(f) Programs approved for Tuition Assistance by CEC,

(g) The Judicial Division of the American Bar Association (ABA),

(h) The Judicial Divisions of all National Bar Associations:

1. National Asian Pacific Bar Association,

2. National Bar Association,

3. Hispanic National Bar Association.

3. Other Continuing Professional Education Programs

To receive credit for attending or serving as faculty at a program sponsored by an organization other than those listed above, a judicial officer may file with the AOC an agenda of the program, which will be submitted to the CEC for possible accreditation. Courses approved by the Washington State Bar Association for continuing legal education credits that deal with substantive legal topics, statutory, constitutional, or procedural issues that come before the judicial officer will usually qualify for CJE.

4. Basis for Accreditation of Courses

Courses will be approved based upon their content. An approved course shall have significant intellectual or practical content relating to the duties of the judicial officer.

Definitions. The course shall constitute an organized program of learning dealing with matters directly relating to the judicial officer's duties, including but not limited to substantive legal topics, statutory, constitutional and procedural issues that come before

(a) The judicial officer; judicial ethics or professionalism, anti-bias and diversity training, and substance abuse prevention training.

(b) *Factors in Evaluating.* Factors which should be considered in evaluating a course include:

(1) The topic, depth, and skill level of the material;

(2) The level of practical and/or academic experience or expertise of the presenters or faculty;

(3) The intended audience;

(4) The quality of the written, electronic, or presentation materials, which should be of high quality, readable, carefully prepared and distributed to all attendees at or before the course is presented.

5. Programs That Do Not Qualify

The following activities will not qualify for CJE credit:

- (a) Continuing Professional Education courses that do **not** relate to substantive legal topics, statutory, constitutional or procedural issues that come before the judicial officer when performing ~~his or her~~their specific judicial duties;
- (b) Teaching a legal subject to non-lawyers in an activity or course that would not qualify those attending for CJE/CLE credit;
- (c) Jury duty;
- (d) Judging or participating in law school or mock trial competitions;
- (e) Serving on professional (judicial or legal) committees/associations;

6. Appeals

A judicial officer may appeal the denial of program accreditation by the CEC. The appeal may be in the form of a letter addressed to the Chair of the BJA that outlines the basis for the judicial officer's request. The Chair of the BJA shall notify the judicial officer in writing of its decision to sustain or overrule the decision of the CEC.

Section IV: Responsibilities

1. Sponsors of Accredited Programs

It is the responsibility of the Washington State judicial branch sponsors of a judicial education program to report judicial officer attendance and credits for all approved CJE courses to the AOC.

2. Individuals

(a) It is the responsibility of **individual judicial officers** to file a report of their attendance when it is less than the full program provided, for programs sponsored by Washington State Judicial Branch entities.

(b) It is the responsibility of the judicial officer to request accreditation for attendance for programs of other judicial educational sponsors (see Section 4.2. list of sponsors).

(c) It is the responsibility of the **individual judicial officers** to submit requests for accreditation for other continuing professional education programs, credit for teaching, published judicial legal writing, or self-study to the AOC which shall present those to the CEC for review and determination.

3. Deadline

Absent exigent circumstances, sponsors and individual judicial officers must report attendance within 30 days after completion of a CJE activity.

Section V: Certification

1. Compliance

The AOC will send out a reminder of the end-of-the-year reporting requirement via judicial officers Listservs each year in August. The AOC, by January 1, will provide a progress report to every judicial officer of the programs they have attended during the previous calendar year. After reviewing that progress report, judicial officers must either:

- (a) Confirm it as an accurate record of their progress toward compliance with the rule, or;
- (b) Provide additional information on programs attended with accompanying documentation and;
- (c) File that report with the AOC on or before January 31 each year. If a judicial officer does not respond by January 31, their credits will be confirmed by default.

AOC shall publish a report with the names of all judicial officers who do not fulfill the requirements of sections (a) and (b) of GR 26. The AOC report shall be disseminated by means that may include, but are not limited to, publishing on the Washington Courts Internet Web site, publishing the information as part of any voter's guide produced by or under the direction of the AOC, and releasing the information in electronic or printed form to media organizations throughout Washington State.

The report will include the names of all judicial officers who fail to obtain the requisite number of education credits during their three-year reporting period, or the requirements of Judicial College attendance.

2. Three-Year Reporting Periods

Three-year reporting periods will be created as follows:

- (a) Group 1 are those judicial officers present as of January 1, 2003, and those who begin service every subsequent third year: 2006, 2009, 2012, 2015, 2018, 2021, 2024, 2027, 2030, etc.;
- (b) Group 2 are those judicial officers who begin service in 2004, 2007, 2010, 2013, 2016, 2019, 2022, 2025, 2028, 2031, etc.;
- (c) Group 3 are those judicial officers who begin service in 2005 and every subsequent third year: 2008, 2011, 2014, 2017, 2020, 2023, 2026, 2029, 2032, etc.

The three-year reporting period for each new judicial officer begins on January 1 nearest their appointment or election.

3. Delinquency

GR 28**JURY SERVICE POSTPONEMENT, EXCUSAL, AND DISQUALIFICATION**

(a) Scope of Rule. This rule addresses the procedures for postponing and excusing jury service under RCW 2.36.100 and 2.36.110 and for disqualifying potential jurors under RCW 2.36.070 (basic statutory qualifications).

(b) Delegation of Authority to Postpone, Excuse, or Disqualify.

(1) The judges of a court may delegate to court staff and county clerks their authority to disqualify, postpone, or excuse a potential juror from jury service under RCW 2.36.100. The judges of a court may not delegate to court staff and county clerks their authority to excuse a potential juror for unfitness under RCW 2.36.110.

(2) Any delegation of authority under this rule must be written and must specify the criteria for making these decisions.

(3) Judges may not delegate decision-making authority over any grounds for peremptory challenges or challenges for cause that fall outside the scope of this rule.

(c) Grounds for Postponement of Service.

(1) Postponement of service for personal or work-related inconvenience should be liberally granted when requested in a timely manner.

(2) Postponement shall be to a specified period of time within the twelve-month period pursuant to RCW 2.36.100(2).

(d) Grounds for Excusal from Service.

(1) Excusal from jury service shall be limited and shall be allowed only when justified by the criteria established in RCW 2.36.100(1) and 2.36.110.

(e) Grounds for Disqualification of Potential Jurors. [Reserved. See RCW 2.36.070.]

[Adopted effective October 1, 2002.]

GR 29**PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND LIMITED JURISDICTION COURT DISTRICT****(a) Election, Term, Vacancies, Removal and Selection Criteria--Multiple Judge Courts.**

(1) *Election.* Each superior court district and each limited jurisdiction court district (including municipalities operating municipal courts) having more than one judge shall establish a procedure, by local court rule, for election, by the judges of the district, of a Presiding Judge, who shall supervise the judicial business of the district. In the same manner, the judges shall elect an Assistant Presiding Judge of the district who shall serve as Acting Presiding Judge during the absence or upon the request of the Presiding Judge and who shall perform such further duties as the Presiding Judge, the Executive Committee, if any, or the majority of the judges shall direct.

If the judges of a district fail or refuse to elect a Presiding Judge, the Supreme Court shall appoint the Presiding Judge and Assistant Presiding Judge.

- (2) *Term.* The Presiding Judge shall be elected for a term of not less than two years, subject to reelection. The term of the Presiding Judge shall commence on January 1 of the year in which the Presiding Judge's term begins.
- (3) *Vacancies.* Interim vacancies of the office of Presiding Judge or Acting Presiding Judge shall be filled as provided in the local court rule in (a)(1).
- (4) *Removal.* The Presiding Judge may be removed by a majority vote of the judges of the district unless otherwise provided by local court rule.
- (5) *Selection Criteria.* Selection of a Presiding Judge should be based on the judge's 1) management and administrative ability, 2) interest in serving in the position, 3) experience and familiarity with a variety of trial court assignments, and 4) ability to motivate and educate other judicial officers and court personnel. A Presiding Judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court.

Commentary

It is the view of the committee that the selection and duties of a presiding judge should be enumerated in a court rule rather than in a statute. It is also our view that one rule should apply to all levels of court and include single judge courts. Therefore, the rule should be a GR (General Rule). The proposed rule addresses the process of selection/removal of a presiding judge and an executive committee. It was the intent of the committee to provide some flexibility to local courts wherein they could establish, by local rule, a removal process. Additionally, by delineating the selection criteria for the presiding judge, the committee intends that a rotational system of selecting a presiding judge is not advisable.

- (b) **Selection and Term--Single Judge Courts.** In court districts or municipalities having only one judge, that judge shall serve as the Presiding Judge for the judge's term of office.
- (c) **Notification of Chief Justice.** The Presiding Judge so elected shall send notice of the election of the Presiding Judge and Assistant Presiding Judge to the Chief Justice of the Supreme Court within 30 days of election.
- (d) **Caseload Adjustment.** To the extent possible, the judicial caseload should be adjusted to provide the Presiding Judge with sufficient time and resources to devote to the management and administrative duties of the office.

Commentary

Whether caseload adjustments need to be made depends on the size and workload of the court. A recognition of the additional duties of the Presiding Judge by some workload adjustment should be made by larger courts. For example, the Presiding Judge could be assigned a smaller share of civil cases or a block of time every week could be set aside with no cases scheduled so the Presiding Judge could attend to administrative matters.

- (e) **General Responsibilities.** The Presiding Judge is responsible for leading the management and administration of the court's business, recommending policies and procedures that improve the court's effectiveness, and allocating resources in a way that maximizes the court's ability to resolve disputes fairly and expeditiously.
- (f) **Duties and Authority.** The judicial and administrative duties set forth in this rule cannot be delegated to persons in either the legislative or executive branches of government. A Presiding Judge may delegate the performance of ministerial duties to court employees; however, it is still the Presiding Judge's responsibility to ensure they are performed in accordance with this rule. In addition to exercising general administrative supervision over the court, except those duties assigned to clerks of the superior court pursuant to law, the Presiding Judge shall:
- (1) Supervise the business of the judicial district and judicial officers in such manner as to ensure the expeditious and efficient processing of all cases and equitable distribution of the workload among judicial officers;
 - (2) Assign judicial officers to hear cases pursuant to statute or rule. The court may establish general policies governing the assignment of judges;
 - (3) Coordinate judicial officers' vacations, attendance at education programs, and similar matters;
 - (4) Develop and coordinate statistical and management information;
 - (5) Supervise the daily operation of the court including:
 - (a) All personnel assigned to perform court functions; and
 - (b) All personnel employed under the judicial branch of government, including but not limited to working conditions, hiring, discipline, and termination decisions except wages, or benefits directly related to wages; and
 - (c) The court administrator, or equivalent employee, who shall report directly to the Presiding Judge.

Commentary

The trial courts must maintain control of the working conditions for their employees. For some courts this includes control over some wage-related benefits such as vacation time. While the executive branch maintains control of wage issues, the courts must assert their control in all other areas of employee relations.

With respect to the function of the court clerk, generally the courts of limited jurisdiction have direct responsibility for the administration of their clerk's office as well as the supervision of the court clerks who work in the courtroom. In the superior courts, the clerk's office may be under the direction of a separate elected official or someone appointed by the local judges or local legislative or executive authority. In those cases where the superior court is not responsible for the management of the clerk's office, the presiding judge should communicate to the county clerk any concerns regarding the performance of statutory court duties by county clerk personnel.

A model job description, including qualification and experience criteria, for the court administrator position shall be established by the Board for Judicial Administration. A model job description that generally describes the knowledge, skills, and abilities of a court administrator would provide guidance to Presiding Judges in modifying current job duties/responsibilities or for courts initially hiring a court administrator or replacing a court administrator.

- (6) Supervise the court's accounts and auditing the procurement and disbursement of appropriations and preparation of the judicial district's annual budget request;
- (7) Appoint standing and special committees of judicial officers necessary for the proper performance of the duties of the judicial district;
- (8) Promulgate local rules as a majority of the judges may approve or as the Supreme Court shall direct;
- (9) Supervise the preparation and filing of reports required by statute and court rule;
- (10) Act as the official spokesperson for the court in all matters with the executive or legislative branches of state and local government and the community unless the Presiding Judge shall designate another judge to serve in this capacity;

Commentary

This provision recognizes the Presiding Judge as the official spokesperson for the court. It is not the intent of this provision to preclude other judges from speaking to community groups or executive or legislative branches of state or local government.

- (11) Preside at meetings of the judicial officers of the district;
- (12) Determine the qualifications of and establish a training program for pro tem judges and pro tem court commissioners; and
- (13) Perform other duties as may be assigned by statute or court rule.

Commentary

The proposed rule also addresses the duties and general responsibilities of the presiding judge. The language in subsection (d), (e), (f) and (g) was intended to be broad in order that the presiding judge may carry out his/her/their responsibilities. There has been some comment that individual courts should have the ability to change the “duties and general responsibilities” subsections by local rule. While our committee has not had an opportunity to discuss this fully, this approach has a number of difficulties:

- It would create many “Presiding Judge Rules” all of which are different.
- It could subject some municipal and district court judges to pressure from their executive and/or legislative authority to relinquish authority over areas such as budget and personnel.

- It would impede the ability of the BJA through AOC to offer consistent training to incoming presiding judges.

The Unified Family Court subgroup of the Domestic Relations Committee suggested the presiding judge is given specific authority to appoint judges to the family court for long periods of time. Again the committee has not addressed the proposal; however, subsections (e) and (f) do give the presiding judge broad powers to manage the judicial resources of the court, including the assignment of judges to various departments.

- (g) Executive Committee.** The judges of a court may elect an executive committee consisting of other judicial officers in the court to advise the Presiding Judge. By local rule, the judges may provide that any or all of the responsibilities of the Presiding Judge be shared with the Executive Committee and may establish additional functions and responsibilities of the Executive Committee.

Commentary

Subsection (g) provides an option for an executive committee if the presiding judge and/or other members of the bench want an executive committee.

- (h) Oversight of judicial officers.** It shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a judicial officer's failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule.
- (i) Multiple Court Districts.** In counties that have multiple court districts, the judges may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.
- (j) Multiple Court Level Agreement.** The judges of the superior, district, and municipal courts or any combination thereof in a superior court judicial district may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.
- (k) Employment Contracts.** A part-time judicial officer may contract with a municipal or county authority for salary and benefits. The employment contract shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and Washington State Court rules. A part-time judicial officer's employment contract shall comply with GR 29(k) and contain the following provisions, which shall not be contradicted or abrogated by other provisions within the contract.
- (l) Required Provisions of a Part-Time Judicial Officer Employment Contract.**

- (1) *Term of Office and Salary.* The judge's term of office shall be four years, as provided in RCW 3.50.050. The judge's salary shall be fixed by ordinance in accordance with RCW 3.50.080, and the salary shall not be diminished during the term of office.
- (2) *Judicial Duties.* The judge shall perform all duties legally prescribed for a judicial officer according to state law, the requirements of the Code of Judicial Conduct, and Washington State court rules.
- (3) *Judicial Independence and Administration of the Court.* The court is an independent branch of government. The judge shall supervise the daily operations of the court and all personnel assigned to perform court functions in accordance with the provisions of GR 29(e) and (f), and RCW 3.50.080. Under no circumstances should judicial retention decisions be made on the basis of a judge's or a court's performance relative to generating revenue from the imposition of legal financial obligations.
- (4) *Termination and Discipline.* The judge may only be admonished, reprimanded, censured, suspended, removed, or retired during the judge's term of office only upon action of the Washington State Supreme Court, as provided in article IV, section 31 of the Washington State Constitution.

[Adopted effective April 30, 2002; Amended effective May 5, 2009; February 1, 2021.]

GR 30
ELECTRONIC FILING AND SERVICE

(a) Definitions.

- (1) “Electronic Filing” is the electronic transmission of information to a court or clerk for case processing.
- (2) “Electronic Document” is an electronic version of information traditionally filed in paper form, except for documents filed by facsimile which are addressed in GR 17. An electronic document has the same legal effect as a paper document.
- (3) “Electronic Filing Technical Standards” are those standards, not inconsistent with this rule, adopted by the Judicial Information System committee to implement electronic filing.
- (4) “Electronic signature” is an electronic image of the handwritten signature or other electronic sound, symbol, or process, of an individual; attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, including but not limited to “/s/ [name of signatory]”.
- (5) “Filer” is the person whose user ID and password are used to file an electronic document.

Comment

(b) Electronic filing authorization, exception, service, and technology equipment.

- (1) The clerk may accept for filing an electronic document that complies with the Court Rules and the Electronic Filing Technical Standards.
- (2) A document that is required by law to be filed in non-electronic media may not be electronically filed.

Comment

Certain documents are required by law to be filed in non-electronic media. Examples are original wills, certified records of proceedings for purposes of appeal, negotiable instruments, and documents of foreign governments under official seal.

- (3) **Electronic Transmission from the Court.** The court or clerk may electronically transmit notices, orders, or other documents to all attorneys as authorized under local court rule, or to a party who has filed electronically or has agreed to accept electronic documents from the court, and has provided the clerk the address of the party’s electronic mailbox. It is the responsibility of all attorneys and the filing or agreeing party to maintain an electronic mailbox sufficient to receive electronic transmissions of notices, orders, and other documents.
- (4) A court may adopt a local rule that mandates electronic filing by attorneys and/or electronic service of documents on attorneys for parties of record, provided that the attorneys are not additionally required to file paper copies except for those documents set forth in (b)(2). Electronic service may be made either through an electronic transmission directly from the court (where available) or by a party’s attorney. Absent such a local rule, parties may electronically

serve documents on other parties of record only by agreement. The local rule shall not be inconsistent with this rule and the Electronic Filing Technical Standards, and the local rule shall permit paper filing and/or service upon a showing of good cause. Electronic filing and/or service should not serve as a barrier to access.

Comment

When adopting electronic filing requirements, courts should refrain from requiring counsel to provide duplicate paper pleadings as “working copies” for judicial officers.

(c) Time of Filing, Confirmation, and Rejection.

- (1) An electronic document is filed when it is received by the clerk’s designated computer during the clerk’s business hours; otherwise the document is considered filed at the beginning of the next business day.
- (2) The clerk shall issue confirmation to the filing party that an electronic document has been received.
- (3) The clerk may reject a document that fails to comply with applicable electronic filing requirements. The clerk must notify the filing party of the rejection and the reason therefor.

(d) Authentication of Electronic Documents.

(1) Procedures

- (A) A person filing an electronic document must have received a user ID and password from a government agency or a person delegated by such agency in order to use the applicable electronic filing service.

Comment

The committee encourages local clerks and courts to develop a protocol for uniform statewide single user ID’s and passwords.

- (B) All electronic documents must be filed by using the user ID and password of the filer.
- (C) A filer is responsible for all documents filed with ~~his or her~~their user ID and password. No one shall use the filer’s user ID and password without the authorization of the filer.

(2) Signatures

(A) Attorney Signatures--An electronic document which requires an attorney’s signature may be signed with an electronic signature or signed in the following manner:

s/John Attorney State
 Bar Number 12345
 ABC Law Firm
 123 South Fifth Avenue
 Seattle, WA 98104

Telephone: (206) 123-4567
 Fax: (206) 123-4567
 E-mail: John.Attorney@lawfirm.com

- (B) Non-attorney signatures--An electronic document which requires a non-attorney's signature and is not signed under penalty of perjury may be signed with an electronic signature or signed in the following manner:

s/John Citizen 123
 South Fifth Avenue
 Seattle, WA 98104
 Telephone: (206) 123-4567
 Fax: (206) 123-4567
 E-mail: John.Citizen@email.com

- (C) Non-attorney signatures on documents signed under penalty of perjury--Except as set forth in (d)(2)(D) of this rule, if the original document requires the signature of a non-attorney signed under penalty of perjury, the filer must either:

- (i) Scan and electronically file the entire document, including the signature page with the signature, and maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter; or
- (ii) Ensure the electronic document has the electronic signature of the signer.

(D) Law enforcement officer signatures on documents signed under penalty of perjury.

- (i) A citation or notice of infraction initiated by an arresting or citing officer as defined in IRLJ 1.2(j) and in accordance with CrRLJ 2.1 or IRLJ 2.1 and 2.2 is presumed to have been signed when the arresting or citing officer uses ~~his or her~~their user id and password to electronically file the citation or notice of infraction.
- (ii) Any document initiated by a law enforcement officer is presumed to have been signed when the officer uses ~~his or her~~their user ID and password to electronically submit the document to a court or prosecutor through the Statewide Electronic Collision & Traffic Online Records application, the Justice Information Network Data Exchange, or a local secured system that the presiding judge designates by local rule. Unless otherwise specified, the signature shall be presumed to have been made under penalty of perjury under the laws of the State of Washington and on the date and at the place set forth in the citation.

(E) Multiple signatures--If the original document requires multiple signatures, the filer shall scan and electronically file the entire document, including the signature page with the signatures, unless:

- (i) The electronic document contains the electronic signatures of all signers; or
- (ii) For a document that is not signed under penalty of perjury, the signator has the express authority to sign for an attorney or party and represents having that authority in the document.

If any of the non-electronic signatures are of non-attorneys, the filer shall maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter.

(F) Court Facilitated Electronically Captured Signatures--An electronic document that requires a signature may be signed using electronic signature pad equipment that has been authorized and facilitated by the court. This document may be electronically filed as long as the electronic document contains the electronic captured signature.

(3) An electronic document filed in accordance with this rule shall bind the signer and function as the signer's signature for any purpose, including CR 11. An electronic document shall be deemed the equivalent of an original signed document if the filer has complied with this rule. All electronic documents signed under penalty of perjury must conform to the oath language requirements set forth in RCW 9A.72.085 and GR 13.

(e) Filing fees, electronic filing fees.

- (1) The clerk is not required to accept electronic documents that require a fee. If the clerk does accept electronic documents that require a fee, the local courts must develop procedures for fee collection that comply with the payment and reconciliation standards established by the Administrative Office of the Courts and the Washington State Auditor.
- (2) Anyone entitled to waiver of non-electronic filing fees will not be charged electronic filing fees. The court or clerk shall establish an application and waiver process consistent with the application and waiver process used with respect to non-electronic filing and filing fees.

[Adopted effective September 1, 2003; Amended effective December 4, 2007; September 1, 2011; December 9, 2014; February 1, 2021.]

GR 31.1
ACCESS TO ADMINISTRATIVE RECORDS

GENERAL PRINCIPLES

(a) Policy and Purpose. Consistent with the principles of open administration of justice as provided in article I, section 10 of the Washington State Constitution, it is the policy of the judiciary to facilitate access to administrative records. A presumption of access applies to the judiciary's administrative records. Access to administrative records, however, is not absolute and shall be consistent with exemptions for personal privacy, restrictions in statutes, restrictions in court rules, and as required for the integrity of judicial decision-making. Access shall not unduly burden the business of the judiciary.

(b) Overview of Public Access to Judicial Records. There are three categories of judicial records.

- (1) Case records are records that relate to in-court proceedings, including case files, dockets, calendars, and the like. Public access to these records is governed by GR 31, which refers to these records as "court records," and not by this GR 31.1. Under GR 31, these records are presumptively open to public access, subject to stated exceptions.
- (2) Administrative records are records that relate to the management, supervision, or administration of a court or judicial agency. A more specific definition of "administrative records" is in section (i) of this rule. Under section (j) of this rule, administrative records are presumptively open to public access, subject to exceptions found in sections (j) and (l) of this rule.
- (3) Chambers records are records that are controlled and maintained by a judge's chambers. A more specific definition of this term is in section (m) of this rule. Under section (m), chambers records are not open to public access.

PROCEDURES FOR ADMINISTRATIVE RECORDS

(c) Procedures for Records Requests.

- (1) **COURTS AND JUDICIAL AGENCIES TO ADOPT PROCEDURES.** Each court and judicial agency must adopt a policy implementing this rule and setting forth its procedures for accepting and responding to administrative records requests. The policy must include the designation of a public records officer and shall require that requests from the identified individual or, if an entity, an identified entity representative, be submitted in writing to the designated public records officer. Best practices for handling administrative records requests shall be developed under the authority of the Board for Judicial Administration.

COMMENT: When adopting policies and procedures, courts and judicial agencies will need to carefully consider many issues, including the extent to which judicial employees may use personally owned computers and other media devices to conduct official business and the extent to which the court or agency will rely on the individual employee to search ~~his or her~~ their personally owned media devices for documents in response to a records request. For judicial officers and their chambers staff,

GR 33
REQUESTS FOR ACCOMMODATION BY PERSONS WITH DISABILITIES

(a) Definitions. The following definitions shall apply under this rule:

(1) “Accommodation” means measures to make each court service, program, or activity, when viewed in its entirety, readily accessible to and usable by a person with a disability, and may include but is not limited to:

(A) making reasonable modifications in policies, practices, and procedures;

(B) furnishing, at no charge, auxiliary aids and services, including but not limited to equipment, devices, materials in alternative formats, qualified interpreters, or readers; and

(C) as to otherwise unrepresented parties to the proceedings, representation by counsel, as appropriate or necessary to making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by a person with a disability.

(2) “Person with a disability” means a person with a sensory, mental, or physical disability as defined by the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12213), the Washington State Law Against Discrimination (ch. 49.60 RCW), or other similar local, state or federal laws.

(b) Process for Requesting Accommodation.

(1)*Requests.* Requests for aids, modifications, and services will be addressed promptly and in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12213) and the Washington State Law Against Discrimination (ch. 49.60 RCW), with the objective of ensuring equal access to courts, court programs, and court proceedings.

(2)*Timing.* Requests should be made in advance whenever possible, to better enable the court to address the needs of the individual.

(3)*Local Procedures Allowed.* Local procedures not inconsistent with this rule are encouraged. Informal practices are appropriate when an accommodation is clearly needed and can be easily provided.

(4)*Procedure.* An application requesting accommodation should be made on a form approved by the Administrative Office of the Courts and may be presented ex parte in writing, or orally and reduced to writing, to the presiding judge or officer of the court or ~~his or her~~their designee.

(5)*Content.* The request shall include a description of the accommodation sought, along with a statement of the disability necessitating the accommodation. The court may require the person requesting accommodation to provide additional information about the qualifying disability to help assess the appropriate accommodation. Medical and other health information shall be submitted under a cover sheet created by the Administrative Office of the Courts for use by applicants designated “SEALED MEDICAL AND HEALTH INFORMATION” and such information shall be accessible only to the court and the person requesting accommodation unless otherwise expressly ordered.

(c) Consideration and Decision.

(1) *Considerations.* In determining whether to grant an accommodation and what accommodation to grant, the court shall:

(A) consider, but not be limited by, the provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12231), chapter 49.60 RCW, and other similar local, state, and federal laws;

(B) give primary consideration to the accommodation requested by the applicant; and

(C) make its decision on an individual- and case-specific basis with due regard to the nature of the applicant's disability and the feasibility of the requested accommodation.

(2) *Determination.* A request for accommodation may be denied only if:

(A) the person requesting application has failed to satisfy the substantive requirements of this rule; or

(B) the court is unable to provide the requested accommodation on the date of the proceeding and the proceeding cannot be continued without significant prejudice to a party; or

(C) permitting the applicant to participate in the proceedings with the requested accommodation would create a direct threat to the health or well being of the applicant or others.

(D) the requested accommodation would create an undue financial or administrative burden for the court; or would fundamentally alter the nature of the court service, program, or activity under (i) or (ii):

(i) An accommodation may be denied based on a fundamental alteration or undue burden only after considering all resources available for the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.

(ii) If a fundamental alteration or undue burden would result from fulfilling the request, the court shall nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the court.

(d) Decision. The court shall, in writing or on the record, inform the person requesting an accommodation that the request for accommodation has been granted or denied, in whole or in part, and the nature and scope of the accommodation to be provided, if any. A written decision shall be entered in the proceedings file, if any, in which case the court shall determine whether or not the decision should be sealed. If there are no proceedings filed the decision shall be entered in the court's administrative files, with the same determination about filing under seal.

(e) Denial. If a requested accommodation is denied, the court shall specify the reasons for the denial (including the reasons the proceeding cannot be continued without prejudice to a party). The court shall also ensure the person requesting the accommodation is informed of ~~his or~~ 041

~~her~~their right to file a complaint under the Americans with Disabilities Act of 1990 with the United States Department of Justice Civil Rights Division.

Comments

[1] Access to justice for all persons is a fundamental right. It is the policy of the courts of this state to assure that persons with disabilities have equal and meaningful access to the judicial system. Nothing in this rule shall be construed to limit or invalidate the remedies, rights, and procedures accorded to any person with a disability under local, state, or federal law.

[2] Supplemental informal procedures for handling accommodation requests may be less onerous for both applicants and court administration. Courts are strongly encouraged to adopt an informal grievance process for public applicants whose requested accommodation is denied. [Adopted effective September 1, 2007; Amended effective December 28, 2010; September 1, 2014.]

**GR 34 WAIVER OF COURT AND CLERK'S FEES AND CHARGES
IN CIVIL MATTERS ON THE BASIS OF INDIGENCY**

(a) Any individual, on the basis of indigent status as defined herein, may seek a waiver of filing fees or surcharges the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief from a judicial officer in the applicable trial court.

(1) The application for such a waiver may be made ex parte in writing or orally, accompanied by a mandatory pattern form created by the Administrative Office of the Courts (AOC) whereby the applicant attests to ~~his or her~~their financial status or, in the case of an individual represented by a qualified legal services provider (QLSP) or an attorney working in conjunction with a QLSP, a declaration of counsel stating that the individual was screened and found eligible by the QLSP.

(2) The court shall accept an application submitted in person, by mail, and, where authorized by local court rule not inconsistent with GR 30, electronic filing. The process for presentation of the application shall conform to local court rules and clerk processes not inconsistent with the rules of this court for presenting ex parte orders to the court directly or via the clerk. All applications shall be presented to a judicial officer for consideration in a timely manner and in conformity with the local court's established procedures. There shall be no locally imposed fee for making an application. The applicant or applicant's attorney filing by mail, shall provide the court with a self-addressed stamped envelope for timely return of a conformed copy of the order.

Comment

This rule establishes the process by which judicial officers may waive civil filing fees and surcharges for which judicial officers have authority to grant a waiver. This rule applies to mandatory fees and surcharges that have been lawfully established, the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief. These include but are not limited to legislatively established filing fees and surcharges (e.g., RCW 36.18.020(5)); other initial filing charges required by statute (e.g., family court facilitator surcharges established pursuant to RCW 26.12.240; family court service charges established pursuant to RCW 26.12.260; domestic violence prevention surcharges established pursuant to RCW 36.18.016(2)(b)); and other lawfully established fees and surcharges which must be paid as a condition of securing access to judicial relief.

(3) An individual who is not represented by a qualified legal services provider (as that term is defined below) or an attorney working in conjunction with a qualified legal services provider shall be determined to be indigent within the meaning of this rule if such person, on the basis of the information presented, establishes that:

(A) ~~he or she is~~they are currently receiving assistance under a needs-based, means-tested assistance program such as the following:

(i) Federal Temporary Assistance for Needy Families (TANF);

(ii) State-provided general assistance for unemployable individuals (GA-U or GA-X); 043

(iii) Federal Supplemental Security Income (SSI);

(iv) Federal poverty-related veteran's benefits; or

(v) Food Stamp Program (FSP); or

(B) ~~his or her~~their household income is at or below 125 percent of the federal poverty guideline; or

(C) ~~his or her~~their household income is above 125 percent of the federal poverty guideline and the applicant has recurring basic living expenses (as defined in RCW 10.101.010(4)(d)) that render ~~him or her~~them without the financial ability to pay the filing fees and other fees or surcharges for which a request for waiver is made; or

(D) other compelling circumstances exist that demonstrate an applicant's inability to pay fees and/or surcharges.

(4) An individual represented by a QLSP, or an attorney working in conjunction with a QLSP that has screened and found the individual eligible for services, is presumptively deemed indigent when a declaration from counsel verifies representation and states that the individual was screened and found eligible for services.

(5) As used in this rule, "qualified legal services provider" means those legal services providers that meet the definition of APR 1(e)(8).

Comment

The adoption of this rule is rooted in the constitutional premise that every level of court has the inherent authority to waive payment of filing fees and surcharges on a case by case basis. Each court is responsible for the proper and impartial administration of justice which includes ensuring that meaningful access to judicial review is available to the poor as well as to those who can afford to pay.

(b) Nothing in this rule shall prohibit or delay action on the underlying petition upon the court's approval of a waiver and presentation of an original petition may accompany the initial fee waiver.

[Adopted effective December 28, 2010; Amended effective April 21, 2020.]

GR 35

OFFICIAL CERTIFIED SUPERIOR COURT TRANSCRIPTS

(a) Definitions.

(1) "Authorized transcriptionist" means a person approved by a Superior Court to prepare an official verbatim report of proceedings of an electronically recorded court proceeding in that court.

(2) "Certified court reporter" means a person who meets the standards outlined in RCW

- [2] The Canons state overarching principles of judicial ethics that all judges must observe. They provide important guidance in interpreting the Rules. A judge may be disciplined only for violating a Rule.
- [3] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term “must,” it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.
- [4] Second, the Comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.
- [5] The Rules of the Washington State Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.
- [6] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. It is recognized, for example, that it would be unrealistic to sanction judges for minor traffic or civil infractions. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules. The relevant factors for consideration should include the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, including the willfulness or knowledge of the impropriety of the action, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.
- [7] The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

[Adopted effective January 1, 2011.]

CJC APPLICATION

The Application section establishes when the various Rules apply to a judge, court commissioner, or judge pro tempore.

I. APPLICABILITY OF THIS CODE

- (A) A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including an officer such as a magistrate, court commissioner, part-time judge or judge pro tempore. Page 157 of 884
- (B) The provisions of the Code apply to all judges except as otherwise noted for part-time judges and judges pro tempore.
- (C) All judges shall comply with statutory requirements applicable to their position with respect to reporting and disclosure of financial affairs.

Comments

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function, and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] This Code and its Rules do not apply to any person who serves as an administrative law judge or in a judicial capacity within an administrative agency.

[3] The determination of whether an individual judge is exempt from specific Rules depends upon the facts of the particular judicial service.

[4] The Legislature has authorized counties to establish and operate drug courts and mental health courts. Judges presiding in these special courts are subject to these Rules, including Rule 2.9(A)(1) on ex parte communications, and must continue to operate within the usual judicial role as an independent decision maker on issues of fact and law. But the Rules should be applied with the recognition that these courts may properly operate with less formality of demeanor and procedure than is typical of more traditional courts. Application of the rules should also be attentive to the terms and waivers in any contract to which the individual whose conduct is being monitored has agreed in exchange for being allowed to participate in the special court program.

II. PART-TIME JUDGE

(A) A part-time judge is not required to comply:

- (1) with Rule 2.10 (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or
- (2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), and 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges).

(B) A part-time judge shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

(C) When a person who has been a part-time judge is no longer a part-time judge, that person may act as a lawyer in a proceeding in which ~~he or she~~^{they} [GN1] served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.

[1] Part-time judges should be alert to the possibility of conflicts of interest and should liberally disclose on the record to litigants appearing before them the fact of any extrajudicial employment or other judicial role, even if there is no apparent reason to withdraw.

[2] In view of Rule 2.1, which provides that the judicial duties of judges should take precedence over all other activities, part-time judges should not engage in outside employment which would interfere with their ability to sit on cases that routinely come before them.

III. JUDGE PRO TEMPORE

A judge pro tempore is not required to comply:

- (A) except while serving as a judge, with Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.4 (External Influences on Judicial Conduct), Rule 2.10 (Judicial Statements on Pending and Impending Cases); Rule 3.1 (Extrajudicial Activities in General); Rule 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General) or 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); or
- (B) at any time with Rules 3.2 (Appearances before Governmental Bodies and Consultation with Government Officials), 3.3 (Acting as a Character Witness), or 3.4 (Appointments to Governmental Positions), or with Rules 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), or 3.12 (Compensation for Extrajudicial Activities).
- (C) A judge pro tempore shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.
- (D) When a person who has been a judge pro tempore is no longer a judge pro tempore, that person may act as a lawyer in a proceeding in which ~~he or she~~^{they} [GN2] served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.

VI. TIME FOR COMPLIANCE

A person to whom this Code becomes applicable shall comply immediately with its provisions, except that those judges to whom Rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those Rules as soon as reasonably possible, but in no event later than one year after the Code becomes applicable to the judge.

Comment

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (*).

“Aggregate,” in relation to contributions for a candidate, means not only contributions in cash or in-kind made directly to a candidate’s campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate’s opponent. See Rules 2.11 and 4.4.

“Appropriate authority” means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rules 2.14 and 2.15.

“Contribution” means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.4.

“De minimis,” in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality. See Rule 2.11.

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom ~~he or she~~they are ~~is~~ legally married. See Rules 2.11, 2.13, 3.13, and 3.14.

“Economic interest” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
- (4) an interest in the issuer of government securities held by the judge.

See Rules 1.3 and 2.11.

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian. See Rules 2.11, 3.2, and 3.8.

“Financial support” shall mean the total of contributions to the judge’s campaign and independent expenditures in support of the judge’s campaign or against the judge’s opponent as defined by RCW 42.17.020. See Rule 2.11.

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open 048

“Impending matter” is a matter that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, 3.13, and 4.1.

“Impropriety” includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge’s independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

“Independence” means a judge’s freedom from influence or controls other than those established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rule 1.2.

“Invidious discrimination” is a classification which is arbitrary, irrational, and not reasonably related to a legitimate purpose. Differing treatment of individuals based upon race, sex, gender, religion, national origin, ethnicity, sexual orientation, age, or other classification protected by law, are situations where invidious discrimination may exist. See Rules 3.1 and 3.6.

“Judicial candidate” means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as ~~he or she~~^{GN4}~~they~~ makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes or, where permitted, engages in solicitation or acceptance of contributions or support, or ~~is~~^{are} nominated for election or appointment to office. See Rules 2.11, 4.1, 4.2, and 4.4.

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

“Law” encompasses court rules as well as statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.4, 3.9, 3.12, 3.13, 3.14, 3.15, 4.1, 4.2, 4.4, and 4.5.

“Member of the candidate’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

“Member of the judge’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

“Member of a judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Rules 2.11 and 3.13.

“Nonpublic information” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

"**Part-time judge**" Part-time judges are judges who serve on a continuing or periodic basis, but are permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than a full-time judge. A person who serves part-time as a judge on a regular or periodic basis in excess of eleven cases or eleven dockets annually, counted cumulatively without regard to each jurisdiction in which that person serves as a judge, is a parttime judge.

"**Pending matter**" is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

"**Personally solicit**" means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

"**Political organization**" means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate's campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

"**Pro tempore judge**" Without regard to statutory or other definitions of a pro tempore judge, within the meaning of this Code a pro tempore judge is a person who serves only once or at most sporadically under a separate appointment for a case or docket. Pro tempore judges are excused from compliance with certain provisions of this Code because of their infrequent service as judges. A person who serves or expects to serve part-time as a judge on a regular or periodic basis in fewer than twelve cases or twelve dockets annually, counted cumulatively without regard to each jurisdiction in which that person serves as a judge, is a pro tempore judge.

"**Public election**" includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 4.2 and 4.4.

"**Third degree of relationship**" includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, sibling^[PM5], brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11. [GN6]

[Adopted effective January 1, 2011.]

CJC CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1. Compliance with the Law

A judge shall comply with the law,* including the Code of Judicial Conduct.

Comments

See Scope [6].

RULE 1.2. Promoting Confidence in the Judiciary

Comments

- [1] Public confidence in the judiciary is eroded by improper conduct. This principle applies to both the professional and personal conduct of a judge.
- [2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.
- [3] Conduct that compromises the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary.
- [4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.
- [5] Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.
- [6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

RULE 1.3. Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests* of the judge or others, or allow others to do so.

Comments

- [1] It is improper for a judge to use or attempt to use ~~his or her~~^{their} [GN7] position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to ~~his or her~~^{their} [GN8] judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting ~~his or her~~^{their} [GN9] personal business.
- [2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.
- [3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.
- [4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this

(A) A judge shall disqualify ~~himself or herself~~^{themselves} [GN10] in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances: Page 163 of 884

- (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.
- (2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:
 - (a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;
 - (b) acting as a lawyer in the proceeding;
 - (c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or
 - (d) likely to be a material witness in the proceeding.
- (3) The judge knows that ~~he or she~~^{they} [GN11], individually or as a fiduciary,* or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household,* has an economic interest* in the subject matter in controversy or in a party to the proceeding.
- (4) [Reserved.]
- (5) The judge, while a judge or a judicial candidate,* has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits the judge to reach a particular result or rule in a particular way in the proceeding or controversy.
- (6) The judge:
 - (a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer or a material witness in the matter during such association;
 - (b) served in governmental employment, and in such capacity participated personally and substantially as a public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;
 - (c) was a material witness concerning the matter; or
 - (d) previously presided as a judge over the matter in another court.
- (B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.
- (C) A judge disqualified by the terms of Rule 2.11(A)(2) or Rule 2.11(A)(3) may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all

agree in writing or on the record that the judge's relationship is immaterial or that the judge's economic interest is de minimis, the judge is no longer disqualified, and may participate in the proceeding. When a party is not immediately available, the judge may proceed on the assurance of the lawyer that the party's consent will be subsequently given. Page 164 of 884

(D) A judge may disqualify ~~himself, herself, or herself~~ if the judge learns by means of a timely motion by a party that an adverse party has provided financial support for any of the judge's judicial election campaigns within the last six years in an amount that causes the judge to conclude that his or her impartiality might reasonably be questioned. In making this determination the judge should consider:

- (1) the total amount of financial support provided by the party relative to the total amount of the financial support for the judge's election,
- (2) the timing between the financial support and the pendency of the matter, and
- (3) any additional circumstances pertaining to disqualification.

Comments

[1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. In many jurisdictions in Washington, the term "recusal" is used interchangeably with the term "disqualification."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge's disqualification is required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] "Economic interest," as set forth in the Terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (a) an interest in the individual holdings within a mutual or common investment fund;

(b) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;

(c) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(d) an interest in the issuer of government securities held by the judge.

[7] [Reserved.]

[8] [Reserved.]

RULE 2.12. Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act with fidelity and in a diligent manner consistent with the judge's obligations under this Code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

Comments

[1] A judge is responsible for ~~his or her~~^{their} [GN13] own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

RULE 2.13. Administrative Appointments

(A) In making administrative appointments, a judge:

(1) shall exercise the power of appointment impartially* and on the basis of merit; and

(2) shall avoid nepotism and unnecessary appointments.

(B) A judge shall not appoint a lawyer to a position under circumstances where it would be reasonably to be interpreted to be quid pro quo for campaign contributions or other favors, unless:

(1) the position is substantially uncompensated;

(2) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or

(3) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent, and able to accept the position.

A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

RULE 3.1. Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law* or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) participate in activities that will lead to frequent disqualification of the judge; except activities expressly allowed under this code. This rule does not apply to national or state military service;
- (C) participate in activities that would undermine the judge's independence,* integrity,* or impartiality;*
- (D) engage in conduct that would be coercive; or
- (E) make extrajudicial or personal use of court premises, staff, stationery, equipment, or other resources, except for incidental use permitted by law.

Comments

[1] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system. To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7.

[2] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination.

[3] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by Rule 3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

[4] Before speaking or writing about social or political issues, judges should consider the impact of their statements under Canon 3.

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

- (A) in connection with matters concerning the law, the legal system, or the administration of justice;
- (B) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or
- (C) when the judge is acting in a matter involving the judge's, the judge's marital community's, or the judge's domestic partnership's legal or economic interests, or those of members of the judge's immediate family residing in the judge's household, or when the judge is acting in a fiduciary* capacity. In engaging in such activities, however, judges must exercise caution to avoid abusing the prestige of judicial office.

Comments

- [1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and executive or legislative branch officials.
- [2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this Code, such as Rule 1.3, prohibiting judges from using the prestige of office to advance their own or others' interests, Rule 2.10, governing public comment on pending and impending matters, and Rule 3.1(C), prohibiting judges from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

RULE 3.3. Acting as a Character Witness

A judge shall not act as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

Comments

- [1] A judge who, without being subpoenaed, acts as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to act as a character witness.
- [2] This rule does not prohibit judges from writing letters of recommendation in nonadjudicative proceedings pursuant to Rule 1.3 comments [2] and [3].

RULE 3.4. Appointments to Governmental Positions

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice. A judge may represent ~~his or her~~their [GN14] country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. 056

Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (A) assisting such an organization or entity in planning related to fundraising, and participating in the management and investment of the organization’s or entity’s funds, or volunteering services or goods at fundraising events as long as the situation could not reasonably be deemed coercive;
- (B) soliciting* contributions* for such an organization or entity, but only from members of the judge’s family,* or from judges over whom the judge does not exercise supervisory or appellate authority;
- (C) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting ~~his or her~~^{their} [GN15]title to be used in connection with an event of such an organization or entity, but if the event serves a fundraising purpose, the judge may do so only if the event concerns the law, the legal system, or the administration of justice;
- (D) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:
 - (1) will be engaged in proceedings that would ordinarily come before the judge; or
 - (2) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

Comments

- [1] The activities permitted by Rule 3.7 generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.
- [2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge’s participation in or association with the organization, would conflict with the judge’s obligation to refrain from activities that reflect adversely upon a judge’s independence, integrity, and impartiality.
- [3] Mere attendance at an event, whether or not the event serves a fundraising purpose, does not constitute a violation of paragraph (C). It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fundraising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.
- [4] Identification of a judge’s position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fundraising or membership solicitation does not violate this Rule. The letterhead may list the judge’s title or judicial office if comparable designations are used for other persons.

[5] In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono legal work, and participating in events recognizing lawyers who have done pro bono work.

[6] A judge may not directly solicit funds, except as permitted under Rule 3.7(B), however a judge may assist a member of the judge's family in their charitable fundraising activities if the procedures employed are not coercive and the sum is de minimis.

[7] [Reserved.]

[8] A judge may provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice; and convening, participating, or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services, or the administration of justice.

[9] A judge may endorse or participate in projects and programs directly related to the law, the legal system, the administration of justice, and the provision of services to those coming before the courts, and may actively support the need for funding of such projects and programs.

RULE 3.8. Appointments to Fiduciary Positions

(A) A judge shall not accept appointment to serve in a fiduciary* position, such as executor, administrator, trustee, guardian, attorney-in-fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties.

(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a fiduciary position becomes a judge, ~~he or she~~ they [GN16] must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

Comment

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 2.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

RULE 3.9. Service as Arbitrator or Mediator

Comments

[1] This Rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is authorized by law.

[2] Retired, part-time, or pro tempore judges may be exempt from this section. (See Application.)

RULE 3.10. Practice of Law

(A) A judge shall not practice law. A judge may act pro se or on behalf of his or her marital community or domestic partnership and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family,* but is prohibited from serving as the family member's lawyer in any adjudicative forum.

(B) This rule does not prevent the practice of law pursuant to national or state military service.

Comment

[1] A judge may act pro se or on behalf of his or her marital community or domestic partnership in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.

RULE 3.11. Financial, Business, or Remunerative Activities

(A) A judge may hold and manage investments of the judge and members of the judge's family.*

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code.

(D) As soon as practicable without serious financial detriment, the judge must divest ~~himself or herself~~^{themselves} [GN17] of investments and other financial interests that might require frequent disqualification or otherwise violate this Rule. Page 171 of 884

Comments

[1] Judges are generally permitted to engage in financial activities, subject to the requirements of this Rule and other provisions of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 2.1. Similarly, it would be improper for a judge to use ~~his or her~~^{their} [GN18] official title or appear in judicial robes in business advertising, or to conduct ~~his or her~~^{their} [GN19] business or financial affairs in such a way that disqualification is frequently required. See Rules 1.3 and 2.11.

[2] There is a limit of not more than one (1) year allowed to comply with Rule 3.11(D). (See Application Part IV.)

RULE 3.12. Compensation for Extrajudicial Activities

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law* unless such acceptance would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.*

Comments

[1] A judge is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

[2] Compensation derived from extrajudicial activities may be subject to public reporting. See Rule 3.15.

RULE 3.13. Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value

(A) A judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law* or would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.*

(B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following:

- (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;
- (2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending* or impending* before the judge would in any event require disqualification of the judge under Rule 2.11;
- (3) ordinary social hospitality;

- (4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;
- (5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;
- (6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;
- (7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or
- (8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner,* or other family member of a judge residing in the judge's household,* but that incidentally benefit the judge.
- (9) gifts incident to a public testimonial;
- (10) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:
- (a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or
- (b) an event associated with any of the judge's educational, religious, charitable, fraternal, or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.

Comments

- [1] Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 3.13 imposes restrictions upon the acceptance of such benefits. Acceptance of any gift or thing of value may require reporting pursuant to Rule 3.15 and Washington law.
- [2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under Rule 2.11, there would be no opportunity for a gift to influence the judge's decision making. Paragraph (B)(2) places no restrictions upon the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances.
- [3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at belowmarket interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 3.13 applies only to acceptance of gifts or other things of value by a judge. Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or member of the judge's family residing in the judge's household, it may be viewed as an attempt to evade Rule 3.13 and influence the judge indirectly. Where the gift or benefit is being made primarily to such other persons, and the judge is merely an incidental beneficiary, this concern is reduced. A judge should, however, remind family and household members of the restrictions imposed upon judges, and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial office. Such contributions are governed by other Rules of this Code, including Rules 4.3 and 4.4.

RULE 3.14. Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge.

Comments

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this Code.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code and Washington law.

[3] A judge must assure ~~himself or herself~~ themselves [GN20] that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

(a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;

(b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;

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- (d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;
 - (e) whether information concerning the activity and its funding source(s) is available upon inquiry;
 - (f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under Rule 2.11;
 - (g) whether differing viewpoints are presented; and
 - (h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.

RULE 3.15. Reporting Requirements

A judge shall make such financial disclosures as required by law.

[Adopted effective January 1, 2011.]

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1. Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law,* or by Rules 4.2 (Political and Campaign Activities of Judicial Candidates in Public Elections), 4.3 (Activities of Candidates for Appointive Judicial Office), and 4.4 (Campaign Committees), a judge or a judicial candidate* shall not:

- (1) act as a leader in, or hold an office in, a political organization;*
- (2) make speeches on behalf of a political organization or nonjudicial candidate;
- (3) publicly endorse or oppose a nonjudicial candidate for any public office, except for participation in a precinct caucus limited to selection of delegates to a nominating convention for the office of President of the United States pursuant to (5) below.
- (4) solicit funds for, pay an assessment to, or make a contribution* to a political organization or a nonjudicial candidate for public office;
- (5) publicly identify ~~himself or herself~~themselves [GN21] as a member or a candidate of a political organization, except
 - (a) as required to vote, or
 - (b) for participation in a precinct caucus limited to selection of delegates to a nominating convention for the office of President of the United States.
- (6) [Reserved.]
- (7) personally solicit* or accept campaign contributions other than through a campaign committee authorized by Rule 4.4, except for members of the judge's family or individuals who have agreed to serve on the campaign committee authorized by Rule 4.4 and subject to the requirements for campaign committees in Rule 4.4(B).
- (8) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others except as permitted by law;
- (9) use court staff, facilities, or other court resources in a campaign for judicial office except as permitted by law;
- (10) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;
- (11) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court; or
- (12) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A). Page 176 of 884

Comments

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to ~~his or her~~their [GN22]conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Therefore, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for nonjudicial public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for judicial office. See Rule 4.2(B)(2).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no “family exception” to the prohibition in paragraph (A)(3) against a judge or judicial candidate publicly endorsing nonjudicial candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member’s political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they are using the prestige of the their judicial office to endorse any family member’s candidacy or other political activity.

[6] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections. For purposes of this Canon, participation in a caucus-type election procedure does not constitute public support for or endorsement of a political organization or candidate, is not prohibited by paragraphs (A)(2) or (A)(3) and is allowed by Paragraphs (A)(2) and (A)(5). Because Washington uses a caucus system for selection of delegates to the nominating conventions of the major political parties for the office of President of the United States, precluding judges and judicial candidates from participating in these caucuses would eliminate their ability to participate in the selection process for Presidential nominations. Accordingly, Paragraph (A)(3) and (5) allows judges and judicial candidates to participate in precinct caucuses, limited to selection of delegates to a nominating convention for

the office of President of the United States. This narrowly tailored exception from the general rule is provided for because of the unique system used in Washington for nomination of Presidential candidates. If a judge or a judicial candidate participates in a precinct caucus, such person must limit participation to selection of delegates for various candidates. Page 177 of 884

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(10) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A)(10), (A)(11), or (A)(12), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Subject to paragraph (A)(11), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against ~~him or her~~^{them} [GN23] during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A)(11) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(12) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to ~~his or her~~^{their} [GN24] personal views.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(12) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(12), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do respond to questionnaires should post the questionnaire and their substantive answers so they are accessible to the general public. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

PERSONAL SOLICITATION OF CAMPAIGN FUNDS

[16] Judicial candidates should be particularly cautious in regard to personal solicitation of campaign funds. This can be perceived as being coercive and an abuse of judicial office. Accordingly, a general prohibition on personal solicitation is retained with a narrowly tailored exception contained in Paragraph (A)(7) for members of the judge's family and those who have agreed to serve on the judge's campaign committee. These types of individuals generally have a close personal relationship to the judicial candidate and therefore the concerns of coercion or abuse of judicial office are greatly diminished. Judicial candidates should not use this limited exception as a basis for attempting to skirt the general prohibition against solicitation of campaign contributions.

RULE 4.2. Political and Campaign Activities of Judicial Candidates in Public Elections

(A) A judicial candidate* in a nonpartisan, public election* shall:

- (1) Act at all times in a manner consistent with the independence,* integrity,* and impartiality* of the judiciary;
- (2) comply with all applicable election, election campaign, and election campaign fundraising laws and regulations of this jurisdiction;
- (3) review and approve the content of all campaign statements and materials produced by the candidate or ~~his or her~~their [GN25] campaign committee, as authorized by Rule 4.4, before their dissemination; and
- (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.

(B) A candidate for elective judicial office may:

- (1) establish a campaign committee pursuant to the provisions of Rule 4.4;
- (2) speak on behalf of ~~his or her~~^{their} [GN26] candidacy through any medium, including but not limited to advertisements, web sites, or other campaign literature;
- (3) seek, accept, or use endorsements from any person or organization.

Comments

- [1] Paragraphs (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1.
- [2] Despite paragraph (B), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A) paragraphs (4), (10), and (12).
- [3] Judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations on behalf of their own candidacy or that of another judicial candidate.
- [4] In endorsing or opposing another candidate for judicial office, a judicial candidate must abide by the same rules governing campaign conduct and speech as apply to the candidate's own campaign.
- [5] Although judicial candidates in nonpartisan public elections are prohibited from running on a ticket or slate associated with a political organization, they may group themselves into slates or other alliances to conduct their campaigns more effectively.

RULE 4.3. Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may:

- (A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and
- (B) seek endorsements for the appointment from any person or organization.

Comment

[1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(12).

RULE 4.4. Campaign Committees

- (A) A judicial candidate* subject to public election* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that ~~his or her~~^{their} [GN27] campaign committee complies with applicable provisions of this Code and other applicable law.*

(B) A judicial candidate subject to public election shall direct ~~his or her~~^{their} [GN28] campaign committee:
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- (1) to solicit and accept only such campaign contributions* as are reasonable, in any event not to exceed, in the aggregate amount allowed as provided for by law;
- (2) not to solicit contributions for a candidate's current campaign more than 120 days before the date when filing for that office is first permitted and may accept contributions after the election only as permitted by law; and
- (3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions, and to file with the Public Disclosure Commission all reports as required by law.

Comments

[1] Judicial candidates are generally prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A)(7). This Rule recognizes that judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

RULE 4.5. Activities of Judges Who Become Candidates for Nonjudicial Office

- (A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law* to continue to hold judicial office.
- (B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

Comments

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The "resign to run" rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote ~~his or her~~^{their} [GN29] candidacy, and prevents postcampaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the "resign to run" rule.

DRJ 13

SUBSTITUTE PANEL

(a) **Generally.** If a justice of the Supreme Court is the subject of commission discipline or recommendation for retirement that is reviewed by the Supreme Court, a substitute panel of nine judges shall be selected as provided in this rule to serve as justices pro tempore to consider the commission decision.

(b) **Selection of Justices Pro Tempore.** The presiding chief judge of the Court of Appeals shall be one member of the substitute panel and shall be the chief justice pro tempore unless the judge disqualifies ~~himself or herself~~^{themselves} [GN1] or is otherwise disqualified by section (c). The clerk of the Supreme Court shall select the balance of the justices pro tempore by lot from all remaining active Court of Appeals judges. If there are fewer than nine judges of the Court of Appeals who are not disqualified, the panel shall be completed by the clerk by selecting by lot from the active superior court judges until a full panel of nine justices pro tempore has been selected.

(c) **Disqualification.** A judge may disqualify ~~himself or herself~~^{themselves} [GN2] without cause. No judge who has served as a master or a member of the commission in the particular proceeding or who is otherwise disqualified may serve on the substitute panel. No judge against whom a formal charge is pending before the commission shall serve on the panel.

(d) **Chief Justice Pro Tempore.** If the presiding chief judge of the Court of Appeals is not a member of the substitute panel, the substitute panel shall select one of its members to serve as chief justice pro tempore.

[Adopted effective May 14, 1982; Amended effective December 10, 2013.]

APR 8
NONMEMBER LAWYER LICENSES TO PRACTICE LAW

(a) In General. Lawyers admitted to the practice of law in any state or territory of the United States or the District of Columbia or in any foreign jurisdiction, who do not meet the qualifications stated in APR 3, may engage in the limited practice of law in this state as provided in this rule. Lawyers permitted or licensed to practice law under this rule are not members of the Bar.

(b) Exception for Particular Action or Proceeding. A lawyer member in good standing of, and permitted to practice law in, the bar of any other state or territory of the United States or of the District of Columbia, or a lawyer who is providing legal services for no fee through a qualified legal services provider pursuant to rule 8(f), may appear as a lawyer in any action or proceeding only

(i) with the permission of the court or tribunal in which the action or proceeding is pending, and

(ii) in association with an active lawyer member of the Bar, who shall be the lawyer of record therein, responsible for the conduct thereof, and present at proceedings unless excused by the court or tribunal. The requirement in (ii) is waived for a lawyer who is a full-time active duty military officer serving in the office of a Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, or a Region Legal Service Office or a Defense Service Office, or as Special Victims' Counsel or Victims' Legal Counsel for any branch of the United States Armed Forces, located in the State of Washington.

(1) An application to appear as such a lawyer shall be made by written motion to the court or tribunal before whom the action or proceeding is pending, in a form approved by the Bar, which shall include certification by the lawyer seeking permission under this rule and the associated Washington lawyer that the requirements of this rule have been complied with, and shall state the date on which the fee and any mandatory assessment required in part (2) were paid, or state that the fee and assessment were waived pursuant to part (2). The motion shall be heard by the court or tribunal after such notice to the Bar and payment of fees and assessments as required in part (2) below, unless waived pursuant to part (2), and to adverse parties as the court or tribunal shall direct. Payment of the required fee and assessment shall be necessary only upon a lawyer's first application to any court or tribunal in the same case. The court or tribunal shall enter an order granting or refusing the motion, and, if the motion is refused, the court or tribunal shall state its reasons.

(2) The lawyer making the motion shall submit a copy of the motion to the Bar accompanied by

(A) a nonrefundable fee in each case in an amount equal to the license fee required of active lawyer members of the Bar, and

(B) the Client Protection Fund assessment as required of active lawyer members of the Bar.

(3) Payment of the fee and assessment shall be necessary only upon a lawyer's first motion to any court or tribunal in the same case. The associated Washington lawyer shall be jointly responsible for payment of the fee and assessment. The fee and assessment shall be waived for:

(A) a lawyer providing legal services for no fee through a qualified legal services provider pursuant to rule 8(f),

(B) a lawyer rendering service for no fee in either a bar association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal services to indigents and only in that capacity, or

(C) a lawyer who is a full-time active duty military officer serving in the office of a Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, or a Region Legal Service Office or as Special Victims' Counsel or Victims' Legal Counsel for any branch of the United States Armed Forces, located in the State of Washington, and who is not receiving any compensation from clients in addition to the military pay to which they are already entitled.

(4) The Bar shall maintain a public record of all motions for permission to practice pursuant to this rule.

(5) No member of the Bar shall lend ~~his or her~~their name for the purpose of, or in any way assist in, avoiding the effect of this rule.

(6) *Exception for Indian Child Welfare Cases.* A member in good standing of, and permitted to practice law in, the bar of any other state or territory of the United States or of the District of Columbia may appear as a lawyer in an action or proceeding, and shall not be required to comply with the association of counsel and fee and assessment requirements of subsection (b) of this rule, if the applicant establishes to the satisfaction of the Court that:

(A) The applicant seeks to appear in a Washington court for the limited purpose of participating in a "child custody proceeding" as defined by RCW 13.38.040, pursuant to the Washington State Indian Child Welfare Act, ch.13.38 RCW, or by 25 U.S.C. § 1903, pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1901~~et seq.~~;

(B) The applicant represents an "Indian tribe" as defined by RCW 13.38.040 or 25 U.S.C. § 1903;

(C) The Indian child's tribe has executed an affidavit asserting the tribe's intent to intervene and participate in the state court proceeding and affirming that under tribal law (i) the child is a member or (ii) the child is eligible for membership and the biological parent of the child is a member; and

(D) The applicant has provided, or will provide within (7) days of appearing on the case, written notice to the Washington State Bar of their appearance in the case. Such written notice shall be by providing in writing the following information: the cause number and name of the case; the attorney's name, employer, and contact information; and the bar number and jurisdiction of the applicant's license to practice law.

(c) Exception for Indigent Representation. A member in good standing of the bar of another state or territory of the United States or of the District of Columbia, who is eligible to apply for admission as a lawyer under APR 3 in this state, while rendering service in either a bar association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal services to indigents and only in that capacity, may, upon application and approval, practice law and appear as a lawyer before the courts of this state in any matter, litigation, or administrative proceeding, subject to the following conditions and limitations:

(1) Application to practice under this rule shall be made to the Bar, and the applicant shall be subject to the Rules for Enforcement of Lawyer Conduct and to the Rules of Professional Conduct.

(2) In any such matter, litigation, or administrative proceeding, the applicant shall be associated with an active lawyer member of the Bar, who shall be the lawyer of record and responsible for the conduct of the matter, litigation, or administrative proceeding.

(3) The applicant shall either apply for and take the first available lawyer bar examination after the date the applicant was granted authorization to practice under this rule, or already have filed an application for admission by motion or Uniform Bar Exam (UBE) score transfer.

(4) The applicant's authorization to practice under this rule (i) may be terminated by the Supreme Court at any time with or without cause, or (ii) shall be terminated automatically for failure to take or pass the required lawyer bar examination, or (iii) shall be terminated for failure to become an active lawyer member of the Bar within 60 days of the date the lawyer bar examination results are made public, or (iv) shall be terminated automatically upon denial of the application for admission, or (v) in any event, shall be terminated within 1 year from the original date the applicant was authorized to practice law in this state under this rule.

(d) [Reserved.]

(e) [Reserved.]

(f) Exception for House Counsel. A lawyer admitted to the practice of law in any jurisdiction may apply to the Bar for a limited license to practice law as in-house counsel in this state when the lawyer is employed in Washington as a lawyer exclusively for a profit or not for profit corporation, including its subsidiaries and affiliates, association, or other business entity, that is not a government entity, and whose lawful business consists of activities other than the practice of law or the provision of legal services. The lawyer shall apply by:

(i) filing an application in the form and manner that may be prescribed by the Bar;

(ii) presenting satisfactory proof of (I) admission to the practice of law and current good standing in any jurisdiction and (II) good moral character and fitness to practice;

(iii) filing an affidavit from an officer, director, or general counsel of the applicant's employer in this state attesting to the fact the applicant is employed as a lawyer for the employer, including its subsidiaries and affiliates, and the nature of the employment conforms to the requirements of this rule;

(iv) paying the application fees required of lawyer applicants for admission under APR 3; and

(v) furnishing whatever additional information or proof that may be required in the course of investigating the applicant.

(1) Upon approval of the application by the Bar, the lawyer shall take the Oath of Attorney, pay the current year's annual license fee and any mandatory assessments required of active lawyer members. The Bar shall transmit its recommendation to the Supreme Court which may enter an order granting the lawyer a license to engage in the limited practice of law under this section.

(2) The practice of a lawyer licensed under this section shall be limited to practice exclusively for the employer, including its subsidiaries and affiliates, furnishing the affidavit required by the rule and shall not include (i) appearing before a court or tribunal as a person admitted to practice law in this state, and (ii) offering legal services or advice to the public, or (iii) holding oneself out to be so engaged or authorized.

(3) All business cards and employer letterhead used by a lawyer licensed under this section shall state clearly that the lawyer is licensed to practice in Washington as in-house counsel.

(4) A lawyer licensed under this section shall pay to the Bar an annual license fee in the maximum amount required of active lawyer members and any mandatory assessments required of active lawyer members of the Bar.

(5) The practice of a lawyer licensed under this section shall be subject to the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, and to all other laws and rules governing lawyers admitted to the active practice of law in this state. Jurisdiction shall continue whether or not the lawyer retains the limited license and irrespective of the residence of the lawyer.

(6) The lawyer shall promptly report to the Bar a change in employment, a change in admission or license status in any jurisdiction where the applicant has been admitted to the practice of law, or the commencement of any formal disciplinary proceeding in any jurisdiction where the applicant has been admitted to the practice of law.

(7) The limited license granted under this section shall be automatically terminated when employment by the employer furnishing the affidavit required by this rule is terminated, the lawyer has been admitted to the practice of law pursuant to any other provision of the APR, the lawyer fails to comply with the terms of this rule, the lawyer fails to maintain current good standing in at least one other jurisdiction where the lawyer has been admitted to the practice of law, or on suspension or disbarment for discipline in any jurisdiction where the lawyer has been admitted to the practice of law. If a lawyer's employment is terminated but the lawyer, within three months from the last day of employment, is employed by an employer filing the affidavit required by (iii), the license shall be reinstated.

(8) A lawyer admitted in another United States jurisdiction and authorized to provide legal services under this Rule may provide legal services in this jurisdiction for no fee through

Bar qualified legal services provider, as that term is defined in APR 1. If such services involve representation before a court or tribunal, the lawyer shall seek permission under APR 8(b) and any fees for such permission shall be waived. The prohibition against compensation in this paragraph shall not prevent a qualified legal services provider from reimbursing a lawyer authorized to practice under this rule for actual expenses incurred while rendering legal services under this pro bono exception. In addition, a qualified legal services provider shall be entitled to receive all court awarded attorney's fees for pro bono representation rendered by the lawyer.

(g) [Reserved.]

[Adopted effective February 12, 1965; Amended effective May 20, 1966; March 10, 1971; July 9, 1982; September 1, 1984; October 11, 1985; September 1, 1998; March 9, 1999; March 5, 2002; October 1, 2002; December 24, 2002; June 24, 2003; November 25, 2003; September 1, 2004; September 1, 2006; January 1, 2007, May 6, 2008; September 1, 2009; January 1, 2014; September 1, 2015; September 1, 2017; December 5, 2017; September 1, 2018; April 21, 2020.]

APR 9 LICENSED LEGAL INTERNS

- (a) Purpose.** Supervised professional practice plays an important role in the development of competent lawyers and expands the capacity of the Bar to provide quality legal services while protecting the interests of clients and the justice system. This rule authorizes supervised professional practice by qualified law students, enrolled law clerks, and recent graduates of approved law schools when they are licensed pursuant to this rule to engage in the limited practice of law as “Licensed Legal Interns.” The license granted pursuant to this rule is a limited license, based in part on recognition of the role practice experience plays in developing the competence of aspiring lawyers and in part on the fact that the Licensed Legal Intern will be supervised by an experienced lawyer. Persons granted such a limited license and their supervising lawyers must comply with the obligations and limitations set forth in these rules.
- (b) Eligibility.** To be eligible to apply to be a Licensed Legal Intern, an applicant must have arranged to be supervised by a qualifying lawyer and:
- (1) Be a student duly enrolled and in good academic standing at an approved law school who has:
 - (A) successfully completed not less than two-thirds of a prescribed 3-year course of study or five-eighths of a prescribed 4-year course of study, and
 - (B) obtained the written approval of the law school’s dean or a person designated by such dean and a certification by the dean or designee that the applicant has met the educational requirements; or
 - (2) Be an enrolled law clerk who:
 - (A) is certified by Bar staff to be in compliance with the provisions of APR 6 and to have successfully completed not less than five-eighths of the prescribed 4-year course of study; and
 - (B) has the written approval of the primary tutor; or

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

(c) Qualifications To Be a Supervising Lawyer. Except in the sections regarding the application for issuance of a limited license pursuant to this rule, references in this rule to “supervising lawyer” include both the supervising lawyer named in the application materials and on the Licensed Legal Intern identification card, and any other lawyer from the supervising lawyer’s office who meets the qualifications of a supervising lawyer and who performs the duties of a supervising lawyer. A supervising lawyer must be an active lawyer member in good standing of the Bar, who has been actively engaged in the practice of law in the State of Washington or in any state or territory of the United States or the District of Columbia for at least the 3 years immediately preceding the date of the application, who has not been disbarred or subject to a disciplinary suspension in any jurisdiction within the previous 10 years and does not have a disciplinary proceeding pending or imminent, and who has not received a disciplinary sanction of any kind within the previous 3 years.

(d) Application. The applicant must submit an application on a form provided by the Bar and signed by both the applicant and the supervising lawyer.

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

(2) The application must include:

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

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

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

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

(4) Bar staff shall review all applications to determine whether the applicant and the supervising lawyer have the necessary qualifications, and whether the applicant possesses the requisite good moral character and fitness to engage in the limited practice of law provided for in this rule. Bar staff may investigate any information contained in or issues raised by the application that reflect on the factors contained in APR 21-24, and any application that reflects one or more of the factors set forth in APR 21 shall be referred to Bar Counsel for review.

- (5) Bar Counsel may conduct such further investigation as appears necessary, and may refer to the Character and Fitness Board for hearing any applicant about whom there is a substantial question whether the applicant possesses the requisite good moral character and fitness to practice law as defined in APR 20. Such hearing shall be conducted as provided in APR 20-24.3. Bar Counsel may require any disclosures and conditions of the applicant and supervising lawyer that appear reasonably necessary to safeguard against unethical conduct by the applicant during the term of the limited license. No decision regarding the good moral character and fitness to practice of an applicant made in connection with an application for licensing pursuant to this rule is binding on the Bar or Character and Fitness Board at the time an applicant applies for admission to practice law and membership in the Bar, and such issues may be reinvestigated and reconsidered by Bar staff, Bar Counsel, and the Character and Fitness Board.
- (6) The Supreme Court shall issue or refuse the issuance of a limited license for a Licensed Legal Intern. The Supreme Court's decision shall be forwarded to the Bar, which shall inform the applicant of the decision.
- (7) Upon Supreme Court approval of an applicant, the Bar shall send to the applicant, in care of the supervising lawyer's mailing address on record with the Bar, a letter confirming approval by the Supreme Court and a Licensed Legal Intern identification card. An applicant must not perform the duties of a Licensed Legal Intern before receiving the confirming letter and identification card.
- (8) Once an application is accepted and approved and a license is issued, a Licensed Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this state, and is personally responsible for all services performed as a Licensed Legal Intern. Any offense that would subject a lawyer admitted to practice law in this state to suspension or disbarment may be punished by termination of the Licensed Legal Intern's license, or suspension or forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and being admitted to practice law in this state.
- (9) A Licensed Legal Intern may have up to two supervising attorneys in different offices at one time. A Licensed Legal Intern may submit an application for approval to add a supervising attorney in another office or to change supervising attorneys any time within the term of the limited license. When a Licensed Legal Intern applies to add a supervising attorney in another office, the Intern must notify both the current supervising attorney and the proposed new supervising attorney in writing about the application, and both the current and the new supervising attorney must approve the addition and certify that such concurrent supervision will not create a conflict of interest for the Licensed Legal Intern. The qualifications of the new supervising attorney will be reviewed by Bar staff who may approve or deny the supervisor. The Licensed Legal Intern will be notified of approval or denial of the new supervising attorney as described above and must not perform the duties of a licensed legal intern before receiving a new confirming letter containing notification of approval and a new identification card.

(e) Scope of Practice, Prohibitions, and Limitations. In addition to generally being permitted to perform any duties that do not constitute the practice of law as defined in GR 24, a Licensed Legal Intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule.

(1) A Licensed Legal Intern may engage in the following activities without the presence of the supervising attorney:

- (A) Advise or negotiate on behalf of a person referred to the Licensed Legal Intern by the supervising lawyer;
 - (B) Prepare correspondence containing legal advice to clients or negotiating on behalf of clients, pleadings, motions, briefs, or other documents. All such correspondence, pleadings, motions, and briefs must be reviewed and signed by the supervising attorney, as well as any other documents requiring the signature of a lawyer. On any correspondence or legal document signed by the Licensed Legal Intern, the Licensed Legal Intern's signature shall be followed by the title "Licensed Legal Intern" and the Licensed Legal Intern's identification number;
 - (C) Present to the court ex parte and agreed orders signed by the supervising lawyer, except as otherwise provided in these rules;
 - (D) After a reasonable period of in-court supervision or supervision while practicing before an administrative agency, which shall include participating with the supervising lawyer in at least one proceeding of the type involved before the same tribunal and being observed by the supervising lawyer while handling one additional proceeding of the same type before the same tribunal:
 - (i) Represent the State or the respondent in juvenile court in misdemeanor and gross misdemeanor cases;
 - (ii) Try hearings, nonjury trials, or jury trials, in courts of limited jurisdiction;
 - (iii) Represent a client in any administrative adjudicative proceeding for which nonlawyer representation is not otherwise permitted.
- (2) In any proceeding in which a Licensed Legal Intern appears before the court, the Licensed Legal Intern must advise the court of the Intern's status and the name of the Intern's supervising lawyer.
- (3) A Licensed Legal Intern may participate in Superior Court and Court of Appeals proceedings, including depositions, only in the presence of the supervising lawyer or another lawyer from the same office.
- (4) A Licensed Legal Intern must not receive payment directly from a client for the Intern's services. A Licensed Legal Intern may be paid for services by the Intern's employer, and the employer may charge for the services provided by the Licensed Legal Intern as may be appropriate.
- (5) A Licensed Legal Intern must not try any motion or case or negotiate for or on behalf of any client unless the client is notified in advance of the status as a Licensed Legal Intern and of the identity and contact information of the Licensed Legal Intern's supervising lawyer.
- (6) A Licensed Legal Intern must not perform any of the actions permitted by this rule on behalf of or under the supervision of any lawyer other than the supervising lawyer or another lawyer employed in the same office who is qualified for such supervision under this rule.

- (7) For purposes of the attorney-client privilege, a Licensed Legal Intern shall be considered a subordinate of the lawyer providing supervision for the Intern.

(f) Additional Obligations of Supervising Lawyer. Agreeing to serve as the supervising lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule shall be grounds for disciplinary action pursuant to the Rules for Enforcement of Lawyer Conduct. In addition to the duties stated or implied above, the supervising lawyer:

- (1) must provide training to all Licensed Legal Interns supervised by the supervising lawyer, regarding the Rules of Professional Conduct and how they relate to the limited practice of the Licensed Legal Intern. Such training may be waived if the supervising lawyer otherwise determines that the Licensed Legal Intern has previously received such training and the supervising lawyer deems such training sufficient for the limited practice that will be supervised;
- (2) must direct, supervise, and review all of the work of the Licensed Legal Intern and shall assume personal professional responsibility for any work undertaken by the Licensed Legal Intern while under the lawyer's supervision;
- (3) must ensure that all clients to be represented by the Licensed Legal Intern are informed of the intern's status as a Licensed Legal Intern in advance of the representation;
- (4) must review and sign all correspondence providing legal advice to clients and all pleadings, motions, briefs, and other documents prepared by the Licensed Legal Intern and ensure that they comply with the requirements of this rule, and must sign the document if it is prepared for presentation to a court;
- (5) must take reasonable steps to ensure that the Licensed Legal Intern is adequately prepared and knowledgeable enough to be able to handle any assigned matters performed outside the supervising lawyer's presence, but need not be present in the room while the Licensed Legal Intern is performing such duties unless such presence is specifically required by this rule;
- (6) must supervise no more than:
 - (a) one Licensed Legal Intern at any one time if the supervising lawyer is in private practice not otherwise described below;
 - (b) four Licensed Legal Interns at any one time if the supervising lawyer is employed by a recognized institution of legal aid, legal assistance, public defense, or similar programs furnishing legal assistance to indigents, or by the legal departments of a state, county, or municipality; or
 - (c) 10 Licensed Legal Interns at any one time if the supervising lawyer is a full-time clinical supervising lawyer or a member of the faculty of an approved law school for a clinical course offered by the law school where such course has been approved by its dean and is directed by a member of its faculty and is conducted within institutions or legal departments described in the section above or within the law school, provided that a supervising lawyer attends all adversarial proceedings conducted by the legal interns;

- (7) must meet with any Licensed Legal Intern ~~he/she is~~ they are supervising, in person or by telephone, a minimum of one time per week, to review cases being handled and to provide feedback on performance, to provide additional guidance and instruction, and to answer questions or issues raised by the Licensed Legal Intern;
- (8) must inform the Bar staff promptly if circumstances arise that cause the supervising lawyer to have concern about the good moral character or fitness to practice of a Licensed Legal Intern supervised by that lawyer, and cooperate in any investigation that may follow such a report;
- (9) may terminate supervision of a Licensed Legal Intern under this rule at any time, with or without good cause, and must promptly notify the Bar staff of the effective date of the termination and the reasons for the termination;
- (10) may be terminated as a supervising lawyer at the discretion of the Bar, and when so terminated, must take steps to ensure that any Licensed Legal Intern previously supervised by the supervising lawyer ceases to perform duties or hold him/herself out as though supervised by the supervising lawyer.

(g) Additional Obligations and Limitations. The following additional general obligations and limitations apply:

- (1) A judge or administrative hearing officer may exclude a Licensed Legal Intern from active participation in a case in the interest of orderly administration of justice or for the protection of a litigant or witness. In such case, a continuance shall be granted to secure the attendance of the supervising lawyer, who must assume personal responsibility for that matter.
- (2) A Licensed Legal Intern or the supervising lawyer must notify the Bar staff promptly if the supervising lawyer named on a Licensed Legal Intern's identification card terminates supervision of the Licensed Legal Intern, and such Licensed Legal Intern is prohibited from performing any of the actions described in these rules unless and until a change of supervising lawyer has been approved and a new identification card issued.

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

- (1) The approval given to a law student by the law school dean or the dean's designee or to a law clerk by the tutor may be withdrawn at any time by mailing notice to that effect to the Bar, and must be withdrawn if the student ceases to be duly enrolled as a student prior to graduation, takes a leave of absence from the law school or from the clinical program for which the limited license was issued, or ceases to be in good academic standing, or if the APR 6 law clerk ceases to comply with APR 6. When the approval is withdrawn, the Licensed Legal Intern's license must be terminated promptly.
- (2) A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the court's own motion, or upon the motion of the Bar, in either case with or without cause.

(3) A Licensed Legal Intern must immediately cease performing any services under this rule and must cease holding ~~himself or herself~~themselves out as a Licensed Legal Intern upon:

- (A) the termination for any reason of the Intern's limited license under this rule;
- (B) the termination of the supervision for any reason or the upon the resignation of the Intern's supervising lawyer;
- (C) the suspension or termination by the Bar of the supervising lawyer's status as a supervising lawyer;
- (D) the withdrawal of approval of the Intern pursuant to this rule; or
- (E) the failure of the supervising lawyer to maintain qualification to be a supervising lawyer under the terms of this rule.

[Adopted effective February 12, 1965; Amended effective June 4, 1970; May 21, 1971; February 29, 1972; December 31, 1973; December 31, 1976; January 1, 1977; January 1, 1979; January 1, 1981; November 2, 1981; September 1, 1984; October 1, 1985; October 11, 1985; November 29, 1991; September 1, 1994; June 2, 1998; October 1, 2002; January 1, 2014; September 1, 2017.]

APR 10

[RESERVED]

[Adopted effective March 10, 1971; text deleted and rule number reserved effective September 1, 1984.]

[Originally effective February 12, 1965; Regulation 116 amended effective May 2, 2000; deleted effective January 1, 2009.]

Regulation 117. Out-of-State Compliance (Deleted)

[Originally effective February 12, 1965; Regulation 117 amended effective May 2, 2000; deleted effective January 1, 2009. Regulation 107 amended effective February 5, 2013.]

APR 12 LIMITED PRACTICE RULE FOR LIMITED PRACTICE OFFICERS

- (a) **Purpose.** The purpose of this rule is to authorize certain persons to select, prepare and complete legal documents incident to the closing of real estate and personal property transactions and to prescribe the conditions of and limitations upon such activities.
- (b) **Limited Practice Board.**
- (1) *Composition.* The Limited Practice Board (referred to herein as the "LP Board") shall consist of nine members appointed by the Supreme Court. Not less than four of the members of the LP Board must be lawyers admitted to the practice of law in the State of Washington. Four members of the LP Board must be business representatives, one each of the following four industries: escrow, lending, title insurance, and real estate. Appointments shall be for 3-year staggered terms. No member of the LP Board may serve more than two consecutive terms. Terms shall end on September 30 of the applicable year. The Supreme Court shall designate one of the members of the LP Board as chairperson.
- (2) *Duties and Powers.*
- (A) LPO Examination. The LP Board shall work with the Bar and others as necessary to create, maintain, and grade an LPO examination for admission to practice law under this rule. The examination shall consist of such questions as the LP Board may select on such subjects as may be listed by the Board and approved by the Supreme Court.
- (B) Grievances and discipline. The LP Board's involvement in the investigation, hearing and appeal procedures for handling complaints of persons aggrieved by the failure of limited practice officers to comply with the requirements of this rule and of the Limited Practice Officer Rules of Professional Conduct shall be as established in the Rules for Enforcement of Limited Practice Officer Conduct (ELPOC).
- (C) Approval of Forms. The LP Board shall approve standard forms for use by limited practice officers in the performance of legal services authorized by this rule.
- (D) Rules. The LP Board shall propose to the Supreme Court amendments to these rules as may appear necessary to implement and carry out the provisions of this rule.
- (3) *Expenses of the Board.* Members of the LP Board shall not be compensated for their services. For their actual reasonable and necessary expenses incurred in the performance of their duties, they shall be reimbursed according to the Bar's expense policies.

(4) *Administration.* The administrative support to the LP Board shall be provided by the Bar. All notices and filings required by these rules, including applications for admission as a Limited Practice Officer, shall be sent to the headquarters of the Bar.

(c) [Reserved.]

(d) **Scope of Practice Authorized by Limited Practice Rule.** Notwithstanding any provision of any other rule to the contrary, a person licensed as a limited practice officer under this rule may select, prepare, and complete documents in a form previously approved by the LP Board for use by others in, or in anticipation of, closing a loan, extension of credit, sale, or other transfer of interest in real or personal property. Such documents shall be limited to deeds, promissory notes, guaranties, deeds of trust, reconveyances, mortgages, satisfactions, security agreements, releases, Uniform Commercial Code documents, assignments, contracts, real estate excise tax affidavits, bills of sale, and powers of attorney. Other documents may be from time to time approved by the LP Board.

(e) **Conditions Under Which Limited Practice Officers May Prepare and Complete Documents.** Limited practice officers may render services authorized by this rule only under the following conditions and with the following limitations:

(1) *Agreement of the Clients.* Prior to the performance of the services, all clients to the transaction shall have agreed in writing to the basic terms and conditions of the transaction. In the case of a power of attorney prepared in anticipation of a transaction, the principal(s) and attorney(s)-in-fact shall have provided the limited practice officer consistent written instructions for the preparation of the power of attorney.

(2) *Disclosures to the Clients.* The limited practice officer shall advise the clients of the limitations of the services rendered pursuant to this rule and shall further advise them in writing:

(A) that the limited practice officer is not acting as the advocate or representative of either of the clients;

(B) that the documents prepared by the limited practice officer will affect the legal rights of the clients;

(C) that the clients' interests in the documents may differ;

(D) that the clients have a right to be represented by lawyers of their own selection; and

(E) that the limited practice officer cannot give legal advice as to the manner in which the documents affect the clients.

The written disclosure must particularly identify the documents selected, prepared, and/or completed by the limited practice officer and must include the name, signature, and number of the limited practice officer.

(f) **Continuing License Requirements.**

(1) *Continuing Education.* Each active limited practice officer must complete a minimum number of credit hours of continuing education, as prescribed by APR 11.

- (2) *Financial Responsibility.* Each active limited practice officer shall submit to the LP Board proof of ability to respond in damages resulting from ~~his or her~~their acts or omissions in the performance of services permitted under APR 12 in one of the following described manners.
- A. Submit an individual policy for Errors and Omissions insurance in the amount of at least \$100,000;
 - B. Submit an Errors and Omissions policy of the employer or the parent company of the employer who has agreed to provide coverage for the LPO's ability to respond in damages in the amount of at least \$100,000;
 - C. Submit the LPO's audited financial statement showing the LPO's net worth to be at least \$200,000;
 - D. Submit an audited financial statement of the employer or other surety who agrees to respond in damages for the LPO, indicating net worth of \$200,000 per each limited practice officer employee up to and including five, and an additional \$100,000 per each limited practice officer employee over five, who may be subject to the jurisdiction of the Limited Practice Board; or
 - E. Submit proof of indemnification by the limited practice officer's government employer.

Each active LPO shall certify annually continued financial responsibility in the form and manner as prescribed by the Bar. Each LPO shall notify the Bar of any cancellation or lapse in coverage. When an LPO is demonstrating financial responsibility by (1) an endorsement on the employer's Errors and Omissions insurance policy or (2) submission on the employer's audited financial statement accompanied by the Certificate of Financial Responsibility, the Bar shall notify the employer when the LPO's status changes from Active to another status or when the LPO is no longer admitted to practice.

- (3) *License Fees and Assessments.* Each limited practice officer must pay the annual license fee established by the Board of Governors, subject to review by the Supreme Court, and any mandatory assessments as ordered by the Supreme Court. Provisions in the Bar's Bylaws regarding procedures for assessing and collecting lawyer license fees and late fees, and regarding deadline, rebates, apportionment, fee reductions, and exemption, and other issues relating to fees and assessment, shall also apply to LPO license fees and late fees. Failure to pay may result in suspension from practice pursuant to APR 17.
- (4) *Trust Account.* Each active limited practice officer shall certify annually compliance with rules 1.12A and 1.12B of the LPO Rules of Professional Conduct. Such certification shall be filed in the form and manner as prescribed by the Bar and shall include the bank where each account is held and the account number. Failure to certify may result in suspension from practice pursuant to APR 17.

(g) Existing Law Unchanged. This rule shall in no way expand, narrow, or affect existing law in the following areas:

- (1) The fiduciary relationship between a limited practice officer and ~~his or her~~their customers or clients;

- (2) Conflicts of interest that may arise between the limited practice officer and a client or customer;
- (3) The right to act as one's own attorney under the pro se exception to the unauthorized practice of law including but not limited to the right of a lender to prepare documents conveying or granting title to property in which it is taking a security interest;
- (4) The lack of authority of a limited practice officer to give legal advice without being licensed to practice law;
- (5) The standard of care which a limited practice officer must practice when carrying out the functions permitted by this rule.
- (h) Treatment of Funds Received Incident to the Closing of Real or Personal Property Transactions.** Persons admitted to practice under this rule shall comply with LPORPC 1.12A and B regarding the manner in which they identify, maintain, and disburse funds received incidental to the closing of real and personal property transactions, unless they are acting pursuant to APR 12(g)(3).
- (i) Confidentiality and Public Records.**
- (1) GR 12.4 shall apply to access to LP Board records.
- (j) Inactive Status.** An LPO may request transfer to inactive status after being admitted. An LPO on inactive status is required to pay an annual license fee as established by the Board of Governors and approved by the Supreme Court. An LPO on inactive status is not required to meet the financial responsibility requirements or the MCLE requirements.
- (k) Reinstatement to Active Status.** An LPO on inactive status or suspended from practice may return to active status by filing an application and complying with the procedures set forth for lawyer members of the Bar in the Bar's Bylaws.
- (l) Voluntary Resignation.** Any LPO may request to voluntarily resign the LPO license by notifying the Bar in such form and manner as the Bar may prescribe. If there is a disciplinary investigation or proceeding then pending against the LPO, or if the LPO has knowledge that the filing of a grievance of substance against such LPO is imminent, resignation is permitted only under the provisions of the applicable disciplinary rules. An LPO who resigns the LPO license cannot practice law in Washington in any manner, unless they are licensed or authorized to do so by the Supreme Court.

Comment

[1] Comment re APR 12(d)

Powers of attorney authorizing a person to negotiate and sign documents in anticipation of, or in the closing of, a transaction are included in the documents limited practice officers are authorized to prepare. Such documents may include, but are not limited to, purchase and sale agreements for real or personal property, loan agreements, and letters of intent.

[2] Comment re LPO Professional Standard Of Care

APR 13 SIGNING OF PLEADINGS AND OTHER PAPERS; ADDRESS OF RECORD; ELECTRONIC MAIL ADDRESS; NOTICE OF CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME; RESIDENT AGENT

- (a) Signing of Pleadings and Other Papers.** All pleadings and other papers signed by a lawyer, LLLT, or LPO and filed with a court shall include the lawyer's, LLLT's, or LPO's Bar number in the signature block. The law department of a municipality, county, or state, public defender organization or law firm is authorized to make an application to the Administrative Office of the Courts for an office identification number. An office identification number may be assigned by the Administrative Office of the Courts upon a showing that it will facilitate the process of electronic notification. If an office identification number is granted, it shall appear with the lawyer's, LLLT's, or LPO's Bar number in the signature block.
- (b) Address of Record; Change of Address.** A lawyer, LLLT, or LPO must advise the Bar of a current mailing address and telephone number. The mailing address shall be the lawyer's, LLLT's, or LPO's public address of record. A lawyer, LLLT, or LPO whose mailing address or telephone number changes shall, within 10 days after the change, notify the Bar, which shall forward changes weekly to the Administrative Office of the Court for entry into the state computer system. The notice shall be in a form acceptable to the Bar and shall include (1) the lawyer's, LLLT's, or LPO's full name, (2) the lawyer's, LLLT's, or LPO's Bar number, (3) the previous address and telephone number, clearly identified as such, (4) the new address and telephone number, clearly identified as such, and (5) the effective date of the change. The courts of this state may rely on the address information contained in the state computer system in issuing notices in pending actions.
- (c) Electronic mail address.** A lawyer, LLLT, or LPO shall advise the Bar of a current electronic mail address. A lawyer, LLLT, or LPO whose electronic mail address changes shall, within 10 days after the change, notify the Bar, which shall forward changes weekly to the Administrative Office Court for entry into the state computer system. Use of electronic mail addresses for court notice, service and filing must comply with GR 30.
- (d) Change of Name.** A lawyer, LLLT, or LPO whose name changes shall, within 10 days after the change, notify the Bar, which shall forward changes weekly to the Administrative Office of the Court for entry into the state computer system. The notice shall be in a form acceptable to the Bar Association and shall contain (1) the full previous name, clearly identified as such, (2) the full new name, clearly identified as such, (3) the lawyer's, LLLT's, or LPO's Bar number, and (4) the effective date of the change.
- (e) Requirements of Local and Other Court Rules Not Affected.** The responsibility of a party or a lawyer, LLLT, or LPO to keep the court and other parties and lawyers, LLLTs, or LPOs informed of the party's or lawyer's, LLLT's, or LPO's correct name and current address, as may be required by local or other court rule, is not affected by this rule.
- (f) Resident Agent.** If the address of record required under this rule is not in the state of Washington or is not a physical street address, the lawyer, LLLT, or LPO shall file with the Bar the name and address of an agent within this state for the purpose of receiving service of process or of any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer, LLLT, or LPO. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer, LLLT, or LPO. The name and address of the resident agent shall be a public record. If the address or name of the resident agent changes, the lawyer, LLLT, or

LPO shall notify the Bar of the change within 10 days after the change. Judicial and honorary members of the Bar are exempt from the requirements of this section.

[Adopted effective February 12, 1965; Amended effective September 1, 1990; October 30, 2001; September 1, 2005; April 30, 2013; January 1, 2014; September 1, 2017.]

APR 14 LIMITED PRACTICE RULE FOR FOREIGN LAW CONSULTANTS

(a) **Purpose.** The purpose of this rule is to authorize lawyers from a foreign country to advise or consult about foreign law and to prescribe the conditions and limitations upon such limited practice.

(b) **Qualifications.**

(1) To qualify as a Foreign Law Consultant applicant for admission to the limited practice of law in the State of Washington as provided in these rules, a person must:

- (i) Present satisfactory proof of both admission to the practice of law, together with current good standing, in a foreign jurisdiction, and active legal experience as a lawyer or counselor at law or the equivalent in a foreign jurisdiction for at least 5 of the 7 years immediately preceding the application; and
- (ii) Possess good moral character and fitness to practice law as defined in APR 20; and
- (iii) Execute under oath and file with the Bar an application in such form as may be required by the Bar; and
- (iv) File with the application a certificate from the authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice, and the date thereof, and as to the good standing of such lawyer or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate, if it is not in English; and
- (v) File with the application a letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or courts of original jurisdiction of such foreign country, together with a duly authenticated English translation of such letter, if it is not in English; and
- (vi) Provide with the application such other evidence of the applicants educational and professional qualifications, good moral character and fitness and compliance with the requirements of this rule as the Board of Governors may require; and
- (vii) Pay upon the filing of the application a fee equal to that required to be paid by a lawyer applicant to take the lawyer bar examination.

(2) Upon a showing that strict compliance with the provisions of subsections (b)(1)(iv) or (b)(1)(v) would cause the applicant unnecessary hardship, the Bar may at its discretion waive or vary the application of such provisions and permit the applicant to furnish other evidence in lieu thereof.

(c) Procedure. The Bar shall approve or disapprove applications for Foreign Law Consultants licenses. Additional proof of any facts stated in the application may be required by the Bar. In the event of the failure or refusal of the applicant to furnish any information or proof, or to answer any inquiry of the Board pertinent to the pending application, the Bar may deny the application. Upon approval of the application by the Bar, the Bar shall recommend to the Supreme Court that the applicant be granted a license for the purposes herein stated. The Supreme Court may enter an order licensing to practice those applicants it deems qualified, conditioned upon such applicant's:

- (1) Taking and filing with the Clerk of the Supreme Court the Oath of Attorney pursuant to APR 5; and
- (2) Paying to the Bar the license fee and any mandatory assessments for the current year in the maximum amount required of active lawyer members; and
- (3) Filing with the Bar in writing ~~his or her~~their address in the State of Washington, or the name and address of ~~his or her~~their registered agent as provided in APR 13, together with a statement that the applicant has read the Rules of Professional Conduct and Rules for Enforcement of Lawyer Conduct, is familiar with their contents and agrees to abide by them.

(d) Scope of Practice. A Foreign Law Consultant shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A Foreign Law Consultant may not:

- (1) Appear for a person other than the Foreign Law Consultant as lawyer in any court or before any magistrate or other judicial officer in this state (other than upon permission for a particular action or proceeding pursuant to rule 8(b)) or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer of this state;
- (2) Prepare any deed, mortgage, assignment, discharge, lease or any other instrument affecting title to real estate located in the United States; or
- (3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident thereof; or any instrument related to the administration of a decedent's estate in the United States; or
- (4) Prepare any instrument with respect to the marital relations, rights or duties of a resident of the United States, or the custody or care of the children of such a resident; or
- (5) Render legal advice on the law of the State of Washington, of any other state or territory of the United States, of the District of Columbia or of the United States (whether rendered incident to preparation of legal instruments or otherwise) unless and to the extent that the Foreign Law Consultant is admitted to practice law before the highest court of such other jurisdiction; or
- (6) In any way hold ~~himself or herself~~themselves out as a member of the Bar of the State of Washington; or
- (7) Use any title other than "Foreign Law Consultant," the firm name, and/or authorized title used in the foreign country where the Foreign Law Consultant is admitted to practice. In each case, such title or name shall be used in conjunction with the name of such foreign country.

- (e) **Regulatory Provisions.** A Foreign Law Consultant shall be subject to the Rules for Enforcement of Lawyer Conduct and the Rules of Professional Conduct as adopted by the Supreme Court and to all other laws and rules governing lawyers admitted to the Bar of this state, except for the requirements of APR 11 relating to mandatory continuing legal education. Jurisdiction shall continue whether or not the Consultant retains the authority for the limited practice of law in this state, and regardless of the residence of the Consultant.
- (f) **Continuing Requirements.**
- (1) *Annual Fee and Assessments.* A Foreign Law Consultant shall pay to the Bar an annual license fee and any mandatory assessments for the current year in the maximum amount required of active lawyer members.
- (2) *Report.* A Foreign Law Consultant shall promptly report to the Bar any change in ~~his or her~~their status in any jurisdiction where ~~he or she is~~they are admitted to practice law.
- (g) **Termination of License.** A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the courts own motion, or upon the motion of the Bar, with or without cause, including failure to comply with the terms of this rule.
- (h) **Reciprocity.** A Foreign Law Consultant applicant shall demonstrate that the country or jurisdiction from which ~~he or she applies~~they apply does not impose, by any law, rule or regulation, any requirements, limitations, restrictions or conditions upon the admission of members of the Bar as Foreign Law Consultants in that foreign country or jurisdiction which are significantly more limiting or restrictive than the requirements of this rule. The Supreme Court may deny a license to a Foreign Law Consultant applicant upon that basis, or may impose similar limitations, restrictions or conditions upon foreign legal consultant applicants from that foreign country or jurisdiction.

[Adopted effective February 12, 1965; Amended effective September 1, 1990; December 28, 1999; October 1, 2002; November 25, 2003; January 2, 2007; September 1, 2017; December 5, 2017.]

APR 15 CLIENT PROTECTION FUND

- (a) Purpose.** The purpose of this rule is to create a Client Protection Fund (the Fund), to be maintained and administered as a trust by the Bar, in order to promote public confidence in the administration of justice and the integrity of the legal profession.
- (b) Establishment.** The Fund shall be established and funded through assessments ordered by the Supreme Court to be paid by members and other licensees to the Bar.
- (1) The Board of Governors shall act as Trustees for the Fund.
 - (2) The Board of Governors shall appoint a Client Protection Board, to help administer the Fund pursuant to these rules. The Client Protection Board shall consist of 11 lawyers, LLLTs, or LPOs and two community representatives who are not licensed to practice law, who shall be appointed to serve staggered three-year terms.
 - (3) Funds accruing and appropriated to the Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any person by reason of the dishonesty of, or failure to account for money or property entrusted to, any lawyer, LLLT, or LPO of the Bar as a result of or directly related to the lawyer's, LLLT's, or LPO's practice of law, or while acting as a fiduciary in a matter directly related to the lawyer, LLLT's, or LPO's practice of law. Such funds may also, through the Fund, be used to relieve or mitigate like losses sustained by persons by reason of similar acts of an individual who was at one time admitted to the practice of law in Washington as a lawyer, LLLT, or LPO but who was at the time of the act complained of under a court ordered suspension.
 - (4) The Fund shall not be used for the purpose of relieving any pecuniary loss resulting from a lawyer's, LLLT's, or LPO's negligent performance of services or for acts performed after a lawyer, LLLT, or LPO is disbarred or revoked.
 - (5) Payments from the Fund shall be considered gifts to the recipients and shall not be considered entitlements.
- (c) Funding.** The Supreme Court may by order provide for funding by assessment of lawyers, LLLTs, and LPOs in amounts determined by the court upon the recommendation of the Board of Governors.
- (d) Enforcement.** Failure to pay any fee assessed by the Supreme Court in the manner and by date specified by the Bar shall be a cause for suspension from practice until payment has been made.
- (e) Restitution.** A lawyer, LLLT, or LPO whose conduct results in payment to an applicant shall be liable to the Fund for restitution.
- (1) A lawyer, LLLT, or LPO on Active status must pay restitution to the Fund in full within 30 days of final payment by the Fund to an applicant unless the lawyer, LLLT, or LPO enters into a periodic payment plan with Bar counsel assigned to the Client Protection Board.
 - (2) Lawyers, LLLTs, or LPOs on disciplinary or administrative suspension; disbarred or revoked lawyers, LLLTs, or LPOs; and lawyers, LLLTs, or LPOs on any status other than disability inactive must pay restitution to the Fund in full prior to returning to Active status, unless the 090

attorney enters into a periodic payment plan with Bar counsel assigned to the Client Protection Board.

- (3) A lawyer, LLLT, or LPO who returns from disability inactive status as to whom an award has been made shall be required to pay restitution if and as provided in Procedural Regulation 6(I).
- (4) Restitution not paid within 30 days of final payment by the Fund to an applicant shall accrue interest at the maximum rate permitted under RCW 19.52.050.
- (5) Bar counsel assigned to the Client Protection Board may, in ~~his or her~~ the bar counsel's sole discretion, enter into an agreement with a lawyer, LLLT, or LPO for a reasonable periodic payment plan if the lawyer, LLLT, or LPO demonstrates in writing the present inability to pay assessed costs and expenses.
- (A) Any payment plan entered into under this rule must provide for interest at the maximum rate permitted under RCW 19.52.050.
- (B) A lawyer, LLLT, or LPO may ask the Client Protection Board to review an adverse determination by Bar counsel regarding specific conditions for a periodic payment plan. The Chair of the Client Protection Board directs the procedure for Client Protection Board review, and the Client Protection Board's decision is not subject to further review.
- (6) A lawyer's, LLLT's, or LPO's failure to comply with an approved periodic payment plan or to otherwise pay restitution due under this Rule may be grounds for denial of status change or for discipline.
- (f) Administration.** The Bar shall maintain and administer the Fund in a manner consistent with these rules and Regulations.
- (g) Subpoenas.** A lawyer member of the Client Protection Board, or Bar Counsel assigned to the Client Protection Board, shall have the power to issue subpoenas to compel the attendance of the lawyer, LLLT, or LPO being investigated or of a witness, or the production of books, or documents, or other evidence, at the taking of a deposition. A subpoena issued pursuant to this rule shall indicate on its face that the subpoena is issued in connection with an investigation under this rule. Subpoenas shall be served in the same manner as in civil cases in the superior court.
- (h) Reports.** The Bar shall file with the Supreme Court a full report on the activities and finances of the Fund at least annually and may make other reports to the court as necessary.
- (i) Communications to the Bar.** Communications to the Bar, Board of Governors (Trustees), Client Protection Board, Bar staff, or any other individual acting under the authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any applicant or other person providing information.

[Adopted effective February 12, 1965; Amended effective September 1, 1994; October 1, 2002; January 2, 2008; January 13, 2009; December 1, 2009; January 1, 2014; September 1, 2017.]

APR 15

CLIENT PROTECTION FUND (APR 15) PROCEDURAL REGULATIONS

REGULATION 1. PURPOSE

- (a) The purpose of these regulations is to establish procedures pursuant to Rule 15 of the Admission and Practice Rules, to maintain and administer a Client Protection Fund established as a trust by the Bar, in order to promote public confidence in the administration of justice and the integrity of the legal profession.
- (b) Funds accruing and appropriated to the Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any person by reason of the dishonesty of, or failure to account for money or property entrusted to, any lawyer, LLLT, or LPO of the Bar as a result of or directly related to the lawyer's, LLLT's, or LPO's practice of law, or while acting as a fiduciary in a matter directly related to the lawyer's, LLLT's, or LPO's practice of law. Such funds may also, through the Fund, be used to relieve or mitigate like losses sustained by persons by reason of similar acts of an individual who was at one time a lawyer, LLLT, or LPO of the Bar but who was at the time of the act complained of under a court ordered suspension.
- (c) The Fund shall not be used for the purpose of relieving any pecuniary loss resulting from a lawyer's, LLLT's, or LPO's negligent performance of services.

[Adopted effective July 18, 1995; Amended effective December 1, 2009; September 1, 2017.]

REGULATION 2. ESTABLISHMENT OF THE FUND

- (a) **Trustees.** Pursuant to APR 15, the members of the Board of Governors will serve during their terms of office as Trustees (Trustees) for the Fund to hold funds assessed by the Supreme Court for the purposes of the Fund. The Bar President will serve as President of the Trustees.
- (b) **Funding.** The Trustees may recommend to the Supreme Court that it order an annual assessment of all active lawyers, LLLTs, or LPOs of the Bar in an amount recommended by the Trustees to be held by them in trust for the purposes of the Fund.
- (c) **Enforcement.** Any active lawyer, LLLT, or LPO failing to pay any annual assessment on or before the date set for payment by the Supreme Court shall be ordered suspended from the practice of law in accordance with APR 17 and the Bar's Bylaws until the assessment is paid.

[Adopted effective July 18, 1995; Amended effective September 1, 2017.]

REGULATION 3. CLIENT PROTECTION BOARD

- (a) **Membership.** The Client Protection Board shall consist of 11 lawyers, LLLTs, or LPOs and 2 community representatives who are not licensed to practice law, appointed by the Trustees for terms not exceeding three years each.
- (b) **Vacancies.** Vacancies on the Client Protection Board shall be filled by appointment of the Trustees.
- (c) **Officers.** The Trustees shall appoint a chairperson of the Client Protection Board for a term of one year or until a successor is appointed. The secretary of the Client Protection Board shall be a staff member of the Bar assigned to the Client Protection Board by the Executive Director of the Bar.

- (d) Meetings.** The Client Protection Board shall meet not less than once per year upon call of the chairperson, or at the request of the staff member of the Bar, who shall not be entitled to vote on Client Protection Board matters.
- (e) Quorum.** A majority of the Client Protection Board members, excluding the secretary, shall constitute a quorum.
- (f) Record of Meetings.** The secretary shall maintain minutes of the Client Protection Board deliberations and recommendations.
- (g) Authority and Duties of Client Protection Board.** The Client Protection Board shall have the power and authority to:
- (1) Consider claims for reimbursement of pecuniary loss and make a report and recommendation regarding payment or nonpayment on any claim to the Trustees.
 - (2) Provide a full report of its activities annually to the Supreme Court and the Trustees and to make other reports and to publicize its activities as the Court or Trustees may deem advisable.

(h) Conflict of Interest.

- (1) A Client Protection Board member who has or has had a lawyer/client relationship or financial relationship with an applicant or lawyer, LLLT, or LPO who is the subject of an application shall not participate in the investigation or deliberation of an application involving that applicant or lawyer, LLLT, or LPO.
- (2) A Client Protection Board member with a past or present relationship, other than that as provided in section (1), with an applicant or lawyer, LLLT, or LPO who is the subject of an application, shall disclose such relationship to the Client Protection Board and, if the Client Protection Board deems it appropriate, that member shall not participate in any action relating to that application.

[Adopted effective July 18, 1995; Amended effective January 13, 2009; September 1, 2017.]

REGULATION 4. APPLICATIONS FOR PAYMENT

- (a) Applications.** All applications for payment through the Client Protection Fund shall be made by submitting to the Bar an application in such form and manner as determined by the Bar, and shall include all information requested on the form.
- (b) Disciplinary Grievances.** Before an application for payment from the Fund will be considered, the applicant must also file a disciplinary grievance with the Office of Disciplinary Counsel, unless the lawyer, LLLT, or LPO is disbarred, revoked, or deceased, or unless the Client Protection Board in its discretion finds that no disciplinary grievance is required.
- (c) Information about the Fund.** The application and information about the Fund shall be published on the Bar's public website and provided to any person on request.

[Adopted effective July 18, 1995; Amended effective November 2, 2006; January 13, 2009; September 1, 2017.]

REGULATION 5. ELIGIBLE CLAIMS

- (a) Eligibility.** To be eligible for payment from the Fund, the loss must be caused by the dishonest conduct of a lawyer, LLLT, or LPO or the failure to account for money or property entrusted to a lawyer, LLLT, or LPO as a result of or directly related to the lawyer's, LLLT's, or LPO's practice of law. The loss must also have arisen out of and by reason of a client-lawyer relationship or a fiduciary relationship in a matter directly related to the lawyer's, LLLT's, or LPO's practice of law.
- (b) Time Limitations.** Any application must be made within three years from the date on which discovery of the loss was made or reasonably should have been made by the applicant, and in no event more than three years from the date the lawyer, LLLT, or LPO dies, is disbarred or revoked, is disciplined for misappropriation of funds, or is criminally convicted for matters relating to the applicant's loss, provided that the Client Protection Board or Trustees in their discretion may waive any limitations period for excusable neglect or other good cause.
- (c) Dishonest Conduct.** As used in these rules and regulations, "dishonest conduct" or "dishonesty" means wrongful acts committed by a lawyer, LLLT, or LPO in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other thing of value, including but not limited to refusal to refund unearned fees or expenses as required by the Rules of Professional Conduct.
- (d) Excluded Losses.** Except as provided by Section E of this Regulation, the following losses shall not be reimbursable:
- (1) Losses incurred by related persons, law partners and associate lawyers, LLLTs, or LPOs of the lawyer, LLLT, or LPO causing the loss. For purposes of these Rules and Regulations, "related persons" includes a spouse, domestic partner, child, grandchild, parent, grandparent, sibling, or other relative or individual with whom the lawyer, LLLT, or LPO maintains a close, familial relationship;
 - (2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety, or insurer is subrogated, to the extent of that subrogated interest;
 - (3) Losses incurred by any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract;
 - (4) Losses incurred by any business entity controlled by the lawyer, LLLT, or LPO or any person or entity described in Regulation 5 (D)(1), (2) or (3);
 - (5) Losses incurred by an assignee, lienholder, or creditor of the applicant or lawyer, LLLT, or LPO, unless application has been made by the client or beneficiary or the client or beneficiary has authorized such reimbursement;
 - (6) Losses incurred by any governmental entity or agency;
 - (7) Losses arising from business or personal investments not arising in the course of or arising out of the client-lawyer or client-LLLT relationship, or the provision of LPO services;

- (8) Consequential damages, such as lost interest, or attorney's fees or other costs incurred in seeking recovery of a loss.
- (e) **Special and Unusual Circumstances.** In cases of special and unusual circumstances, the Client Protection Board may, in its discretion, consider an application which would otherwise be excluded by reason of the procedural requirements of these rules and regulations.
- (f) **Unjust Enrichment.** In cases where it appears that there will be unjust enrichment, or that the applicant contributed to the loss, the Client Protection Board may, in its discretion, recommend the denial of the application. No rule should be interpreted as to provide a financial windfall to a claimant from the Fund.
- (g) **Investment Victims.** When considering gifts to claimants who were victimized after investing with a lawyer, LLLT, or LPO the Client Protection Board may consider such factors as the sophistication of the investor, the length of the relationship with the lawyer, LLLT, or LPO, and whether the investor was aware that the lawyer, LLLT, or LPO had partners who were not lawyers, LLLTs, or LPOs.
- (h) **Exhaustion of Remedies.** The Client Protection Board may consider whether an applicant has made reasonable attempts to seek reimbursement of a loss before taking action on an application. This may include, but is not limited to, the following:
- (1) Filing a claim with an appropriate insurance carrier;
 - (2) Filing a claim on a bond, when appropriate;
 - (3) Filing a claim with any and all banks which honored a financial instrument with a forged endorsement;
 - (4) As a prelude to possible suit under part (5) below, demanding payment from any business associate or employer who may be liable for the actions of the dishonest lawyer, LLLT, or LPO; or
 - (5) Commencing appropriate legal action against the lawyer, LLLT, or LPO or against any other party or entity who may be liable for the applicant's loss.

[Adopted effective July 18, 1995; Amended effective January 4, 2005; September 1, 2006; September 1, 2008; January 13, 2009; December 1, 2009; September 1, 2012; September 1, 2017.]

REGULATION 6. PROCEDURES

- (a) **Ineligibility.** Whenever it appears that an application is not eligible for reimbursement pursuant to Rule 5, the applicant shall be advised of the reasons why the application may not be eligible for reimbursement.
- (b) **Investigation and Report.** The Bar staff member assigned to the Client Protection Board shall conduct an investigation regarding any application. The investigation may be coordinated with any disciplinary investigation regarding the lawyer, LLLT, or LPO. The staff member shall report to the Client Protection Board and make a recommendation to the Client Protection Board.

- (c) **Notification of Lawyer, LLLT, or LPO.** The lawyer, LLLT, or LPO or ~~his or her~~their representative, regarding whom an application is made shall be notified of the application and provided a copy of it, and shall be requested to respond within 20 days. If the lawyer's, LLLT's, or LPO's address of record on file with the Bar is not current, then a copy of the application should be sent to the lawyer, LLLT, or LPO at any other address on file with the Bar. A copy of these Rules and Regulations shall be provided to the lawyer, LLLT, or LPO or representative.
- (d) **Withdrawal of Application/Restitution.** If, during the investigation of an application, the Applicant withdraws the Application or the Applicant receives full restitution of the amount stated in the Application, the Applicant and the lawyer, LLLT, or LPO shall be advised that the file will be closed without further action.
- (e) **Testimony.** The Client Protection Board may request that testimony be presented to complete the record. Upon request, the lawyer, LLLT, or LPO or applicant, or their representatives, may be given an opportunity to be heard at the discretion of the Client Protection Board.
- (f) **Finding of Dishonest Conduct.** The Client Protection Board may make a finding of dishonest conduct for purposes of considering an application. Such a determination is not a finding of dishonest conduct for purposes of professional discipline.
- (g) **Evidence and Burden of Proof.** Consideration of an application need not be conducted according to technical rules relating to evidence, procedure and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence commonly accepted by reasonably prudent persons in the conduct of their affairs. The applicant shall have the burden of establishing eligibility for reimbursement by a clear preponderance of the evidence.
- (h) **Pending Disciplinary Proceedings.** Unless the Trustees otherwise direct, no application shall be acted upon during the pendency of a disciplinary proceeding or investigation involving the same act or conduct that is alleged in the claim.
- (i) **Deferred Disciplinary Proceedings; Lawyer, LLLT, or LPO on Disability Inactive Status.**
- (1) If an application relates to a lawyer, LLLT, or LPO on disability inactive status, and/or a disciplinary proceeding or investigation is deferred due to a lawyer's, LLLT's, or LPO's transfer to disability inactive status, the Client Protection Board may act on the application when received or may defer processing the application for up to three years if the lawyer, LLLT, or LPO remains on disability inactive status.
 - (2) A lawyer, LLLT, or LPO on disability inactive status seeking to return to Active status may, while pursuing reinstatement pursuant to the Rules for Enforcement of Conduct or other applicable discipline rules, request that the lawyer's, LLLT's, or LPO's obligation to make restitution for any applications approved while the lawyer, LLLT, or LPO was on disability inactive status be reviewed.
- (A) If the request for review is based in, whole or in part on the merits of the application(s), the lawyer, LLLT, or, LPO may request the Client Protection Board review and reconsider any such applications. The Client Protection Board's decision on review shall be reported to the Trustees, which shall have sole authority for the final decision. If the Trustees determine that the application(s) should not have been approved, the lawyer, LLLT, or LPO will not be responsible

for restitution and the applicant(s) shall not be required to repay the Fund. If the Trustees determine that the applications were appropriately granted and the lawyer, LLLT, or LPO is responsible for restitution, the rules regarding restitution shall apply.

(B) If the lawyer, LLLT, or LPO does not contest the merits of the applications but simply wants to request that restitution be waived, the request shall be submitted to Bar Counsel for the Fund, who shall submit the request to the Trustees together with Bar Counsel's recommendation. The decision of the Trustees shall be final and is not subject to appeal.

(j) **Public Participation.** Public participation at Client Protection Board meetings shall be permitted only by prior permission granted by the Client Protection Board chairperson.

(k) **Client Protection Board Action.**

(1) *Actions of the Client Protection Board Which Are Final Decisions.* A decision by the Client Protection Board on an application for payment of \$25,000 or less—whether such decision be to make payment, to deny payment, to defer consideration, or for any action other than payment of more than \$25,000—shall be final and without right of appeal to the Trustees.

(2) *Actions of the Client Protection Board Which Are Recommendations to the Trustees.* A decision by the Client Protection Board (a) on an application for more than \$25,000, or (b) involving a payment of more than \$25,000 (regardless of the amount stated in the application), is not final and is a recommendation to the Trustees which shall have sole authority for final decisions in such cases.

[Adopted effective July 18, 1995; Amended effective January 4, 2005; November 2, 2006; September 1, 2008; January 13, 2009; January 1, 2014; September 1, 2017.]

REGULATION 7. ADJUDICATION BY TRUSTEES

(a) A recommendation by the Client Protection Board (a) concerning applications for more than \$25,000, or (b) that payments of more than \$25,000 be made to applicants regarding any one lawyer, LLLT, or LPO shall be reported to the Trustees which may, in its discretion, adopt, modify, disapprove or take any other appropriate action on the Client Protection Board's recommendation.

(b) A decision of the Trustees shall be final and there shall be no right of appeal from that decision.

[Adopted effective July 18, 1995; Amended effective January 4, 2005; January 13, 2009; September 1, 2017.]

REGULATION 8. NOTIFICATION OF APPLICANT AND LAWYER, LLLT, OR LPO

Both the applicant and the lawyer, LLLT, or LPO who is the subject of an application shall be advised of any decision of the Client Protection Board or the Trustees.

[Adopted effective July 18, 1995; Amended effective January 13, 2009; September 1, 2017.]

REGULATION 9. LIMITATIONS ON REIMBURSEMENT

- (a) The Trustees may, at their discretion, set limitations on the amount of reimbursement.
- (b) The maximum allowable amount of a gift is \$150,000. There is no limit on the number of gifts that can be made to reimburse clients for the wrongful acts of any one lawyer, LLLT, or LPO.
- (c) Applications approved for \$5,000 or less shall be paid in full upon approval by the Client Protection Board (and the Trustees, if required under these Rules and Regulations). Applications approved for more than \$5,000 shall be paid \$5,000 upon approval by the Client Protection Board (and the Trustees, if required under these Rules and Regulations); payment of the remaining balance approved shall be deferred until fiscal year end and shall be subject to any proration which may be approved by the Trustees.
- (d) At the last meeting of the Trustees for each fiscal year, the Client Protection Board shall report the total outstanding balance on approved gifts and shall recommend whether the outstanding balance should be paid in full or prorated. When approved gifts are prorated, the prorated payment shall reflect the total amount of the gift, less the initial \$5,000 payment made upon approval by the Client Protection Board. By way of illustration:

Example 1: The application is for an amount in excess of \$150,000. The Client Protection Board recommends and the Board of Governors, as Trustees, approves a gift in the maximum allowable amount of \$150,000. \$5,000 is paid upon approval by the Trustees. At fiscal year end, the Client Protection Board recommends and the Board of Governors, as Trustees, approves using a prorating formula that would result in applicants receiving 20% of their unpaid gifts. 20% of \$145,000 is \$29,000, so a second payment of \$29,000 is issued to the applicant.

Example 2: In the same fiscal year another applicant applies for and receives a gift in the amount of \$7,500. \$5,000 is paid upon approval. At fiscal year's end, a second payment is issued for \$500.

[Adopted effective July 18, 1995; Amended effective January 1, 2014; September 1, 2017.]

REGULATION 10. NO LEGAL RIGHT TO PAYMENT

Any and all payments made to applicants in connection with the Client Protection Fund are gratuitous and are at the sole discretion of the Trustees.

[Adopted effective July 18, 1995; Amended effective September 1, 2017.]

RULE 11. RESTITUTION AND SUBROGATION

- (a) **Restitution.** A lawyer, LLLT, or LPO whose conduct results in payment to an applicant shall be liable to the Fund for restitution, and the Trustees may bring such action as they deem advisable to enforce restitution.
- (b) **Subrogation.** As a condition of payment, an applicant shall be required to provide the Fund with a pro tanto transfer of the applicant's rights against the lawyer, LLLT, or LPO, the lawyer's, LLLT's, or LPO's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the applicant's loss. Failure to return a signed subrogation agreement to the Fund within three years of approval of the application will result in revocation of that approval.

- (c) **Action to Enforce Restitution.** In the event the Trustees commence a judicial action to enforce restitution, they shall advise the applicant who may then join in the action to recover any unreimbursed losses. If the applicant commences such an action against the lawyer, LLLT, or LPO or another entity who may be liable for the loss, the applicant shall notify the Fund who may join in the action.
- (d) **Duty to Cooperate.** As a condition of payment, the applicant shall be required to cooperate in all efforts that the Fund undertakes to achieve restitution.

[Adopted effective July 18, 1995; Amended effective September 1, 2017.]

REGULATION 12. COMPENSATION FOR REPRESENTING APPLICANTS

No lawyer shall charge or accept any payment for prosecuting an application on behalf of an applicant, unless such charge or payment has been approved by the Trustees.

[Adopted effective July 18, 1995; Amended effective September 1, 2017.]

REGULATION 13. CONFIDENTIALITY

- (a) **Matters Which Are Public.** On approved applications, the facts and circumstances which generated the loss, the Client Protection Board's recommendations to the Trustees with respect to payment of a claim, the amount of claim, the amount of loss as determined by the Client Protection Board, the name of the lawyer, LLLT, or LPO causing the loss, and the amount of payment authorized and made, shall be public.
- (b) **Matters Which Are Not Public.** The Client Protection Board's file, including the application and response, supporting documentation, and staff investigative report, and deliberations of any application; the name of the applicant, unless the applicant consents; and the name of the lawyer, LLLT, or LPO unless the lawyer, LLLT, or LPO consents or unless the lawyer's, LLLT's, or LPO's name is made public pursuant to these rules and regulations, shall not be public.

[Adopted effective July 18, 1995; Amended effective January 13, 2009; January 1, 2014; September 1, 2017.]

REGULATION 14. NOTICE OF ACTIONS

Notice of approval of an application to the Fund may be published in the official publication of the Bar and elsewhere at the direction of the Client Protection Board or Trustees. Notice may also be posted electronically on any web site maintained by the Bar. If the lawyer, LLLT, or LPO has made full restitution to the Fund, any notice posted electronically by the Bar may, at the request of the lawyer, LLLT, or LPO, be removed.

[Adopted effective July 18, 1995; Amended November 2, 2006; January 13, 2009; September 1, 2017.]

REGULATION 15. AMENDMENTS

These Rules and Regulations may be amended, altered or repealed on the recommendation of the Client Protection Board by a vote of the Trustees, with the approval of the Supreme Court.

[Adopted effective July 18, 1995; Amended November 2, 2006; January 13, 2009; September 1, 2017.]

(a) **Purpose.** The purpose of this rule is to protect the public, to assist lawyers, LLLTs, and LPOs in the performance of their duties and responsibilities in the representation of clients, to maintain and improve the integrity of the legal profession, and to promote the interests of justice.

(b) **Lawyers, LLLTs, and LPOs Assistance Program (LAP).**

(1) *Authorization.* The Bar is authorized to create a program to help prevent and alleviate problems that may detrimentally influence a lawyer's, LLLTs, or LPOs performance, including physical illnesses, emotional problems or addictions.

(2) *Confidentiality.* Confidential communications between a LAP client and staff or peer counselors of the Lawyers', LLLTs', or LPOs' Assistance Program shall be privileged against disclosure without the consent of the LAP client to the same extent and subject to the same conditions as confidential communications between a client and psychologist.

(3) *Exoneration From Liability.*

(i) *Bar and Its Agents.* No cause of action shall accrue in favor of any person, arising from any action or proceeding pursuant to these rules, against the Bar, or its officers or agents (including but not limited to its staff, members of the Board of Governors, or any other individual acting under the authority of these rules) provided only that the Bar or individual shall have acted in good faith. The burden of proving bad faith in this context shall be upon the person asserting it. The Bar shall provide defense to any action brought against an officer or agent of the Bar for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgment taken therein.

(ii) *Other persons.* Communications to the Bar, Board of Governors, staff, or any other individual acting under the authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against them or other person providing information.

(c) **Fee Arbitration Program.** [Reserved]

(d) **Law Office Management Assistance Program (LOMAP).**

(1) *Authorization.* The Bar is authorized to create a program to help improve the quality of legal services by assisting lawyers, LLLTs, and LPOs to better manage their offices and improve the professional delivery of legal services.

(2) *Confidentiality.* Information obtained by Bar staff or agents of the Law Office Management Assistance Program shall be confidential unless:

(i) the assisted lawyer, LLLT, or LPO consents to disclosure;

(ii) disclosure, based upon reasonable belief, is necessary to prevent the assisted lawyer, LLLT, or LPO from committing a crime; or

(e) Professional Responsibility Program.

(1) *Authorization.* The Bar is authorized to maintain a program to assist lawyers, LLLTs, or LPOs in complying with their obligations under the Rules of Professional Conduct, thereby enhancing the quality of legal representation provided by Washington lawyers, LLLTs, and LPOs.

(2) *Professional Responsibility Counsel.* “Professional responsibility counsel” denotes a lawyer employed or appointed by the Bar to act as counsel on the Bar’s behalf in performing duties under part (e) of this rule, and any other lawyer employed or appointed by the Bar, including but not limited to disciplinary counsel or general counsel, whenever such lawyer is temporarily performing those duties.

(3) *Ethics Inquiries.* Any member of the Bar, or any lawyer, LLLT, LPO, or legal intern admitted, licensed, or permitted by rule to practice law in this state, may direct an ethics inquiry to professional responsibility counsel. Such inquiries should be made by telephone to the Bar’s designated ethics inquiry telephone line. The provisions of this rule also apply to ethics inquiries initially submitted in writing, including facsimile, e-mail, or other electronic means, but do not apply to requests for written ethics opinions directed to the Bar’s Committee on Professional Ethics or its equivalent.

(4) *Scope.* An inquirer may request the guidance of professional responsibility counsel in identifying, interpreting or applying the Rules of Professional Conduct as they relate to ~~his or her~~ their prospective ethical conduct. If the inquiry presents a set of facts, those facts should ordinarily be presented in hypothetical format. Professional responsibility counsel provides only informal guidance. Professional responsibility counsel provides only informal guidance. Professional responsibility counsel provides no legal advice or opinions, and the inquirer is responsible for making ~~his or her~~ their own decision about the ethical issue presented. The inquiry shall be declined if it (i) requires analysis or resolution of legal issues other than those arising under the Rules of Professional Conduct; (ii) seeks an opinion about the ethical conduct of a person other than the inquirer; or (iii) seeks an opinion about the ethical propriety of the inquirer’s past conduct.

(5) *Limitations and Inadmissibility.* Neither the making of an inquiry nor the providing of information by professional responsibility counsel under this rule creates a client-lawyer relationship. Any information or opinion provided during the course of an ethics inquiry is the informal, individual view of professional responsibility counsel only. No information relating to an ethics inquiry, including the fact that an inquiry has been made, its content, or the response thereto, may be asserted in response to any grievance or complaint under the applicable disciplinary rules, nor is such information admissible in any proceeding under the applicable disciplinary rules.

(6) *Records.* Professional responsibility counsel shall not make or maintain any permanent record of the identity of an inquirer or the substance of a specific inquiry or response. Professional responsibility counsel may keep records of the number of inquiries and the nature and type of inquiries and responses. Such records shall be used solely to aid the Bar in developing the Professional Responsibility Program and developing additional educational programs. Such records shall be exempt from public inspection and copying and shall not be subject to discovery or disclosure in any proceeding.

(7) *Confidentiality.* Communications between an inquirer and professional responsibility counsel are confidential and shall be privileged against disclosure except by consent of the inquirer or as authorized by the Supreme Court. Professional responsibility counsel shall not use or reveal information learned during the course of an ethics inquiry except as RPC 1.9 would permit with respect to information of a former client. The provisions of RPC 8.3 do not apply to information received by professional responsibility counsel during the course of an ethics inquiry.

(f) Communications to the Bar. Communications to the Bar, Board of Governors, staff, or any other individual acting under the authority of this rule, are absolutely privileged, and no lawsuit predicated thereon may be instituted against them or other person providing information.

[Adopted effective September 1, 2001; Amended effective April 1, 2003; December 4, 2007; January 2, 2008; December 28, 2010; September 1, 2017.]

APR 22.1 REVIEW OF APPLICATIONS

(a) Admissions Staff Review. All applications for admission or licensure to practice law in Washington State or to change membership class or status with the Bar, and all petitions for readmission to the practice of law in Washington State shall be reviewed by the Bar admissions staff for purposes of determining whether any of the factors set forth in APR 21(a) are present.

(b) Referral to Bar Counsel—Standard. All applications and petitions that reflect one or more of the factors set forth in APR 21(a) shall be referred to Bar Counsel for review.

(c) Review by Bar Counsel. Upon receiving a referral from the Bar admissions staff, Bar Counsel may conduct such further investigation as ~~he or she deems~~they deem necessary. Bar counsel may issue subpoenas to compel attendance of an applicant or witness, or the production of books, documents, or other evidence, at a deposition or hearing. Subpoenas shall be served in the same manner as in civil cases in the superior court. Any investigation or inquiry into a health diagnosis, alcohol or drug dependence, or treatment for either must comply with subsections (e) and (f) of this Rule.

(d) Referral for Hearing—Standard. Bar Counsel shall refer to the Character and Fitness Board for hearing any applicant about whom there is a substantial question whether the applicant possess the requisite good moral character and fitness to practice law. In determining whether a substantial question exists, Bar Counsel shall apply the factors and considerations set forth in APR 21(a) and review the material evidence in the light most favorable to the Bar's obligation to recommend the licensure or admission to the practice of law of only those persons who possess good moral character and fitness to practice law.

(e) Basis for Inquiry into Health Diagnosis and Drug or Alcohol Dependence. Any inquiry by the Bar or the Character and Fitness Board about drug or alcohol dependence, a health diagnosis, or treatment for either can occur only if it appears that the applicant has engaged in conduct that demonstrates the inability to meet one or more of the essential eligibility requirements and (1) the drug or alcohol dependence, health diagnosis, or treatment information was disclosed voluntarily to explain the conduct or as a voluntary response to any question on the application; or (2) the or the Character and Fitness Board learns from a third-party source that the drug or alcohol dependence, health diagnosis, or treatment was raised as an explanation for the conduct.

(f) Scope of Inquiry into Health Diagnosis and Drug or Alcohol Dependence. When a basis for an inquiry by the Bar or the Character and Fitness Board has been established under subsection (e), any such inquiry must be narrowly, reasonably, and individually tailored and adhere to the following:

(1) The first inquiry will be to request statements from the applicant;

(2) Following completion of the inquiry in subsection (f)(1) above, additional statements may be requested from treatment providers if reasonably deemed necessary by the Bar or the Character and Fitness Board. The statements of treatment providers shall be accorded considerable weight; and

(3) In those cases in which the statements from the applicant and treatment providers do not resolve reasonable concerns about the applicant's ability to meet the essential eligibility

requirements, the Bar or Character and Fitness Board may seek medical or treatment records. Any requests for medical or treatment records shall be by way of narrowly tailored requests and releases that provide access only to information that is reasonably necessary to assess the applicant's ability to meet the essential eligibility requirements.

(4) Any testimony or records from medical or other treatment providers may be admitted into evidence at a hearing on, or review of, the applicant's fitness and transmitted with the record on review to the Disciplinary Board and/or the Supreme Court. Records and testimony regarding the applicant's fitness shall otherwise be kept confidential in all respects, and neither the records nor the testimony of the medical or treatment provider shall be discoverable or admissible in any other proceeding or action without the written consent of the applicant.

[Adopted effective September 1, 2016; Amended effective September 1, 2017.]

APR 23 CHARACTER AND FITNESS BOARD

- (a) **Composition.** The Character and Fitness Board shall consist of not less than three community representatives who are not licensed to practice law, appointed by the Supreme Court, and not less than one lawyer, LLLT, or LPO member from each congressional district, appointed by the Board of Governors. The validity of the Character and Fitness Board's actions is not affected if the Character and Fitness Board's makeup differs from the stated constitution due to a temporary vacancy in any of the specified positions.
- (b) **Qualifications.** Lawyer, LLLT, or LPO members must be active lawyers, LLLTs, or LPOs of the Bar and have been active for at least five years.
- (c) **Character and Fitness Board Chair.** The Board of Governors shall annually designate one lawyer member of the Character and Fitness Board to act as chair and another as vice-chair. The vice-chair shall serve as chair in the absence of or at the request of the chair. If both the chair and the vice-chair will be absent from a meeting or hearing, the chair may appoint another member of the Character and Fitness Board to serve as chair pro tempore at any hearing.
- (d) **Vacancies.** Vacancies in lawyer membership on the Character and Fitness Board and in the office of the chair and vice-chair shall be filled by the Board of Governors. Vacancies in community representative membership shall be filled by the Supreme Court. A person appointed to fill a vacancy shall complete the unexpired term of the person ~~he or she~~ replaces they replace, and if that unexpired term is less than 24 months ~~he or she~~ they may be reappointed to a consecutive term.
- (e) **Quorum.** A majority of the Character and Fitness Board members shall constitute a quorum. Given a quorum, the concurrence of a majority of those present shall constitute action of the Character and Fitness Board. In the event a quorum is not present, Bar Counsel and the applicant may agree to waive the requirement of a quorum.
- (f) **Disqualification.** In the event a grievance is made to the Bar alleging an act of misconduct by a lawyer, LLLT, or LPO member of the Character and Fitness Board, the procedures specified in ELC 2.3(b)(5) shall apply.
- (g) **Pro Tempore Members.** When a member of the Character and Fitness Board is disqualified or unable to function on a case for good cause, the chair of the Character and Fitness Board may, by written order, designate a member pro tempore to sit with the Character and Fitness Board to hear and determine the cause. A member pro tempore may be appointed from among those persons who have previously served as members of the Character and Fitness Board (or its predecessor Character and Fitness Committee), or from among lawyers, LLLTs, or LPOs appointed as alternate Character and Fitness Board members by the Board of Governors and community representatives appointed as alternate Board members by the Supreme Court. A lawyer, LLLT, or LPO shall be appointed to substitute for a lawyer, LLLT, or LPO member of the Character and Fitness Board, and a community representative to substitute for a community representative member of the Character and Fitness Board.
- (h) **Voting.** Each member, whether community representative or lawyer, LLLT, or LPO, shall have one vote.

(i) Terms of Office. The term of office for a member of the Character and Fitness Board shall be three years. Newly created Character and Fitness Board positions may be filled by appointments of less than three years, as designated by the Supreme Court or the Board of Governors, to permit as equal a number of positions as possible to be filled each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later. Members may not serve more than two nonconsecutive terms with a minimum of three years between terms except as otherwise provided in these rules. Members shall continue to serve until replaced.

[Adopted effective September 1, 2006; Amended effective January 1, 2014; September 1, 2016; September 1, 2017.]

Unless otherwise agreed by the parties in writing, service of papers and documents shall be made by first class postage prepaid mail to the applicant's, or ~~his or her~~their counsel's, last known address on record with the Bar. If properly made, service by mail is deemed accomplished on the date of the mailing. Any notice of change of address shall be submitted in writing to the Bar.

[Adopted effective September 1, 2016; Amended effective September 1, 2017.]

APR 24.1 HEARING PROCEDURE

- (a) **Notice.** The Character and Fitness Board may fix a time and place for a hearing on the application, and Bar Counsel shall serve notice thereof not less than 30 days prior to the hearing upon the applicant and upon such other persons as may be ordered by the Character and Fitness Board. This notice requirement may be waived by the applicant.
- (b) **Appearance and Right to Counsel.** Applicants shall appear in person at any hearing before the Character and Fitness Board, unless the applicant's presence is waived by the Character and Fitness Board for good cause shown. The presumption is that the applicant's personal attendance at the hearing will be required. An applicant may be represented by counsel.
- (c) **Burden of Proof.** An applicant must establish by clear and convincing evidence that ~~he~~ or she is they are of good moral character and possesses the requisite fitness to practice law.
- (d) **Proceedings Not Civil or Criminal.** Hearings before the Character and Fitness Board are not civil or criminal but are sui generis hearings to determine whether an applicant is of good moral character and possesses the requisite fitness to practice law.
- (e) **Rules of Evidence.**
- (1) Evidentiary rulings shall be made by the Character and Fitness Board chair. A majority of Character and Fitness Board members present may by vote overrule a ruling by the chair.
 - (2) Consistent with subsection (d) of this rule, evidence, including hearsay evidence, is admissible if in the chair's judgment it is the kind of evidence on which reasonably prudent persons are accustomed to rely on the conduct of their affairs. The chairperson may exclude evidence that is irrelevant, immaterial, or unduly repetitious.
 - (3) Witnesses shall testify under oath; all testimony shall be transcribed by a certified court reporter.
 - (4) Expert witnesses shall appear and testify in person or by telephone or video conference before the Character and Fitness Board, unless in the discretion of the Character and Fitness Board their appearance before the Character and Fitness Board is waived.
 - (5) Generally, all documentary evidence to be submitted to the Character and Fitness Board for consideration must be delivered to Bar Counsel not less than 30 days prior to the hearing. Bar Counsel will provide copies of all documentary evidence, and any hearing briefs, memoranda, or other documentary material, to the Character and Fitness Board members and to the applicant prior to the hearing date.
 - (6) The Character and Fitness Board may take notice of any judicially cognizable facts, or technical or scientific facts within a Character and Fitness Board member's specialized knowledge.
 - (7) Questioning of the applicant and the applicant's witnesses shall be conducted by Bar Counsel, by members of the Character and Fitness Board, and by the applicant or the applicant's counsel.

(8) The Character and Fitness Board may question medical or other treatment providers and seek medical or other treatment records consistent with the provisions of APR 22.1(e) and (f) and APR 24.1(f).

(f) Independent Medical Examination. An independent medical examination (IME) may be requested by the Character and Fitness Board only when a basis for an inquiry by the Character and Fitness Board exists under APR 22.1(e) and only after testimony and evidence presented at the hearing has failed to resolve the Character and Fitness Board's reasonable concerns regarding the applicant's ability to meet the essential eligibility requirements to practice law. If the applicant has not previously been requested to provide information under APR 22.1(f)(1), (2) and (3), the Character and Fitness Board shall provide the applicant with the opportunity to submit such information, within such reasonable timelines as the Character and Fitness Board shall establish, prior to requesting the independent medical examination.

(1) *Time and Place.* Any independent medical examination shall occur at a time and place convenient to the applicant and shall be conducted by a provider mutually agreed upon by the applicant and the Bar.

(2) *Failure to Comply.* The failure of an applicant to agree to or submit to a required independent medical examination shall result in the applicant's application or petition being denied.

(3) *Costs.* The cost of any independent medical examination required by the Character and Fitness Board shall be borne by the Bar.

(4) *Report.* The examining professional shall issue a written report of ~~his or her~~their findings, which shall be provided to the applicant and ~~his or her~~their counsel, Bar Counsel, and the Character and Fitness Board.

(5) *Confidentiality of IME.* Any report and testimony of an examining professional may be admitted into evidence at a hearing on, or review of, the applicant's fitness and transmitted with the record on review to the Disciplinary Board and/or the Supreme Court. Reports and Testimony regarding the applicant's fitness shall otherwise be kept confidential in all respects, and neither the report nor the testimony of the examining professional shall be discoverable or admissible in any other proceeding or action without the consent of the applicant.

(6) *Rebuttal to IME.* Applicants shall have the right to provide rebuttal medical information from their treating clinicians if such information is provided within 30 days from the receipt of the independent medical examination report.

(g) Confidentiality. All hearings and documents before the Character and Fitness Board on applications for admission or licensure to practice law, enrollment in the law clerk program, and return to active membership are confidential, but may be provided to the Disciplinary Board or Supreme Court in connection with any appeal or review, or to other entities with the written consent of the applicant.

[Adopted effective September 1, 2016; Amended effective September 1, 2017.]

APR 24.2 DECISION AND RECOMMENDATION

APR 25.1

RESTRICTIONS ON REINSTATEMENT

(a) Petitions For Reinstatement. All Petitions for Reinstatement after Disbarment shall be referred for hearing before the Character and Fitness Board. The provisions of APR 20 through 24.3 shall apply to petitions for reinstatement unless otherwise provided for in APR 25 through 25.6.

(b) When Petition May Be Filed. No petition for reinstatement shall be filed within a period of five years after disbarment or within a period of two years after an adverse decision of the Supreme Court upon a former petition, or after an adverse recommendation of the Character and Fitness Board or the Disciplinary Board on a former petition when that recommendation is not submitted to the Supreme Court. If prior to disbarment the lawyer, LLLT, or LPO was suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for Enforcement of Lawyer Conduct, or any comparable rule, the period of such suspension shall be credited toward the five years referred to above.

(c) When Reinstatement May Occur. No disbarred lawyer, LLLT, or LPO may be reinstated sooner than six years following disbarment. If prior to disbarment the lawyer, LLLT, or LPO was suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for Enforcement of Lawyer Conduct, or any comparable rule, the period of such suspension shall be credited toward the six years referred to above.

(d) Payment of Obligations. No disbarred lawyer, LLLT, or LPO may file a petition for reinstatement until costs and expenses and restitution ordered by the Disciplinary Board or the Supreme Court have been paid and until amounts paid out of the Client Protection Fund for losses caused by the conduct of the Petitioner have been repaid to the client protection fund, or until periodic payment plans for costs and expenses, restitution and repayment to the client protection fund have been entered into by agreement between the Petitioner and disciplinary counsel. A Petitioner may seek review by the Chair of the Disciplinary Board of an adverse determination by disciplinary counsel regarding the reasonableness of any such proposed periodic payment plan. Such review will proceed as directed by the Chair of the Disciplinary Board and the decision of the Chair of the Disciplinary Board is final unless the Chair of the Disciplinary Board determines that the matter should be reviewed by the Disciplinary Board, in which case the Disciplinary Board review will proceed as directed by the Chair and the decision of the Board will be final.

[Formerly APR 21.2, adopted effective October 1, 2002; Renumbered as APR 25.2 and amended effective September 1, 2006; September 1, 2016; September 1, 2017.]

APR 25.2 REVERSAL OF CONVICTION

If a lawyer, LLLT, or LPO has been disbarred solely because of ~~his or her~~their conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the lawyer, LLLT, or LPO enter an order reinstating the lawyer, LLLT, or LPO upon such conditions as determined by the Supreme Court. At the time such direct application is filed with the court a copy shall be filed with the Bar. The Supreme Court may request a response to the application from the Bar.

[Formerly APR 21.2, Adopted effective October 1, 2002; Renumbered as APR 25.2 and amended effective September 1, 2006; September 1, 2017.]

PETITIONS AND INVESTIGATIONS

- (a) **Form of Petition.** A petition for reinstatement after disbarment shall be in writing and filed with the Bar. The petition shall set forth the residence and address of the Petitioner, the date of disbarment, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required of a lawyer, LLLT, or LPO Applicant for admission under these rules, and by a completed application for admission.
- (b) **Investigations.** The petition for reinstatement shall be referred to the Character and Fitness Board for hearing. Bar Counsel and Bar staff shall conduct such investigation as appears necessary, and in accordance with APR 20-24.3.
- (c) **Duty to Cooperate.** It shall be the duty of every Petitioner to cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the Character and Fitness Board or Bar Counsel. Failure to appear as directed or to furnish additional proof or answers as required or to cooperate fully shall be sufficient reason for the Board to recommend the rejection of a petition.
- (d) **Proceedings Public.** A petition for reinstatement after disbarment shall be a public proceeding from the time the petition is filed.
- (e) **Protective Orders.** To protect a compelling interest, a Petitioner may, on a showing of good cause, move for a protective order prohibiting the disclosure or release of specific information, documents, or pleadings, and directing that the proceedings be conducted so as to implement the order.

[Formerly APR 21.3, Adopted effective October 1, 2002; Renumbered as APR 25.3 and amended effective September 1, 2006; January 1, 2014; September 1, 2016; September 1, 2017.]

APR 25.4

HEARING BEFORE CHARACTER AND FITNESS BOARD

- (a) **Notice.** The Character and Fitness Board may fix a time and place for a hearing on the petition, and Bar Counsel shall serve notice thereof not less than 30 days prior to the hearing upon the Petitioner and upon such other persons as may be determined by Bar Counsel or as ordered by the Character and Fitness Board. Notice of the hearing shall also be published at least once in the Bar's official publication and such other newspaper or periodical as the Character and Fitness Board may direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.
- (b) **Statement in Support or Opposition.** On or prior to the date of hearing, anyone wishing to do so may file with the Character and Fitness Board a written statement for or against the petition, such statements to set forth factual matters showing that the Petitioner does or does not meet the requirements for reinstatement as set forth in these rules.
- (c) **Hearings.** Hearings shall be conducted pursuant to APR 24.1 except to the extent that provisions of APR 25-25.6 conflict with the provisions of APR 24.1, and except that such hearings shall be public.

[Formerly APR 21.4, Adopted effective October 1, 2002; Renumbered as APR 25.4 and amended effective September 1, 2006; January 1, 2014; September 1, 2016; September 1, 2017.]

APR 28
LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

- A. Purpose.** The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to protect the public and ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained Limited License Legal Technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.
- B. Definitions.** For purposes of this rule, the following definitions will apply:
- (1) “APR” means the Supreme Court’s Admission to Practice Rules.
 - (2) “LLLT Board” means the Limited License Legal Technician Board.
 - (3) “Lawyer” means a person licensed as a lawyer and eligible to practice law in any United States jurisdiction.
 - (4) “Limited License Legal Technician” (LLLT) means a person qualified by education, training, and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations.
 - (5) “Paralegal/legal assistant” means a person qualified by education, training, or work experience; who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity; and who performs specifically delegated substantive law-related work for which a lawyer is responsible.
 - (6) “Reviewed and approved by a Washington lawyer” means that a Washington lawyer has personally supervised the legal work and documented that supervision by the Washington lawyer’s signature and bar number.
 - (7) “Substantive law-related work” means work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.
 - (8) “Supervised” means a lawyer personally directs, approves, and has responsibility for work performed by the Limited License Legal Technician.
 - (9) “Washington lawyer” means a person licensed and eligible to practice law in Washington and who is an active or emeritus pro bono lawyer member of the Bar.
 - (10) Words of authority:

(b) “Must” or “shall” means “is required to.”

(c) “Should” means “recommended but not required.”

C. Limited License Legal Technician Board

(1) *Establishment.* There is hereby established a Limited License Legal Technician Board (LLLT Board). The LLLT Board shall consist of 15 voting members appointed by the Supreme Court, and one nonvoting ex officio member who is a representative of the Washington State Board of Community and Technical Colleges. At least 11 members shall be Washington lawyers, LLLTs, or LPOs. Of those 11 members, at least 9 shall be active lawyers or LLLTs, and no more than 2 may be LPOs, or judicial or emeritus pro bono lawyers or LLLTs. Four members of the LLLT Board shall be Washington residents who do not have a license to practice law. Appointments shall be for staggered three year terms. No member may serve more than two consecutive full three year terms. The validity of the Board’s actions is not affected if the Board’s makeup differs from the stated constitution due to a temporary vacancy in any of the specified positions.

(2) *LLLT Board Responsibilities.* The LLLT Board shall be responsible for the following:

- (a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;
 - (b) Working with the Bar and other appropriate entities to select, create, maintain, and grade the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to LLLTs, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to approved practice areas;
 - (c) Approving education and experience requirements for licensure in approved practice areas;
 - (d) Establishing and overseeing committees and tenure of members;
 - (e) Establishing and maintaining criteria for approval of educational programs that offer LLLT core curriculum; and
 - (f) Such other activities and functions as are expressly provided for in this rule.
- (3) *Rules and Regulations.* The LLLT Board shall propose rules, regulations and amendments to these rules and regulations, to implement and carry out the provisions of this rule, for adoption by the Supreme Court.
- (4) *Administration.* The Bar shall provide reasonably necessary administrative support for the LLLT Board. All notices and filings required by these Rules, including applications for admission as an LLLT, shall be sent to the headquarters of the Bar.
- (5) *Expenses of the LLLT Board.* Members of the LLLT Board shall not be compensated for their services but shall be reimbursed for actual reasonable and necessary expenses incurred in the performance of their duties according to the Bar’s expense policies.

E. [Reserved.]

F. Scope of Practice Authorized by Limited Practice Rule. The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If it is not, the LLLT shall not render any legal assistance on this issue and shall advise the client to seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may render the following limited legal assistance to a pro se client:

- (1) Obtain relevant facts, and explain the relevancy of such information to the client;
- (2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;
- (3) Inform the client of and assist with applicable procedures for proper service of process and filing of legal documents;
- (4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the LLLT Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- (5) Review documents or exhibits that the client has received and explain them to the client;
- (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the LLLT Board; and advise the client of the significance of the selected forms to the client's case;
- (7) Perform legal research;
- (8) Draft letters setting forth legal opinions that are intended to be read by persons other than the client;
- (9) Draft documents beyond what is permitted in paragraph (6), if the work is reviewed and approved by a Washington lawyer;
- (10) Advise the client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case;
- (11) Assist the client in obtaining necessary records, such as birth, death, or marriage certificates.
- (12) Communicate and negotiate with the opposing party or the party's representative regarding procedural matters, such as setting court hearings or other ministerial or civil procedure matters;
- (13) Negotiate the client's legal rights or responsibilities, provided that the client has given written consent defining the parameters of the negotiation prior to the onset of the negotiation; and

- (14) Render other types of legal assistance when specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed.

G. Conditions Under Which A Limited License Legal Technician May Provide Services

- (1) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a nonlicensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;
- (2) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician that includes the following provisions:
- (a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b) or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;
- (b) Identification of all fees and costs to be charged to the client for the services to be performed;
- (c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;
- (d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the first page of the contract in minimum twelve-point bold type print;
- (e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by the client and the Limited License Legal Technician's work product associated with the services sought or provided by the Limited License Legal Technician;
- (f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and
- (g) Any other conditions required by the rules and regulations of the LLLT Board.
- (3) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client should seek the services of a lawyer.
- (4) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client. LLLTs do not need to sign sworn statements or declarations of the client or a third party, and do not need to sign documents that do not require a signature by the client, such as information sheets.

H. Prohibited Acts. In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

- (1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;
- (2) Retain any fees or costs for services not performed;
- (3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and the client;
- (4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;
- (5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24 or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;
- (6) Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client;
- (7) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;
- (8) Conduct or defend a deposition;
- (9) Initiate or respond to an appeal to an appellate court; and
- (10) Otherwise violate the Limited License Legal Technician Rules of Professional Conduct.

I. Continuing Licensing Requirements

- (1) *Continuing Education Requirements.* Each active Limited License Legal Technician must complete a minimum number of credit hours of approved or accredited education, as prescribed by APR 11.
- (2) *Financial Responsibility.* Each LLLT shall show proof of ability to respond in damages resulting from ~~his or her~~their acts or omissions in the performance of services permitted under APR 28 by:
 - (a) submitting an individual professional liability insurance policy in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit;
 - (b) submitting a professional liability insurance policy of the employer or the parent company of the employer who has agreed to provide coverage for the LLLT's ability to respond in damages in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit; or
 - (c) submitting proof of indemnification by the LLLT's government employer.

- (3) *License Fees and Assessments.* Each Limited License Legal Technician must pay the annual license fee established by the Board of Governors, subject to review by the Supreme Court, and any mandatory assessments as ordered by the Supreme Court. Provisions in the Bar's Bylaws regarding procedures for assessing and collecting lawyer license fees and late fees, and regarding deadlines, rebates, apportionment, fee reductions, and exemptions, and any other issues relating to fees and assessments, shall also apply to LLLT license fees and late fees. Failure to pay may result in suspension from practice pursuant to APR 17.
- (4) *Trust Account.* Each active Limited License Legal Technician shall annually certify compliance with Rules 1.15A and 1.15B of the LLLT Rules of Professional Conduct. Such certification shall be filed in a form and manner as prescribed by the Bar and shall include the bank where each account is held and the account number. Failure to certify may result in suspension from practice pursuant to APR 17.

J.Existing Law Unchanged. This rule shall in no way modify existing law prohibiting the unauthorized practice of law.

K. Professional Responsibility and Limited License Legal Technician-Client Relationship

- (1) Limited License Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a Washington lawyer.
- (2) Limited License Legal Technicians shall be held to the ethical standards of the Limited License Legal Technician Rules of Professional Conduct, which shall create an LLLT IOLTA program for the proper handling of funds coming into the possession of the Limited License Legal Technician.
- (3) The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.

L. Confidentiality and Public Records. GR 12.4 shall apply to access to LLLT Board records.

M. Inactive Status. An LLLT may request transfer to inactive status after being admitted. An LLLT on inactive status is required to pay an annual license fee as established by the Board of Governors and approved by the Supreme Court.

N. Reinstatement to Active Status. An LLLT on inactive status may return to active status by filing an application and complying with the procedures set forth for lawyer members of the Bar in the Bar's Bylaws.

O. Voluntary Resignation. Any Limited License Legal Technician may request to voluntarily resign the LLLT license by notifying the Bar in such form and manner as the Bar may prescribe. If there is a disciplinary investigation or proceeding then pending against the LLLT, or if the LLLT has knowledge that the filing of a grievance of substance against such LLLT is imminent, resignation is permitted only under the provisions of the applicable disciplinary rules. An LLLT who resigns the LLLT license cannot practice law in Washington in any manner, unless they are otherwise licensed or authorized to do so by the Supreme Court.

[Adopted effective September 1, 2012; Amended effective August 20, 2013; February 3, 2015; June 21, 2016; September 1, 2017, June 4, 2019.]

APPENDIX APR 28. REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD

REGULATION 1. [Reserved.]

REGULATION 2. APPROVED PRACTICE AREAS—SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE

In each practice area in which an LLLT is licensed, the LLLT shall comply with the provisions defining the scope of practice as found in APR 28 and as described herein.

A. Issues Beyond the Scope of Authorized Practice.

An LLLT has an affirmative duty under APR 28(F) to inform clients when issues arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28(F) arises, then the LLLT shall inform the client in writing that:

1. the issue may exist, describing in general terms the nature of the issue;
2. the LLLT is not authorized to advise or assist on this issue;
3. the failure to obtain a lawyer's advice could be adverse to the client's interests; and
4. the client should consult with a lawyer to obtain appropriate advice and documents necessary to protect the client's interests.

After an issue beyond the LLLT's scope of practice has been identified, if the client engages a lawyer with respect to the issue, then an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. If the client does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that relate to the issue if

the client informs the LLLT how the issue is to be determined and instructs the LLLT how to complete the relevant portions of the document, and

above the LLLT's signature at the end of the document, the LLLT inserts a statement to the effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's scope of practice and completed any portions of the document with respect to any such issues at the direction of the client.

B. Domestic Relations.

1. *Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations shall include only the following actions: (a) divorce and dissolution, (b) parenting and support, (c) parentage or paternity, (d) child support modification, (e) parenting plan modification, (f) domestic violence protection orders, (g) committed intimate relationships only as they pertain to parenting and support issues, (h) legal separation, (i) nonparental and third party custody, (j) other protection or restraining orders arising from a domestic relations case, and (k) relocation.
2. *Scope of Practice for LLLT's—Domestic Relations.* LLLTs licensed in domestic relations may render legal services to clients as provided in APR 28(F) and this regulation, except as prohibited by APR 28(H) and Regulation 2(B).
 - (a) Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients with initiating and responding to actions and related motions, discovery, trial preparation, temporary and final orders, and modifications of orders.
 - (b) LLLT legal services regarding the division of real property shall be limited to matters where the real property is a single family residential dwelling with owner equity less than or equal to twice the homestead exemption (*see* RCW 6.13.030). LLLTs shall use the form for real property division as approved by the LLLT Board.
 - (c) LLLTs may advise as to the allocation of retirement assets for defined contribution plans with a value less than the homestead exemption, and as provided in United States Internal Revenue Code (IRC) sections 401a; 401k; 403b; 457; and Individual Retirement Accounts as set forth in IRC section 408.
 - (d) LLLTs may include language in a decree of dissolution awarding retirement assets as described in APR 28 Regulation 2(B)(2)(c) when the respondent defaults, when the parties agree on the award, or when the court awards the assets following trial. The award language in the decree shall identify (1) the party responsible for having the qualified domestic relations order (QDRO) or supplemental order prepared and by whom, (2) how the cost of the QDRO or supplemental order preparation is to be paid, (3) by what date the QDRO or supplemental order must be prepared, and (4) the remedy for failure to follow through with preparation of the QDRO or supplemental order.
 - (e) LLLTs may prepare paper work and accompany and assist clients in dispute resolution proceedings including mediation, arbitration, and settlement conferences where not prohibited by the rules and procedures of the forum.
 - (f) LLLTs, when accompanying their clients, may assist and confer with their pro se clients at depositions.
 - (g) LLLTs may present to a court agreed orders, uncontested orders, default orders, and accompanying documents.
 - (h) LLLTs, when accompanying their clients, may assist and confer with their pro se clients and respond to direct questions from the court or tribunal regarding factual and procedural issues at the hearings listed below:
 - i. domestic violence protection orders and other protection or restraining orders arising from a domestic relations case;

- ii. motions for temporary orders, including but not limited to temporary parenting plans, child support, maintenance, and orders to show cause;
- iii. enforcement of domestic relations orders;
- iv. administrative child support;
- v. modification of child support;
- vi. adequate cause hearings for nonparental custody or parenting plan modifications;
- vii. reconsiderations or revisions;
- viii. trial setting calendar proceedings with or without the client when the LLLT has confirmed the available dates of the client in writing in advance of the proceeding.

3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28(H), in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in domestic relations:

- a. shall not render legal services to more than one party in any domestic relations matter;
- b. shall not render legal services in:
 - i. defacto parentage actions;
 - ii. actions that involve 25 U.S.C. chapter 21, the Indian Child Welfare Act of 1978, or chapter 13.38 RCW, the Washington State Indian Child Welfare Act;
 - iii. division or conveyance of formal business entities, commercial property, or residential real property except as permitted by Regulation 2(B);
 - iv. preparation of QDROs and supplemental orders dividing retirement assets beyond what is prescribed in Regulation 2(B)(2)(d);
 - v. any retirement assets whereby the decree effectuates the division or the implementation of the division of the asset;
 - vi. bankruptcy, including obtaining a stay from bankruptcy;
 - vii. disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;

- viii. property issues in committed intimate relationship actions;
- ix. major parenting plan modifications and nonparental custody actions beyond the adequate cause hearing unless the terms are agreed to by the parties or one party defaults;
- x. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under chapter 26.27 RCW or Uniform Interstate Family Support Act issues under chapter 26.21A RCW unless and until jurisdiction has been resolved;
- xi. objections or responses in contested relocation actions; and
- xii. final revised parenting plans in relocation actions except in the event of default or where the terms have been agreed to by the parties.

REGULATION 3. EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS

An applicant for admission as an LLLT shall satisfy the following education requirements:

A. Core Curriculum.

1. *Credit Requirements.* An applicant for licensure shall have earned 45 credit hours as required by APR 3. The core curriculum must include the following required subject matters with minimum credit hours earned as indicated:

1. Civil Procedure, minimum 8 credit hours;
2. Contracts, minimum 3 credit hours;
3. Interviewing and Investigation Techniques, minimum 3 credit hours;
4. Introduction to Law and Legal Process, minimum 3 credit hours;
5. Law Office Procedures and Technology, minimum 3 credit hours;
6. Legal Research, Writing and Analysis, minimum 8 credit hours; and
7. Professional Responsibility, minimum 3 credit hours.

The core curriculum courses in which credit for the foregoing subject matters is earned shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar. If the required courses completed by the applicant do not total 45 credit hours, then the applicant may earn the remaining credit hours by taking legal or paralegal elective courses. All core curriculum course credit hours must be earned at an ABA approved law school, an educational institution with an ABA approved paralegal program, or at an educational institution with an LLLT core curriculum program approved by the LLLT Board under the Washington State LLLT Educational Program Approval Standards.

For purposes of satisfying APR 3(e)(2), one credit hour shall be equivalent to 450 minutes of instruction.

2. *LLLT Educational Program Approval Requirements for Programs Not Approved by the ABA.* The LLLT Board shall be responsible for establishing and maintaining standards, to be published by the Association, for approving LLLT educational programs that are not otherwise approved by the ABA. Educational programs complying with the LLLT Board's standards shall be approved by the LLLT Board and qualified to teach the LLLT core curriculum.

B. Practice Area Curriculum. An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR 3(e). Each practice area curriculum course shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar.

1. *Domestic Relations.*

a. Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility.

b. Credit Requirements: Applicants shall complete 5 credit hours in basic domestic relations subjects and 10 credit hours in advanced and Washington specific domestic relations subjects.

C. Required Supplemental Education. The LLLT Board has discretion to require all LLLTs to complete supplemental education in order to maintain their licenses due to changes in the permitted scope of practice for LLLTs. The LLLT Board shall provide notice to LLLTs of the supplemental education requirement and the deadline for completion of the requirement, allowing at least 12 months to complete the required supplemental education. LLLTs may be administratively suspended pursuant to the procedures set forth in APR 17 if they fail to comply with the supplemental education requirements by the stated deadline.

REGULATION 4. LIMITED TIME WAIVERS

A. Limited Time Waiver, Defined. For the limited time between the date the Board begins to accept applications and December 31, 2023, the LLLT Board shall grant a waiver of the minimum associate-level degree requirement and/or the core curriculum education requirement set forth in APR 3 if an applicant meets the requirements set forth in Regulation 4(B). The LLLT Board shall not grant waivers for applications filed after December 31, 2023. The LLLT Board shall not waive the practice area curriculum requirement. The limited time waiver application will be separate from the application process for admission set forth in these regulations.

B. Waiver Requirements and Applications. To qualify for the limited time waiver, an applicant shall pay the required fee, submit the required waiver application form and, provide proof, in such form and manner as the Bar requires, that ~~he/she has~~they have:

1. Passed an LLLT Board approved national paralegal certification examination;
2. Active certification from an LLLT Board approved national paralegal certification organization; and

3. Completed 10 years of substantive law-related experience supervised by a licensed lawyer within the 15 years preceding the application for the waiver. Proof of 10 years of substantive-law related experience supervised by a licensed lawyer shall include the following:
 - a. the name and bar number of the supervising lawyer(s),
 - b. certification by the lawyer that the work experience meets the definition of substantive law-related work experience as defined in APR 28, and
 - c. the dates of employment or service.
- C. Review of Limited Time Waiver Application.** The Bar shall review each limited time waiver application to determine if the application meets the waiver requirements. Any application that does not meet the limited time waiver requirements as established by this Regulation shall be denied by the Bar on administrative grounds, with a written statement of the reason(s) for denial.
- D. Review of Denial.** An applicant whose application for waiver has been denied by the Bar may request review by the LLLT Board chair. Such request shall be filed with the Bar within 14 days of the date of the notification of denial. The applicant shall be provided with written notification of the chair's decision, which is not subject to review.
- E. Expiration of Limited Time Waiver Approval.** Approval of the limited time waiver application shall expire December 31, 2025. After expiration of the approval, any subsequent application for licensure by the applicant shall meet all of the standard requirements for admission without waiver.

REGULATION 5. [Reserved.]

REGULATION 6. [Reserved.]

REGULATION 7. [Reserved.]

REGULATION 8. [Reserved.]

REGULATION 9. SUBSTANTIVE LAW-RELATED WORK EXPERIENCE REQUIREMENT

Each applicant for licensure as a limited license legal technician shall show proof of having completed 3,000 hours of substantive law-related work experience supervised by a licensed lawyer as required by APR 5(c). The experience requirement shall be completed no more than three years before and 40 months after the date of the LLLT practice area examination that the applicant passed. The proof shall be provided in such form as the Bar requires, but shall include at a minimum:

1. the name and bar number of the supervising lawyer;

2. certification that the work experience meets the definition of substantive law-related work experience as defined in APR 28;
3. the total number of hours of substantive law-related work experience performed under the supervising lawyer; and
4. certification that the requisite work experience was acquired within the time period required by this regulation.

REGULATION 10. ADDITIONAL PRACTICE AREAS

A. Application for Additional Practice Area. An LLLT seeking admission in an additional practice area must complete and file with the Bar:

1. a completed practice area application in a form and manner prescribed by the Bar;
2. evidence in a form and manner prescribed by the Bar demonstrating completion of the practice area curriculum required under Regulation 3(B); and
3. a signed and notarized Authorization, Release, and Affidavit of Applicant.

B. Additional Practice Area Prelicensure Requirements. An LLLT who is seeking licensure in an additional practice area shall:

1. take and pass the additional practice area examination;
2. pay the annual license fee as stated in the fee schedule; and
3. file any and all licensing forms required for active LLLTs.

The requirements above shall be completed within one year of the date the applicant is notified of the practice area examination results. If an LLLT fails to satisfy all the requirements for licensure in an additional practice area within this period, the LLLT shall not be eligible for licensure in the additional practice area without submitting a new application and retaking the practice area examination.

- C. Order Admitting LLLT to Limited Practice in Additional Practice Area.** After examining the recommendation and accompanying documents transmitted by the Bar, the Supreme Court may enter such order in each case as it deems advisable. For those LLLTs it deems qualified, the Supreme Court shall enter an order admitting them to limited practice in the additional practice area.
- D. Voluntary Termination of Single Practice Area License.** An LLLT licensed in two or more practice areas may request to voluntarily terminate a single practice area by notifying the Bar in writing. After terminating the practice area license, the LLLT shall not accept any new clients or engage in work as an LLLT in any matter in the terminated practice area. The Bar will notify the LLLT of the effective date of the termination.

REGULATION 11. [Reserved.]

[1] **FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT**¹

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Lawyers, as guardians of the law, play a vital role in the preservation of society. To understand this role, lawyers must comprehend the components of our legal system, and the interplay between the different types of professionals within that system. To fulfill this role lawyers must understand their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

In fulfilling professional responsibilities, a lawyer necessarily assumes various roles that require the performance of many difficult tasks. Not every situation which a lawyer may encounter can be foreseen, but fundamental ethical principles are always present as guidelines. Within the framework of these principles, a lawyer must with courage and foresight be able and ready to shape the body of the law to the ever-changing relationships of society.

The Rules of Professional Conduct point the way to the aspiring lawyer and provide standards by which to judge the transgressor. Each lawyer must find within ~~their~~ ~~his or her~~^[1] ^[2] own conscience the touchstone against which to test the extent to which ~~their~~ ~~his or her~~^[3] actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession and the society which the lawyer serves that should provide to a lawyer the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

[Adopted effective September 1, 1985; Amended effective September 1, 2006; April 14, 2015.]

PREAMBLE AND SCOPE

[2] **PREAMBLE: A LAWYER'S RESPONSIBILITIES**

[1] **[Washington revision]** A lawyer, as a member of the legal profession, is a representative of clients, an officer of the court and a public citizen having special responsibility for the quality of justice.

[2] **[Washington revision]** As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's

¹ These *Fundamental Principles of the Rules of Professional Conduct* are taken from the former Preamble to the Rules of Professional Conduct as approved and adopted by the Supreme Court in 1985. Washington lawyers and judges have looked to the 1985 Preamble as a statement of our overarching aspiration to faithfully serve the best interests of the public, the legal system, and the efficient administration of justice. The former Preamble is preserved here to inspire lawyers to strive for the highest possible degree of ethical conduct, and these *Fundamental Principles* should inform many of our decisions as lawyers. The *Fundamental Principles* do not, however, alter any of the obligations expressly set forth in the Rules of Professional Conduct, nor are they intended to affect in any way the manner in which the Rules are to be interpreted or applied.

[7] **RPC 1.0B ADDITIONAL WASHINGTON TERMINOLOGY**

- (a) “APR” denotes the Washington Supreme Court’s Admission and Practice Rules.
- (b) “Legal practitioner” denotes a lawyer or a limited license legal technician.
- (c) “Limited License Legal Technician” or “LLLT” denotes a person qualified by education, training, and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by APR 28 and related regulations.
- (d) “Limited Practice Officer” or “LPO” denotes a person licensed in accordance with the procedures set forth in APR 12 and who has maintained ~~their~~^{his or her} [4] certification in accordance with the rules and regulations of the Limited Practice Board.
- (e) “Representation” or “represent,” when used in connection with the provision of legal assistance by an LLLT, denotes limited legal assistance as set forth in APR 28 to a pro se client.

[Adopted effective April 14, 2015; Amended effective June 4, 2019.]

Washington Comments (1-3)

[1] This rule addresses the evolution of the practice of law in Washington to include the limited licensure of legal professionals that permits persons other than lawyers to provide legal assistance that would otherwise constitute the unauthorized practice of law.

[2] These Rules apply to a lawyer’s ethical duties, including specific duties that encompass a lawyer’s dealings with legal practitioners practicing under a limited license and their clients. LLLTs are bound by corresponding duties that are set forth in the LLLT RPC.

[3] LLLTs are authorized to engage in the limited practice of law in explicitly defined areas. Unlike a lawyer, an LLLT may perform only limited services for a client. A lawyer who interacts with an LLLT about the subject matter of that LLLT’s representation or who interacts with an otherwise pro se client represented by an LLLT should be aware of the scope of the LLLT’s license and the ethical obligations imposed on an LLLT by the LLLT RPC. See APR 28 and related regulations; LLLT RPC 1.2, 1.5, 4.2, 4.3. See also RPC 5.10.

[Comments adopted effective April 14, 2015; Amended effective June 4, 2019.]

[8] **RPC 1.1 COMPETENCE**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

[Adopted effective September 1, 1985; Amended effective September 1, 2006.]

[9] **Comment**

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.2.

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c).

Retaining or Contracting With Other Lawyers

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. See also RPC 1.2 (allocation of authority), 1.4 (communication with client), 1.5(e) (fee sharing), 1.6 (confidentiality), and 5.5(a) (unauthorized practice of law). The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience, and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional 128

conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[Comment 6 Adopted September 1, 2016.]

[7] **[Washington revision]** When lawyers or LLLTs from more than one law firm are providing legal services to the client on a particular matter, the lawyers and/or LLLTs ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. See RPC 1.2. When making allocations of responsibility in a matter pending before a tribunal, lawyers, LLLTs, and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

[Comment 7 Adopted September 1, 2016].

Maintaining Competence

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

[Comment 6 Adopted effective September 1, 2006; Renumbered to 8 and Amended effective September 1, 2016.]

[10] **Additional Washington Comments (9-10)**

[9] This rule applies to lawyers only when they are providing legal services. Where a lawyer is providing nonlawyer services (“supporting lawyer”) in support of a lawyer who is providing legal services (“supported lawyer”), the supported lawyer should treat the supporting lawyer as a nonlawyer assistant for purposes of this rule and RPC 5.3. (Responsibilities Regarding Nonlawyer Assistants).

[Comment 9 adopted September 1, 2016].

[10] In some circumstances, a lawyer can also provide adequate representation by enlisting the assistance of an LLLT of established competence, within the scope of the LLLT’s license and consistent with the provisions of the LLLT RPC. However, a lawyer may not enter into an arrangement for the division of the fee with an LLLT who is not in the same firm as the lawyer. See Comment [7] to Rule 1.5(e); LLLT RPC 1.5(e). Therefore, a lawyer may enlist the assistance of an LLLT who is not in the same firm only (1) after consultation with the client in accordance with Rules 1.2 and 1.4 and (2) by referring the client directly to the LLLT.

[Comment [7] Adopted effective April 14, 2015; Renumbered to 10 effective September 1, 2016.]

[11] **RPC 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER**

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by RPC 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on beha129

of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

[12] (e) **[Reserved.]**

(f) A lawyer shall not purport to act as a lawyer for any person or organization if the lawyer knows or reasonably should know that the lawyer is acting without the authority of that person or organization, unless the lawyer is authorized or required to so act by law or a court order.

[Adopted effective September 1, 1985; Amended effective October 1, 2002; October 29, 2002; September 1, 2006; September 1, 2011.]

[13] **Comments**

Allocation of Authority between Client and Lawyer

[1] **[Washington revision]** Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See RPC 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by RPC 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation. See also RPC 1.1, comments [6] and [10] as to decisions to associate other lawyers or LLLTs.

[Comment 1 amended effective September 1, 2016.]

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this Rule does not prescribe how such disagreements are to be resolved. Other

law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See Rule 1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. See Rule 1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

Independence from Client's Views or Activities

[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

Agreements Limiting Scope of Representation

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

See also Washington Comment [14].

Criminal, Fraudulent and Prohibited Transactions

[9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. See Rule 1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation or the like. See Rule 4.1.

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Paragraph (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. See Rule 1.4(a)(5).

[14] **Additional Washington Comments (14–17)**

Agreements Limiting Scope of Representation

[14] An agreement limiting the scope of a representation shall consider the applicability of Rule 4.2 to the representation. (The provisions of this Comment were taken from former Washington RPC 1.2(c).) See also Comment [11] to Rule 4.2 for specific considerations pertaining to contact with a person otherwise represented by a lawyer to whom limited representation is being or has been provided.

[Comment [14] amended effective April 14, 2015.]

[Comments adopted effective September 1, 2006.]

Acting as a Lawyer Without Authority

[15] Paragraph (f) was taken from former Washington RPC 1.2(f), which was deleted from the RPC by amendment effective September 1, 2006. The mental state has been changed from “willfully” to one of knowledge or constructive knowledge. See Rule 1.0A(f), (j). Although the language and structure of paragraph (f) differ from the former version in a number of other respects, paragraph (f) does not otherwise represent a change in Washington law interpreting former RPC 1.2(f).

[Comment [15] adopted effective September 1, 2011.]

[16] If a lawyer is unsure of the extent of ~~their~~^{his or her} authority to represent a person because of that person’s diminished capacity, paragraph (f) of this Rule does not prohibit the lawyer from taking action in accordance with Rule 1.14 to protect the person’s interests. Protective action taken in conformity with Rule 1.14 does not constitute a violation of this Rule. [Comment [15] adopted effective September 1, 2011.]

[17] Paragraph (f) does not prohibit a lawyer from taking any action permitted or required by these Rules, court rules, or other law when withdrawing from a representation, when terminated by a client, or when ordered to continue representation by a tribunal. See Rule 1.16(c).

[Comment [15] adopted effective September 1, 2011.]

Special Circumstances Presented by Washington’s Marijuana Laws

[18] Under Paragraph (d), a lawyer may counsel a client regarding Washington’s marijuana laws and may assist a client in conduct that the lawyer reasonably believes is permitted by those laws. If Washington law conflicts with federal or tribal law, the lawyer shall also advise the client regarding the related federal or tribal law and policy.

[Comment [18] adopted effective December 9, 2014; Amended effective September 25, 2018.]

[17] LLLTs are required to disclose the scope of the representation and the basis or rate of their fees and expenses in writing to the client prior to the performance of services for a fee. APR 28(G)(3); LLLT RPC 1.5(b). Accordingly, when lawyers and LLLTs are associated in a firm, if the firm's services include representation by an LLLT who acts under the authority of APR 28, then there must be a written fee agreement that comports with APR 28(G)(3) and LLLT RPC 1.5(b). See RPC 8.4(f)(2).

[Comment [17] adopted April 14, 2015.]

[18] Paragraph (e) does not allow division of fees between a lawyer and an LLLT who are not in the same firm. See LLLT RPC 1.5(e).

[Comment [18] adopted April 14, 2015.]

[19] An LLLT, unlike a lawyer, is prohibited from entering into a contingent fee or retainer agreement with a client directly. See LLLT RPC 1.5 Comment [1]. Nonetheless, this prohibition was not intended to prohibit a lawyer from sharing fees that include contingent fees or retainers with an LLLT with whom the lawyer has entered into a for-profit business relationship under Rule 5.9. See Rules 5.9 and 5.10 for a managing lawyer's additional duties regarding LLLTs who are members of the same firm as the lawyer. See also RPC 5.4 Washington Comment [4].

[Comment [19] adopted April 14, 2015.]

[Comments adopted effective September 1, 2006.]

[22] **RPC 1.6 CONFIDENTIALITY OF INFORMATION**

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer to the extent the lawyer reasonably believes necessary:

(1) shall reveal information relating to the representation of a client to prevent reasonably certain death or substantial bodily harm;

(2) may reveal information relating to the representation of a client to prevent the client from committing a crime;

(3) may reveal information relating to the representation of a client to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) may reveal information relating to the representation of a client to secure legal advice about the lawyer's compliance with these Rules;

(5) may reveal information relating to the representation of a client to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to

establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

(6) may reveal information relating to the representation of a client to comply with a court order;

(7) may reveal information relating to the representation to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client; or

(8) may reveal information relating to the representation of a client to inform a tribunal about any client's breach of fiduciary responsibility when the client is serving as a court appointed fiduciary such as a guardian, personal representative, or receiver.

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

[Adopted effective September 1, 1985; Amended effective September 1, 1990; September 1, 2006; September 1, 2016; September 1, 2018.]

[23] Comments

See also Washington Comment [19].

[1] **[Washington revision]** This Rule governs the disclosure by a lawyer of information relating to the representation of a client. See Rule 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, Rule 1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client and Rules 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] **[Washington revision]** A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See Rule 1.0A(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[Comment 2 amended effective April 14, 2015.]

[3] The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in 135

judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct. *See also* Scope.

[Comment 3 amended effective September 1, 2011.]

[4] Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

Authorized Disclosure

[5] **[Washington revision]** Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a

lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose information relating to a client of the firm to other lawyers or LLLTs within the firm, unless the client has instructed that particular information be confined to specified lawyers or LLLTs.

[Comment 5 amended effective April 14, 2015.]

Disclosure Adverse to Client

[6] **[Washington revision]** Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidentiality of information relating to the representation of their clients, the confidentiality rule is subject to limited exceptions. Paragraph (b)(1) recognizes the overriding value of life and physical integrity and requires disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered imminently or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply must reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening or debilitating disease and the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

[7] **[Reserved.]**

[24] [8] **[Reserved.]**

[9] A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these Rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (b)(4) permits such disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct.

[10] Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person, for example, a person claiming to have been defrauded by the lawyer and client acting together. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (b)(5) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, where a proceeding has been commenced.

[11] A lawyer entitled to a fee is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the Rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

[25] [12] **[Reserved.]**

Detection of Conflicts of Interest

[13] **[Washington revision]** Paragraph (b)(7) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. See RPC 1.17, Comment [7]. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced, that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse, or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these rules. See also RPC 1.1, comments [6], [7], and [10] as to decisions to associate other lawyers or LLLTs.

[14] Any information disclosed pursuant to paragraph (b)(7) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (b)(7) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, see Comment [5], such as when a lawyer in a firm discloses information to another lawyer in the same firm to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

[Comment 14 adopted effective September 1, 2016.]

[15] **[Washington revision]** A lawyer may be ordered to reveal information relating to the representation of a client by a court. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

See also Washington Comment [24].

[16] Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[17] **[Washington revision]** Paragraphs (b)(2) through (b)(7) permit but do not require the disclosure of information relating to a client's representation to accomplish the purposes specified in those paragraphs. In exercising the discretion conferred by those paragraphs, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 3.3, 4.1(b), and 8.1. See also Rule 1.13(c), which permits disclosure in some circumstances whether or not Rule 1.6 permits the disclosure.

See also Washington Comment [23].

Acting Competently to Preserve Confidentiality

[18] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See RPC 1.1, 5.1 and 8

5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to forgo security measures that would otherwise be required by this rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see RPC 5.3, Comments [3]-[4].

[Comment 16 renumbered to 18 and amended effective September 1, 2016.]

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these rules.

[Comment 17 renumbered to 19 and amended effective September 1, 2016.]

Former Client

[20] The duty of confidentiality continues after the client-lawyer relationship has terminated. See Rule 1.9(c)(2). See Rule 1.9(c)(1) for the prohibition against using such information to the disadvantage of the former client.

[26] **Additional Washington Comments (21-28)**

[21] The phrase "information relating to the representation" should be interpreted broadly. The "information" protected by this Rule includes, but is not necessarily limited to, confidences and secrets. "Confidence" refers to information protected by the attorney client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

[22] Washington’s Rule 1.6(b)(2), which authorizes disclosure to prevent a client from committing a crime, is significantly broader than the corresponding exception in the Model Rule. While the Model Rule permits a lawyer to reveal information relating to the representation to prevent the client from “committing a crime . . . that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used the lawyer’s services,” Washington’s Rule permits the lawyer to reveal such information to prevent the commission of any crime.

[23] **[Reserved.]**

[27] [24] **[Reserved.]**

[25] The exceptions to the general rule prohibiting unauthorized disclosure of information relating to the representation “should not be carelessly invoked.” *In re Boelter*, 139 Wn.2d 81, 91, 985 P.2d 328 (1999). A lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of avoidable disclosure.

[26] Washington has not adopted that portion of Model Rule 1.6(b)(6) permitting a lawyer to reveal information related to the representation to comply with “other law.” Washington’s omission of this phrase arises from a concern that it would authorize the lawyer to decide whether a disclosure is required by “other law,” even though the right to confidentiality and the right to waive confidentiality belong to the client. The decision to waive confidentiality should only be made by a fully informed client after consultation with the client’s lawyer or by a court of competent jurisdiction. Limiting the exception to compliance with a court order protects the client’s interest in maintaining confidentiality while insuring that any determination about the legal necessity of revealing confidential information will be made by a court. It is the need for a judicial resolution of such issues that necessitates the omission of “other law” from this Rule.

Withdrawal

[27] After withdrawal the lawyer is required to refrain from disclosing the client’s confidences, except as otherwise permitted by Rules 1.6 or 1.9. A lawyer is not prohibited from giving notice of the fact of withdrawal by this Rule, Rule 1.8(b), or Rule 1.9(c). If the lawyer’s services will be used by the client in furthering a course of criminal or fraudulent conduct, the lawyer must withdraw. See Rule 1.16(a)(1). Upon withdrawal from the representation in such circumstances, the lawyer may also disaffirm or withdraw any opinion, document, affirmation, or the like. If the client is an organization, the lawyer may be in doubt about whether contemplated conduct will actually be carried out by the organization. When a lawyer requires guidance about compliance with this Rule in connection with an organizational client, the lawyer may proceed under the provisions of Rule 1.13(b).

Other

[28] This Rule does not relieve a lawyer of ~~their~~~~his or her~~ [6] obligations under Rule 5.4(b) of the Rules for Enforcement of Lawyer Conduct.

[28] **RPC 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS**

[32] **RPC 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS:
SPECIFIC RULES**

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent lawyer on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include spouse, child, grandchild, parent, grandparent or other relative or individual with who the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not, while representing a client in connection with contemplated or pending litigation, advance or guarantee financial assistance to a client, except that:

(1) a lawyer may advance or guarantee the expenses of litigation, including court costs, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses; and

(2) in matters maintained as class actions only, repayment of expenses of litigation may be contingent on the outcome of the matter.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information relating to representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, confirmed in writing. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and the participation of each person in the settlement.

(h) A lawyer shall not:

(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented by a lawyer in making the agreement; or

(2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent lawyer in connection therewith.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not:

(1) have sexual relations with a current client of the lawyer unless a consensual sexual relationship existed between them at the time the client-lawyer relationship commenced; or

(2) have sexual relations with a representative of a current client if the sexual relations would, or would likely, damage or prejudice the client in the representation.

(3) For purposes of Rule 1.8(j), "lawyer" means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.

(k) While lawyers are associated in a firm with other lawyers or LLLTs, a prohibition in the foregoing paragraphs (a) through (i) of this Rule or LLLT RPC 1.8 that applies to anyone of them shall apply to all of them, except that the prohibitions in paragraphs (a), (h), and (i) of LLLT RPC 1.8 shall apply to firm lawyers only if the conduct is also prohibited by this rule.

(l) A lawyer who is related to another lawyer or LLLT as parent, child, sibling, or spouse, or who has any other close familial or intimate relationship with another lawyer or LLLT, shall not represent a client in a matter directly adverse to a person who the lawyer knows is represented by the related lawyer or LLLT unless:

(1) the client gives informed consent to the representation; and

(2) the representation is not otherwise prohibited by Rule 1.7.

(m) A lawyer shall not:

(1) make or participate in making an agreement with a governmental entity for the delivery of indigent defense services if the terms of the agreement obligate the contracting lawyer or law firm:

(i) to bear the cost of providing conflict counsel; or

(ii) to bear the cost of providing investigation or expert services, unless a fair and reasonable amount for such costs is specifically designated in the agreement in a manner that does not adversely affect the income or compensation allocated to the lawyer, law firm, or law firm personnel; or

(2) knowingly accept compensation for the delivery of indigent defense services from a lawyer who has entered into a current agreement in violation of paragraph (m)(1).

[Adopted effective September 1, 1985; Amended effective September 1, 1993; June 27, 2000; September 1, 2006; April 24, 2007; September 1, 2008; September 1, 2011; April 14, 2015.]

[33] **Comment**

Business Transactions Between Client and Lawyer

[1] A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client, for example, a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The Rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the lawyer's legal practice. See Rule 5.7. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by Rule 1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the Rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities' services. In such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.

[2] **[Washington revision]** Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client, in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking the advice of an independent lawyer. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer

obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of an independent lawyer is desirable. See Rule 1.0A(e) (definition of informed consent).

[Comment 2 amended effective April 14, 2015.]

[3] The risk to a client is greatest when the client expects the lawyer to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that the lawyer must comply, not only with the requirements of paragraph (a), but also with the requirements of Rule 1.7. Under that Rule, the lawyer must disclose the risks associated with the lawyer's dual role as both legal adviser and participant in the transaction, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that Rule 1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[4] **[Washington revision]** If the client is independently represented by a lawyer in the transaction, paragraph (a)(2) of this Rule is inapplicable, and the paragraph (a)(1) requirement for full disclosure is satisfied either by a written disclosure by the lawyer involved in the transaction or by the client's independent lawyer. The fact that the client was independently represented by a lawyer in the transaction is relevant in determining whether the agreement was fair and reasonable to the client as paragraph (a)(1) further requires.

[Comment 4 amended effective April 14, 2015.]

Use of Information Related to Representation

[5] **[Washington revision]** Use of information relating to the representation to the disadvantage of the client violates the lawyer's duty of loyalty. Paragraph (b) applies when the information is used to benefit either the lawyer or a third person, such as another client or business associate of the lawyer. For example, if a lawyer learns that a client intends to purchase and develop several parcels of land, the lawyer may not use that information to purchase one of the parcels in competition with the client or to recommend that another client make such a purchase. The Rule does not prohibit uses that do not disadvantage the client. For example, a lawyer who learns a government agency's interpretation of trade legislation during the representation of one client may properly use that information to benefit other clients. Paragraph (b) prohibits disadvantageous use of client information unless the client gives informed consent, except as permitted or required by these Rules. See Rules 1.2(d), 1.6, 1.9(c), 3.3, 4.1(b), and 8.1.

Gifts to Lawyers

[6] A lawyer may accept a gift from a client, if the transaction meets general standards of fairness. For example, a simple gift such as a present given at a holiday or as a token of appreciation is permitted. If a client offers the lawyer a more substantial gift, paragraph (c) does not prohibit the lawyer from accepting it, although such a gift may be voidable by the client under the doctrine of undue influence, which treats client gifts as presumptively fraudulent. In 44

any event, due to concerns about overreaching and imposition on clients, a lawyer may not suggest that a substantial gift be made to the lawyer or for the lawyer's benefit, except where the lawyer is related to the client as set forth in paragraph (c).

[7] If effectuation of a substantial gift requires preparing a legal instrument such as a will or conveyance the client should have the detached advice that another lawyer can provide. The sole exception to this Rule is where the client is a relative of the donee.

[8] This Rule does not prohibit a lawyer from seeking to have the lawyer or a partner or associate of the lawyer named as executor of the client's estate or to another potentially lucrative fiduciary position. Nevertheless, such appointments will be subject to the general conflict of interest provision in Rule 1.7 when there is a significant risk that the lawyer's interest in obtaining the appointment will materially limit the lawyer's independent professional judgment in advising the client concerning the choice of an executor or other fiduciary. In obtaining the client's informed consent to the conflict, the lawyer should advise the client concerning the nature and extent of the lawyer's financial interest in the appointment, as well as the availability of alternative candidates for the position.

Literary Rights

[9] An agreement by which a lawyer acquires literary or media rights concerning the conduct of the representation creates a conflict between the interests of the client and the personal interests of the lawyer. Measures suitable in the representation of the client may detract from the publication value of an account of the representation. Paragraph (d) does not prohibit a lawyer representing a client in a transaction concerning literary property from agreeing that the lawyer's fee shall consist of a share in ownership in the property, if the arrangement conforms to Rule 1.5 and paragraphs (a) and (i).

Financial Assistance

[10] **[Washington revision]** Lawyers may not subsidize lawsuits or administrative proceedings brought on behalf of their clients, including making or guaranteeing loans to their clients for living expenses, because to do so would encourage clients to pursue lawsuits that might not otherwise be brought and because such assistance gives lawyers too great a financial stake in the litigation. See Washington Comment [21].

Person Paying for a Lawyer's Services

[11] Lawyers are frequently asked to represent a client under circumstances in which a third person will compensate the lawyer, in whole or in part. The third person might be a relative or friend, an indemnitor (such as a liability insurance company) or a co-client (such as a corporation sued along with one or more of its employees). Because third-party payers frequently have interests that differ from those of the client, including interests in minimizing the amount spent on the representation and in learning how the representation is progressing, lawyers are prohibited from accepting or continuing such representations unless the lawyer determines that there will be no interference with the lawyer's independent professional judgment and there is informed consent from the client. See also Rule 5.4(c) (prohibiting interference with a lawyer's professional judgment by one who recommends, employs or pays the lawyer to render legal services for another).

[12] Sometimes, it will be sufficient for the lawyer to obtain the client's informed consent regarding the fact of the payment and the identity of the third-party payer. If, however, the fee arrangement creates a conflict of interest for the lawyer, then the lawyer must comply with Rule 1.7. The lawyer must also conform to the requirements of Rule 1.6 concerning confidentiality. Under Rule 1.7(a), a conflict of interest exists if there is significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in the fee arrangement or by the lawyer's responsibilities to the third-party payer (for example, when the third-party payer is a co-client). Under Rule 1.7(b), the lawyer may accept or continue the representation with the informed consent of each affected client, unless the conflict is nonconsentable under that paragraph. Under Rule 1.7(b), the informed consent must be confirmed in writing.

Aggregate Settlements

[13] **[Washington revision]** Differences in willingness to make or accept an offer of settlement are among the risks of common representation of multiple clients by a single lawyer. Under Rule 1.7, this is one of the risks that should be discussed before undertaking the representation, as part of the process of obtaining the clients' informed consent. In addition, Rule 1.2(a) protects each client's right to have the final say in deciding whether to accept or reject an offer of settlement and in deciding whether to enter a guilty or nolo contendere plea in a criminal case. The rule stated in this paragraph is a corollary of both these Rules and provides that, before any settlement offer or plea bargain is made or accepted on behalf of multiple clients, the lawyer must inform each of them about all the material terms of the settlement, including what the other clients will receive or pay if the settlement or plea offer is accepted. See also Rule 1.0A(e) (definition of informed consent). Lawyers representing a class of plaintiffs or defendants, or those proceeding derivatively, may not have a full client-lawyer relationship with each member of the class; nevertheless, such lawyers must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

[Comment 13 amended effective April 14, 2015.]

Limiting Liability and Settling Malpractice Claims

[14] **[Washington revision]** Agreements prospectively limiting a lawyer's liability for malpractice are prohibited unless permitted by law and the client is independently represented by a lawyer in making the agreement because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the lawyer seeking the agreement. This paragraph does not, however, prohibit a lawyer from entering into an agreement with the client to arbitrate legal malpractice claims, provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement. Nor does this paragraph limit the ability of lawyers to practice in the form of a limited-liability entity, where permitted by law, provided that each lawyer remains personally liable to the client for ~~his~~ ~~or her~~^[7]~~their~~ own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with Rule 1.2 that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

[Comment 14 amended effective April 14, 2015.]

[15] **[Washington revision]** Agreements settling a claim or a potential claim for malpractice are not prohibited by this Rule. Nevertheless, in view of the danger that a lawyer will take unfair advantage of client or former client not represented by a lawyer, the lawyer must first advise such a person in writing of the appropriateness of independent representation by a lawyer in connection with such a settlement. In addition, the lawyer must give the client or former client a reasonable opportunity to find and consult an independent lawyer.

[Comment 15 amended effective April 14, 2015.]

Acquiring Proprietary Interest in Litigation

[16] Paragraph (i) states the traditional general rule that lawyers are prohibited from acquiring a proprietary interest in litigation. Like paragraph (e), the general rule has its basis in common law champerty and maintenance and is designed to avoid giving the lawyer too great an interest in the representation. In addition, when the lawyer acquires an ownership interest in the subject of the representation, it will be more difficult for a client to discharge the lawyer if the client so desires. The Rule is subject to specific exceptions developed in decisional law and continued in these Rules. The exception for certain advances of the costs of litigation is set forth in paragraph (e). In addition, paragraph (i) sets forth exceptions for liens authorized by law to secure the lawyer's fees or expenses and contracts for reasonable contingent fees. The law of each jurisdiction determines which liens are authorized by law. These may include liens granted by statute, liens originating in common law and liens acquired by contract with the client. When a lawyer acquires by contract a security interest in property other than that recovered through the lawyer's efforts in the litigation, such an acquisition is a business or financial transaction with a client and is governed by the requirements of paragraph (a). Contracts for contingent fees in civil cases are governed by Rule 1.5.

Client-Lawyer Sexual Relationships

[17] The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client's own emotional involvement renders it unlikely that the client could give adequate informed consent, this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

[18] Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished 147

when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the relationship. See Rule 1.7(a)(2).

[19] **[Washington revision]** When the client is an organization, paragraph (j) of this Rule applies to a lawyer for the organization (whether inside or outside counsel). For purposes of this Rule, "representative of a current client" will generally be a constituent of the organization who supervises, directs or regularly consults with that lawyer on the organization's legal matters. See Comment [1] to Rule 1.13 (identifying the constituents of an organizational client).

See also Washington Comments [22] and [23].

Imputation of Prohibitions

[20] Under paragraph (k), a prohibition on conduct by an individual lawyer in paragraphs (a) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer. For example, one lawyer in a firm may not enter into a business transaction with a client of another member of the firm without complying with paragraph (a), even if the first lawyer is not personally involved in the representation of the client. The prohibition set forth in paragraph (j) is personal and is not applied to associated lawyers.

[34] **Additional Washington Comments (21-31)**

Financial Assistance

[21] Paragraph (e) of Washington's Rule differs from the Model Rule. Paragraph (e) is based on former Washington RPC 1.8(e). The minor structural modifications to the general prohibition on providing financial assistance to a client do not represent a change in Washington law, and paragraph (e) is intended to preserve prior interpretations of the Rule and prior Washington practice.

Client-Lawyer Sexual Relationships

[22] Paragraph (j)(2) of Washington's Rule, which prohibits sexual relationships with a representative of an organizational client, differs from the Model Rule. Comment [19] to Model Rule 1.8 was revised to be consistent with the Washington Rule.

[23] Paragraph (j)(3) of the Rule specifies that the prohibition applies with equal force to any lawyer who assists in the representation of the client, but the prohibition expressly does not apply to other members of a firm who have not assisted in the representation.

Personal Relationships

[24] Model Rule 1.8 does not contain a provision equivalent to paragraph (l) of Washington's Rule. Paragraph (l) prohibits representations based on a lawyer's personal conflict arising from ~~their~~^{his or her} [8] relationship with another lawyer. Paragraph (l) is a revised version of former Washington RPC 1.8(i). See also Comment [11] to Rule 1.7.

Indigent Defense Contracts

- [25] Model Rule 1.8 does not contain a provision equivalent to paragraph (m) of Washington’s Rule. Paragraph (m) specifies that it is a conflict of interest for a lawyer to enter into or accept compensation under an indigent defense contract that does not provide for the payment of funds, outside of the contract, to compensate conflict counsel for fees and expenses.
- [26] Where there is a right to a lawyer in court proceedings, the right extends to those who are financially unable to obtain one. This right is affected in some Washington counties and municipalities through indigent defense contracts, i.e., contracts entered into between lawyers or law firms willing to provide defense services to those financially unable to obtain them and the governmental entities obliged to pay for those services. When a lawyer or law firm providing indigent defense services determines that a disqualifying conflict of interest precludes representation of a particular client, the lawyer or law firm must withdraw and substitute counsel must be obtained for the client. See Rule 1.16. In these circumstances, substitute counsel is typically known as “conflict counsel.”
- [27] An indigent defense contract by which the contracting lawyer or law firm assumes the obligation to pay conflict counsel from the proceeds of the contract, without further payment from the governmental entity, creates an acute financial disincentive for the lawyer either to investigate or declare the existence of actual or potential conflicts of interest requiring the employment of conflict counsel. For this reason, such contracts involve an inherent conflict between the interests of the client and the personal interests of the lawyer. These dangers warrant a prohibition on making such an agreement or accepting compensation for the delivery of indigent defense services from a lawyer that has done so. See ABA Standards for Criminal Justice, Std. 5-3.3(b)(vii) (3d ed. 1992) (elements of a contract for defense services should include “a policy for conflict of interest cases and the provision of funds outside of the contract to compensate conflict counsel for fees and expenses”); *People v. Barboza*, 29 Cal.3d 375, 173 Cal. Rptr. 458, 627 P.2d 188 (Cal. 1981) (structuring public defense contract so that more money is available for operation of office if fewer outside attorneys are engaged creates “inherent and irreconcilable conflicts of interest”).
- [28] Similar conflict-of-interest considerations apply when indigent defense contracts require the contracting lawyer or law firm to pay for the costs and expenses of investigation and expert services from the general proceeds of the contract. Paragraph (m)(1)(ii) prohibits agreements that do not provide that such services are to be funded separately from the amounts designated as compensation to the contracting lawyer or law firm.
- [29] Because indigent defense contracts involve accepting compensation for legal services from a third-party payer, the lawyer must also conform to the requirements of paragraph (f). See also Comments [11] - [12].

[Comments adopted effective September 1, 2006.]

Settling Malpractice Claims

- [30] A client or former client of an LLLT who is not represented by a lawyer is unrepresented for purposes of Rule 1.8(h)(2).

[Comment adopted April 14, 2015.]

Lawyers Associated in Firms with Limited License Legal Technicians

[31] LLLT RPC 1.8 prohibits LLLTs from engaging in certain conduct that is not necessarily prohibited to lawyers by this Rule. See LLLT RPC 1.8(a) (strictly prohibiting an LLLT from entering into a business transaction with a client); (h)(1) (strictly prohibiting an LLLT from making an agreement prospectively limiting the LLLT's liability to a client for malpractice), (i) (strictly prohibiting an LLLT from acquiring a proprietary interest in a client's cause of action or the subject matter of the litigation). These prohibitions do not apply to any lawyers in a firm unless the conduct is also prohibited to a lawyer under this Rule.

[Comment 31 adopted April 14, 2015.]

[37] **RPC 1.10 IMPUTATION OF CONFLICTS OF INTEREST:
GENERAL RULE**

(a) Except as provided in paragraph (e), while lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

(d) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11. However, lawyers appointed or assigned to represent indigent members of the public (public defenders) are subject to this rule regardless of whether they are government employees.

(e) When the prohibition on representation under paragraph (a) is based on Rule 1.9(a) or (b), and arises out of the disqualified lawyer's association with a prior firm, no other lawyer in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified unless:

(1) the personally disqualified lawyer is screened by effective means from participation in the matter and is apportioned no part of the fee therefrom;

(2) the former client of the personally disqualified lawyer receives notice of the conflict and the screening mechanism used to prohibit dissemination of information relating to the former representation;

(3) the firm is able to demonstrate by convincing evidence that no material information relating to the former representation was transmitted by the personally disqualified lawyer before implementation of the screening mechanism and notice to the former client.

Any presumption that information protected by Rules 1.6 and 1.9(c) has been or will be transmitted may be rebutted if the personally disqualified lawyer serves on ~~their~~his or her [9] former law firm and former client an affidavit attesting that the personally disqualified lawyer will not participate in the matter and will not discuss the matter or the representation with any other lawyer or employee of ~~their~~his or her [10] current law firm, and attesting that during the 151

period of the lawyer's personal disqualification those lawyers or employees who do participate in the matter will be apprised that the personally disqualified lawyer is screened from participating in or discussing the matter. Such affidavit shall describe the procedures being used effectively to screen the personally disqualified lawyer. Upon request of the former client, such affidavit shall be updated periodically to show actual compliance with the screening procedures. The law firm, the personally disqualified lawyer, or the former client may seek judicial review in a court of general jurisdiction of the screening mechanism used, or may seek court supervision to ensure that implementation of the screening procedures has occurred and that effective actual compliance has been achieved.

(f) When LLLTs and lawyers are associated in a firm, an LLLT's conflict of interest under LLLT RPC 1.7 or LLLT RPC 1.9 is imputed to lawyers in the firm in the same way as conflicts are imputed to lawyers under this rule. Each of the other provisions of this Rule also applies in the same way when LLLT conflicts are imputed to lawyers in the firm.

[Adopted effective September 1, 1985 Amended effective September 1, 1992; September 1, 2006; September 1, 2011; April 14, 2015.]

[38] **Comment**

Definition of "Firm"

[1] **[Washington revision]** For purposes of the Rules of Professional Conduct, the term "firm" denotes lawyers, LLLTs, or any combination thereof in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers or LLLTs employed in a legal services organization or the legal department of a corporation or other organization. See Rule 1.0A(c). Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. See Rule 1.0A, Comments [2] - [4].

[Comment 1 amended effective April 14, 2015.]

Principles of Imputed Disqualification

[2] **[Washington revision]** The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Paragraph (a) operates only among the lawyers currently associated in a firm. When a lawyer moves from one firm to another, the situation is governed by Rules 1.9(b) and 1.10(b) and (e).

[3] The rule in paragraph (a) does not prohibit representation where neither questions of client loyalty nor protection of confidential information are presented. Where one lawyer in a firm could not effectively represent a given client because of strong political beliefs, for example, but that lawyer will do no work on the case and the personal beliefs of the lawyer will not materially limit the representation by others in the firm, the firm should not be disqualified. On the other hand, if an opposing party in a case were owned by a lawyer in the law firm, and others in the firm would be materially limited in pursuing the matter because of loyalty to that lawyer, the personal disqualification of the lawyer would be imputed to all others in the firm.

[4] **[Reserved.** See Washington Comment [11].]

[5] Rule 1.10(b) operates to permit a law firm, under certain circumstances, to represent a person with interests directly adverse to those of a client represented by a lawyer who formerly was associated with the firm. The Rule applies regardless of when the formerly associated lawyer represented the client. However, the law firm may not represent a person with interests adverse to those of a present client of the firm, which would violate Rule 1.7. Moreover, the firm may not represent the person where the matter is the same or substantially related to that in which the formerly associated lawyer represented the client and any other lawyer currently in the firm has material information protected by Rules 1.6 and 1.9(c).

[6] **[Washington revision]** Rule 1.10(c) removes imputation with the informed consent of the affected client or former client under the conditions stated in Rule 1.7. The conditions stated in Rule 1.7 require the lawyer to determine that the representation is not prohibited by Rule 1.7(b) and that each affected client or former client has given informed consent to the representation, confirmed in writing. In some cases, the risk may be so severe that the conflict may not be cured by client consent. For a definition of informed consent, see Rule 1.0A(e).

[Comment 6 amended effective April 14, 2015.]

[7] Where a lawyer has joined a private firm after having represented the government, imputation is governed by Rule 1.11(b) and (c), not this Rule. Under Rule 1.11(d), where a lawyer represents the government after having served clients in private practice, nongovernmental employment or in another government agency, former-client conflicts are not imputed to government lawyers associated with the individually disqualified lawyer.

[8] Where a lawyer is prohibited from engaging in certain transactions under Rule 1.8, paragraph (k) of that Rule, and not this Rule, determines whether that prohibition also applies to other lawyers associated in a firm with the personally prohibited lawyer.

[39] **Additional Washington Comments (9 - 15)**

Principles of Imputed Disqualification

[9] The screening provisions in Washington RPC 1.10 differ from those in the Model Rule. Washington's adoption of a nonconsensual screening provision in 1993 preceded the ABA's 2009 adoption of a similar approach in the Model Rules. Washington's rule was amended and the screening provision recodified as paragraph (e) in 2006, and paragraphs (a) and (e) were further amended in 2011 to conform more closely to the Model Rules version. None of the amendments to this Rule, however, represents a change in Washington law. The Rule preserves Washington practice established in 1993 with respect to screening by allowing a lawyer personally disqualified from representing a client based on the lawyer's prior association with a firm to be screened from a representation to be undertaken by other members of the lawyer's new firm under the circumstances set forth in paragraph (e). See Washington Comment [10].

[10] Washington's RPC 1.10 was amended in 1993 to permit representation with screening under certain circumstances. Rule 1.10(e) retains the screening mechanism adopted as Washington RPC 1.10(b) in 1993, thus allowing a firm to represent a client with whom a lawyer in the firm has a conflict based on ~~his or her~~their [11] association with a prior firm ¶53

the lawyer is effectively screened from participation in the representation, is apportioned no part of the fee earned from the representation and the client of the former firm receives notice of the conflict and the screening mechanism. However, prior to undertaking the representation, non-disqualified firm members must evaluate the firm's ability to provide competent representation even if the disqualified member can be screened in accordance with this Rule. While Rule 1.10 does not specify the screening mechanism to be used, the law firm must be able to demonstrate that it is adequate to prevent the personally disqualified lawyer from receiving or transmitting any confidential information or from participating in the representation in any way. The screening mechanism must be in place over the life of the representation at issue and is subject to judicial review at the request of any of the affected clients, law firms, or lawyers. However, a lawyer or law firm may rebut the presumption that information relating to the representation has been transmitted by serving an affidavit describing the screening mechanism and affirming that the requirements of the Rule have been met.

[11] Under Rule 5.3, this Rule also applies to nonlawyer assistants and lawyers who previously worked as nonlawyers at a law firm. See *Daines v. Alcatel*, 194 F.R.D. 678 (E.D. Wash. 2000); *Richards v. Jain*, 168 F. Supp. 2d 1195 (W.D. Wash. 2001). For the definition of nonlawyer for the purposes of Rule 5.3, see Washington Comment [5] to Rule 5.3.

[Comment 11 amended effective April 14, 2015; September 1, 2016.]

[12] In serving an affidavit permitted by paragraph (e), a lawyer may serve the affidavit on the former law firm alone (without simultaneously serving the former client directly) if the former law firm continues to represent the former client and the lawyer contemporaneously requests in writing that the former law firm provide a copy of the affidavit to the former client. If the former client is no longer represented by the former law firm or if the lawyer has reason to believe the former law firm will not promptly provide the former client with a copy of the affidavit, then the affidavit must be served directly on the former client also. Serving the affidavit on a represented former client does not violate Rule 4.2 because the communication with the former client is not about the "subject of the representation" and the notice is "authorized by law," i.e., the Rules of Professional Conduct.

[13] Rule 1.8(l) conflicts are not imputed to other members of a firm under paragraph (a) of this Rule unless the relationship creates a conflict of interest for the individual lawyer under Rule 1.7 and also presents a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

[14] For the parallel provision imputing lawyer conflicts to an LLLT when an LLLT has associated with a lawyer, see LLLT RPC 1.10(f).

[15] Public defenders represent individuals, not the government. For this reason, imputed conflicts in public defender firms are determined under this rule rather than RPC 1.11.

[Comment 15 adopted effective September 1, 2018.]

[Comments adopted effective September 1, 2006.]

[42] **RPC 1.13 ORGANIZATION AS CLIENT**

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if

(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that ~~they have he or she has~~ been discharged because of the lawyer's actions taken pursuant to paragraphs (b) and (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

(h) For purposes of this Rule, when a lawyer who is not a public officer or employee represents a discrete governmental agency or unit that is part of a broader governmental entity,¹⁵⁵

the lawyer's client is the particular governmental agency or unit represented, and not the broader governmental entity of which the agency or unit is a part, unless:

- (1) otherwise provided in a written agreement between the lawyer and the governmental agency or unit; or
- (2) the broader governmental entity gives the lawyer timely written notice to the contrary, in which case the client shall be designated by such entity. Notice under this subsection shall be given by the person designated by law as the chief legal officer of the broader governmental entity, or in the absence of such designation, by the chief executive officer of the entity.

[Adopted effective September 1, 2006.]

[43] **Comment**

The Entity as the Client

[1] An organizational client is a legal entity, but it cannot act except through its officers, directors, employees, shareholders and other constituents. Officers, directors, employees and shareholders are the constituents of the corporate organizational client. The duties defined in this Comment apply equally to unincorporated associations. "Other constituents" as used in this Comment means the positions equivalent to officers, directors, employees and shareholders held by persons acting for organizational clients that are not corporations.

[2] When one of the constituents of an organizational client communicates with the organization's lawyer in that person's organizational capacity, the communication is protected by Rule 1.6. Thus, by way of example, if an organizational client requests its lawyer to investigate allegations of wrongdoing, interviews made in the course of that investigation between the lawyer and the client's employees or other constituents are covered by Rule 1.6. This does not mean, however, that constituents of an organizational client are the clients of the lawyer. The lawyer may not disclose to such constituents information relating to the representation except for disclosures explicitly or impliedly authorized by the organizational client in order to carry out the representation or as otherwise permitted by Rule 1.6.

[3] **[Washington revision]** When constituents of the organization make decisions for it, the decisions ordinarily must be accepted by the lawyer even if their utility or prudence is doubtful. Decisions concerning policy and operations, including ones entailing serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear, however, that when the lawyer knows that the organization is likely to be substantially injured by action of an officer or other constituent that violates a legal obligation to the organization or is in violation of law that might be imputed to the organization, the lawyer must proceed as is reasonably necessary in the best interest of the organization. As defined in Rule 1.0A(f), knowledge can be inferred from circumstances, and a lawyer cannot ignore the obvious.

[Comment [3] amended effective April 14, 2015.]

[4] In determining how to proceed under paragraph (b), the lawyer should give due consideration to the seriousness of the violation and its consequences, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization

concerning such matters, and any other relevant considerations. Ordinarily, referral to a higher authority would be necessary. In some circumstances, however, it may be appropriate for the lawyer to ask the constituent to reconsider the matter; for example, if the circumstances involve a constituent's innocent misunderstanding of law and subsequent acceptance of the lawyer's advice, the lawyer may reasonably conclude that the best interest of the organization does not require that the matter be referred to a higher authority. If a constituent persists in conduct contrary to the lawyer's advice, it will be necessary for the lawyer to take steps to have the matter reviewed by a higher authority in the organization. If the matter is of sufficient seriousness and importance or urgency to the organization, referral to higher authority in the organization may be necessary even if the lawyer has not communicated with the constituent. Any measures taken should, to the extent practicable, minimize the risk of revealing information relating to the representation to persons outside the organization. Even in circumstances where a lawyer is not obligated by Rule 1.13 to proceed, a lawyer may bring to the attention of an organizational client, including its highest authority, matters that the lawyer reasonably believes to be of sufficient importance to warrant doing so in the best interest of the organization.

[5] Paragraph (b) also makes clear that when it is reasonably necessary to enable the organization to address the matter in a timely and appropriate manner, the lawyer must refer the matter to higher authority, including, if warranted by the circumstances, the highest authority that can act on behalf of the organization under applicable law. The organization's highest authority to whom a matter may be referred ordinarily will be the board of directors or similar governing body. However, applicable law may prescribe that under certain conditions the highest authority reposes elsewhere, for example, in the independent directors of a corporation.

Relation to Other Rules

[6] The authority and responsibility provided in this Rule are concurrent with the authority and responsibility provided in other Rules. In particular, this Rule does not limit or expand the lawyer's responsibility under Rules 1.8, 1.16, 3.3 or 4.1. Paragraph (c) of this Rule supplements Rule 1.6(b) by providing an additional basis upon which the lawyer may reveal information relating to the representation, but does not modify, restrict, or limit the provisions of Rule 1.6(b)(1)-(7). Under paragraph (c) the lawyer may reveal such information only when the organization's highest authority insists upon or fails to address threatened or ongoing action that is clearly a violation of law, and then only to the extent the lawyer reasonably believes necessary to prevent reasonably certain substantial injury to the organization. It is not necessary that the lawyer's services be used in furtherance of the violation, but it is required that the matter be related to the lawyer's representation of the organization. If the lawyer's services are being used by an organization to further a crime or fraud by the organization, Rules 1.6(b)(2) and 1.6(b)(3) may permit the lawyer to disclose confidential information. In such circumstances Rule 1.2(d) may also be applicable, in which event, withdrawal from the representation under Rule 1.16(a)(1) may be required.

[7] Paragraph (d) makes clear that the authority of a lawyer to disclose information relating to a representation in circumstances described in paragraph (c) does not apply with respect to information relating to a lawyer's engagement by an organization to investigate an alleged violation of law or to defend the organization or an officer, employee or other person associated with the organization against a claim arising out of an alleged violation of law. This is necessary in order to enable organizational clients to enjoy the full benefits of legal counsel in conducting an investigation or defending against a claim.

[8] A lawyer who reasonably believes that ~~they have he or she has~~ been discharged because of the lawyer's actions taken pursuant to paragraph (b) or (c), or who withdraws in circumstances that require or permit the lawyer to take action under either of these paragraphs, must proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

Government Agency

[9] The duty defined in this Rule applies to governmental organizations. Defining precisely the identity of the client and prescribing the resulting obligations of such lawyers may be more difficult in the government context and is a matter beyond the scope of these Rules. See Scope [18]. Although in some circumstances the client may be a specific agency, it may also be a branch of government, such as the executive branch, or the government as a whole. For example, if the action or failure to act involves the head of a bureau, either the department of which the bureau is a part or the relevant branch of government may be the client for purposes of this Rule. Moreover, in a matter involving the conduct of government officials, a government lawyer may have authority under applicable law to question such conduct more extensively than that of a lawyer for a private organization in similar circumstances. Thus, when the client is a governmental organization, a different balance may be appropriate between maintaining confidentiality and assuring that the wrongful act is prevented or rectified, for public business is involved. In addition, duties of lawyers employed by the government or lawyers in military service may be defined by statutes and regulation. This Rule does not limit that authority. See Scope.

Clarifying the Lawyer's Role

[10] There are times when the organization's interest may be or become adverse to those of one or more of its constituents. In such circumstances the lawyer should advise any constituent, whose interest the lawyer finds adverse to that of the organization of the conflict or potential conflict of interest, that the lawyer cannot represent such constituent, and that such person may wish to obtain independent representation. Care must be taken to assure that the individual understands that, when there is such adversity of interest, the lawyer for the organization cannot provide legal representation for that constituent individual, and that discussions between the lawyer for the organization and the individual may not be privileged.

[11] Whether such a warning should be given by the lawyer for the organization to any constituent individual may turn on the facts of each case.

Dual Representation

[12] Paragraph (g) recognizes that a lawyer for an organization may also represent a principal officer or major shareholder.

Derivative Actions

[13] Under generally prevailing law, the shareholders or members of a corporation may bring suit to compel the directors to perform their legal obligations in the supervision of the organization. Members of unincorporated associations have essentially the same right. Such an action may be brought nominally by the organization, but usually is, in fact, a legal controversy over management of the organization.

[14] The question can arise whether counsel for the organization may defend such an action. The proposition that the organization is the lawyer's client does not alone resolve the issue. Most derivative actions are a normal incident of an organization's affairs, to be defended by the organization's lawyer like any other suit. However, if the claim involves serious charges of wrongdoing by those in control of the organization, a conflict may arise between the lawyer's duty to the organization and the lawyer's relationship with the board. In those circumstances, Rule 1.7 governs who should represent the directors and the organization.

[44] **Additional Washington Comment (15)**

[15] Paragraph (h) was taken from former Washington RPC 1.7(c); it addresses the obligations of a lawyer who is not a public officer or employee but is representing a discrete governmental agency or unit.

[Comments adopted effective September 1, 2006.]

[45] **RPC 1.14 CLIENT WITH DIMINISHED CAPACITY**

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

[Former Rule 1.13 was amended effective July 1, 1988; July 14, 1989; March 1, 1991; October 1, 2002. Renumbered and amended effective September 1, 2006.]

[46] **Comment**

[1] The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or suffers from a diminished mental capacity, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. For example, children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. So also, it is recognized

that some persons of advanced age can be quite capable of handling routine financial matters while needing special legal protection concerning major transactions.

[2] The fact that a client suffers a disability does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the person has a legal representative, the lawyer should as far as possible accord the represented person the status of client, particularly in maintaining communication.

[3] The client may wish to have family members or other persons participate in discussions with the lawyer. When necessary to assist in the representation, the presence of such persons generally does not affect the applicability of the attorney-client evidentiary privilege. Nevertheless, the lawyer must keep the client's interests foremost and, except for protective action authorized under paragraph (b), must look to the client, and not family members, to make decisions on the client's behalf.

[4] **[Washington revision]** If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor. If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct. See Rules 1.2(d) and 1.6(b)(8).

[Comment 4 Amended effective September 1, 2016.]

Taking Protective Action

[5] If a lawyer reasonably believes that a client is at risk of substantial physical, financial or other harm unless action is taken, and that a normal client-lawyer relationship cannot be maintained as provided in paragraph (a) because the client lacks sufficient capacity to communicate or to make adequately considered decisions in connection with the representation, then paragraph (b) permits the lawyer to take protective measures deemed necessary. Such measures could include: consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decisionmaking tools such as durable powers of attorney or consulting with support groups, professional services, adult-protective agencies or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client's best interests and the goals of intruding into the client's decision-making autonomy to the least extent feasible, maximizing client capacities and respecting the client's family and social connections.

[6] In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as: the client's ability to articulate reasoning leading to a decision, variability of state of mind and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client. In appropriate circumstances, the lawyer may seek guidance from an appropriate diagnostician.

[7] If a legal representative has not been appointed, the lawyer should consider whether appointment of a guardian ad litem, conservator or guardian is necessary to protect the client's

interests. Thus, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, rules of procedure in litigation sometimes provide that minors or persons with diminished capacity must be represented by a guardian or next friend if they do not have a general guardian. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the professional judgment of the lawyer. In considering alternatives, however, the lawyer should be aware of any law that requires the lawyer to advocate the least restrictive action on behalf of the client.

Disclosure of the Client's Condition

[8] Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. Information relating to the representation is protected by Rule 1.6. Therefore, unless authorized to do so, the lawyer may not disclose such information. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized to make the necessary disclosures, even when the client directs the lawyer to the contrary. Nevertheless, given the risks of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted with will act adversely to the client's interests before discussing matters related to the client. The lawyer's position in such cases is an unavoidably difficult one.

Emergency Legal Assistance

[9] In an emergency where the health, safety or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent or other representative available. The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these Rules as the lawyer would with respect to a client.

[10] **[Washington revision]** A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other legal practitioner involved the nature of ~~his or her~~their [12]relationship with the person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.

[Comment [10] amended effective April 14, 2015.]

[Comments adopted effective September 1, 2006.]

[56] **RPC 1.18 DUTIES TO PROSPECTIVE CLIENT**

(a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client or except as provided in paragraph (e).

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraphs (d) or (e). If a lawyer or LLLT is disqualified from representation under this paragraph or paragraph (c) of LLLT RPC 1.18, no lawyer in a firm with which that lawyer or LLLT is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.

(e) A lawyer may condition a consultation with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. The prospective client may also expressly consent to the lawyer's subsequent use of information received from the prospective client.

[Adopted effective September 1, 2006; Amended effective April 14, 2015; September 1, 2016.]

[57] **Comment**

[1] Prospective clients, like clients, may disclose information to a lawyer, place documents or other property in the lawyer's custody, or rely on the lawyer's advice. A lawyer's consultations with a prospective client usually are limited in time and depth and leave both the prospective client and the lawyer free (and sometimes required) to proceed no further. Hence, prospective clients should receive some but not all of the protection afforded clients.

[2] **[Washington revision]** A person becomes a prospective client by consulting with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter. 162

Whether communications, including written, oral, or electronic communications, constitute a consultation depends on the circumstances. For example, a consultation is likely to have occurred if a lawyer, either in person or through the lawyer's communications in any medium, specifically requests or invites the submission of information about a potential representation without clear and reasonably understandable warnings and cautionary statements that limit the lawyer's obligations, and a person provides information in response. See also Comment [4]. In contrast, a consultation does not occur if a person provides information to a lawyer in response to a communication that merely describes the lawyer's education, experience, areas of practice, and contact information, or provides legal information of general interest. Such a person communicates information unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, and is thus not a "prospective client." Moreover, a person who communicates with a lawyer for the purpose of disqualifying the lawyer is not a 'prospective client.' See also Washington Comment [10].

[Comment 2 amended effective September 1, 2016.]

[3] It is often necessary for a prospective client to reveal information to the lawyer during an initial consultation prior to the decision about formation of a client-lawyer relationship. The lawyer often must learn such information to determine whether there is a conflict of interest with an existing client and whether the matter is one that the lawyer is willing to undertake. Paragraph (b) prohibits the lawyer from using or revealing that information, except as permitted by Rule 1.9, even if the client or lawyer decides not to proceed with the representation. The duty exists regardless of how brief the initial conference may be.

[4] In order to avoid acquiring disqualifying information from a prospective client, a lawyer considering whether or not to undertake a new matter should limit the initial consultation to only such information as reasonably appears necessary for that purpose. Where the information indicates that a conflict of interest or other reason for non-representation exists, the lawyer should so inform the prospective client or decline the representation. If the prospective client wishes to retain the lawyer, and if consent is possible under Rule 1.7, then consent from all affected present or former clients must be obtained before accepting the representation.

[Comment 4 amended effective September 1, 2016.]

[5] **[Washington revision]** **[Reserved.** Comment [5] to Model Rule 1.18 is codified, with minor modifications, as paragraph (e). See Rule 1.0A(e) for the definition of informed consent.]

[Comment 5 amended effective April 14, 2015.]

[6] Even in the absence of an agreement, under paragraph (c), the lawyer is not prohibited from representing a client with interests adverse to those of the prospective client in the same or a substantially related matter unless the lawyer has received from the prospective client information that could be significantly harmful if used in the matter.

[7] **[Washington revision]** Under paragraph (c), the prohibition in this Rule is imputed to other lawyers as provided in Rule 1.10, but, under paragraph (d)(1), imputation may be avoided if the lawyer obtains the informed consent, confirmed in writing, of both the prospective and affected clients. In the alternative, imputation may be avoided if the conditions of paragraph (d)(2) are met and all disqualified lawyers are timely screened and written notice is promptly given to the prospective client. See Rule 1.0A(k) (requirements for screening procedures). 163

Paragraph (d)(2)(i) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[Comment 7 amended effective April 14, 2015.]

[8] Notice, including a general description of the subject matter about which the lawyer was consulted, and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[9] For the duty of competence of a lawyer who gives assistance on the merits of a matter to a prospective client, see Rule 1.1. For a lawyer's duties when a prospective client entrusts valuables or papers to the lawyer's care, see Rule 1.15A.

[58] **Additional Washington Comments (10–13)**

[10] Unilateral communications from individuals seeking legal services do not generally create a relationship covered by this Rule, unless the lawyer invites unilateral confidential communications. The public dissemination of general information concerning a lawyer's name or firm name, practice area and types of clients served, and contact information, is not in itself, an invitation to convey unilateral confidential communications nor does it create a reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship.

[11] This Rule is not intended to modify existing case law defining when a client-lawyer relationship is formed. See *Bohn v. Cody*, 119 Wn.2d 357, 363, 832 P.2d 71 (1992); *In re Disciplinary Proceeding Against McGlothen*, 99 Wn.2d 515, 522, 663 P.2d 1330 (1983). See also Scope [17].

[12] For purposes of this Rule, "significantly harmful" means more than de minimis harm.

[13] Pursuant to statute or other law, government officers and employees may be entitled to defense and indemnification by the government. In these circumstances, a government lawyer may find it necessary to obtain information from a government officer or employee to determine if ~~they~~ ~~he or she~~ meets the criteria for representation and indemnification. In this situation, the government lawyer is acting on behalf of the government entity as the client, and this Rule would not apply. The government lawyer shall comply with Rule 4.3 in obtaining such information.

[Comments adopted effective September 1, 2006; Amended effective April 14, 2015.]

[1] A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements. For dishonest conduct that does not amount to a false statement or for misrepresentations by a lawyer other than in the course of representing a client, see Rule 8.4.

Statements of Fact

[2] This Rule refers to statements of fact. Whether a particular statement should be regarded as one of fact can depend on the circumstances. Under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact. Estimates of price or value placed on the subject of a transaction and a party's intentions as to an acceptable settlement of a claim are ordinarily in this category, and so is the existence of an undisclosed principal except where nondisclosure of the principal would constitute fraud. Lawyers should be mindful of their obligations under applicable law to avoid criminal and tortious misrepresentation.

Crime or Fraud by Client

[3] Under Rule 1.2(d), a lawyer is prohibited from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent. Paragraph (b) states a specific application of the principle set forth in Rule 1.2(d) and addresses the situation where a client's crime or fraud takes the form of a lie or misrepresentation. Ordinarily, a lawyer can avoid assisting a client's crime or fraud by withdrawing from the representation. Sometimes it may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm an opinion, document, affirmation or the like. In extreme cases, substantive law may require a lawyer to disclose information relating to the representation to avoid being deemed to have assisted the client's crime or fraud. If the lawyer can avoid assisting a client's crime or fraud only by disclosing this information, then under paragraph (b) the lawyer is required to do so, unless the disclosure is prohibited by Rule 1.6.

[Comments adopted September 1, 2006.]

4.2

[93] **COMMUNICATION WITH PERSON REPRESENTED BY A LAWYER**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

[Adopted effective September 1, 1985; Amended effective October 29, 2002; September 1, 2006; April 14, 2015.]

[94] **Comment**

[1] This Rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client-lawyer relationship and the uncounselled disclosure of information relating to the representation.

[2] **[Washington revision]** This Rule applies to communications with any person who is represented by a lawyer concerning the matter to which the communication relates.

[Comment 2 amended effective April 14, 2015.]

[3] **[Washington revision]** The Rule applies even though the person represented by a lawyer initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule.

[Comment 3 amended effective April 14, 2015.]

[4] **[Washington revision]** This Rule does not prohibit communication with a person represented by a lawyer or an employee or agent of such a person, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between two organizations, does not prohibit a lawyer either from communicating with nonlawyer representatives of the other regarding a separate matter. Nor does this Rule preclude communication with a person represented by a lawyer who is seeking advice from a lawyer who is not otherwise representing a client in the matter. A lawyer may not make a communication prohibited by this Rule through the acts of another. See Rule 8.4(a). Parties to a matter may communicate directly with each other, and a lawyer is not prohibited from advising a client concerning a communication that the client is legally entitled to make. Also, a lawyer having independent justification or legal authorization for communicating with a represented person is permitted to do so.

[Comment 4 amended effective April 14, 2015.]

[5] Communications authorized by law may include communications by a lawyer on behalf of a client who is exercising a constitutional or other legal right to communicate with the government. Communications authorized by law may also include investigative activities of lawyers representing governmental entities, directly or through investigative agents, prior to the commencement of criminal or civil enforcement proceedings. When communicating with the accused in a criminal matter, a government lawyer must comply with this Rule in addition to honoring the constitutional rights of the accused. The fact that a communication does not violate a state or federal constitutional right is insufficient to establish that the communication is permissible under this Rule.

[6] **[Washington revision]** A lawyer who is uncertain whether a communication with a person represented by a lawyer is permissible may seek a court order. A lawyer may also seek a court

order in exceptional circumstances to authorize a communication that would otherwise be prohibited by this Rule, for example, where communication with a person represented by a lawyer is necessary to avoid reasonably certain injury.

[Comment 6 amended effective April 14, 2015.]

[7] **[Washington revision]** In the case of a represented organization, this Rule prohibits communications with a constituent of the organization who supervises, directs or regularly consults with the organization’s lawyer concerning the matter or has authority to obligate the organization with respect to the matter. Consent of the organization’s lawyer is not required for communication with a former constituent. If a constituent of the organization is represented in the matter by ~~their~~^{his or her} [13] own lawyer, the consent by that lawyer to a communication will be sufficient for purposes of this Rule. In communicating with a current or former constituent of an organization, a lawyer must not use methods of obtaining evidence that violate the legal rights of the organization. See Rule 4.4.

[Comment amended effective April 14, 2015.]

[8] **[Washington revision]** The prohibition on communication with a person represented by a lawyer only applies in circumstances where the lawyer knows that the person is in fact represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation; but such actual knowledge may be inferred from the circumstances. See Rule 1.0A(f). Thus, the lawyer cannot evade the requirement of obtaining the consent of another lawyer by closing eyes to the obvious.

[Comment 8 amended effective April 14, 2015.]

[9] **[Washington revision]** In the event the person with whom the lawyer communicates is not known to be represented by a lawyer in the matter, the lawyer’s communications are subject to Rule 4.3.

[Comment 9 amended April 14, 2015.]

[95] **Additional Washington Comments (10 – 13)**

[10] Comment 7 to Model Rule 4.2 was revised to conform to Washington law. The phrase “or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability” and the reference to Model Rule 3.4(f) was deleted. Whether and how lawyers may communicate with employees of an adverse party is governed by *Wright v. Group Health Hospital*, 103 Wn.2d 192, 691 P.2d 564 (1984). See also Washington Comment [5] to Rule 3.4.

[Comment 10 adopted effective April 14, 2015.]

[11] **[Washington revision]** A person not otherwise represented by a lawyer to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, ~~they are~~^{he or she is} to communicate only with the limited

representation lawyer as to the subject matter within the limited scope of the representation. (The provisions of this Comment were taken from former Washington RPC 4.2(b)).

[Comment 11 amended effective April 14, 2015.]

[12] A person who is assisted by an LLLT is not represented by a lawyer for purposes of this Rule. See APR 28B(4). Therefore, a lawyer may communicate directly with a person who is assisted by an LLLT. Lawyer communication with a person who is assisted by an LLLT instead is governed by RPC 4.3 and RPC 4.4. For special considerations that may arise when a lawyer deals with a person who is assisted by an LLLT, see Rule 4.4 Comment [5].

[13] A lawyer who is representing ~~themselves~~ ~~himself or herself~~ [14] in a matter in which ~~they are he or she is~~ personally involved (“a pro se lawyer”) is “representing a client” in the matter and so is prohibited by this rule from communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order. *In re Disciplinary Proceeding Against Haley*, 156 Wn.2d 324, 333–39, 126 P.3d 1262, 1266–69 (2006). On the other hand, a lawyer who is personally involved in a matter and has retained another lawyer to represent ~~them~~ ~~him or her~~ [15] is not “representing a client,” and is permitted to communicate directly with another person the lawyer knows to be represented in the matter without the consent of the other lawyer, provided the represented lawyer is not acting as co-counsel.

[Comments adopted effective September 1, 2006.]

[96] **RPC 4.3 DEALING WITH PERSON NOT REPRESENTED BY A
LAWYER**

In dealing on behalf of a client with a person who is not represented by a lawyer, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure the services of another legal practitioner, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

[Adopted effective September 1, 1985; Amended effective October 29, 2002; September 1, 2006; April 14, 2015.]

[97] **Comment**

[1] **[Washington revision]** An unrepresented person, particularly one not experienced in dealing with legal matters, might assume that a lawyer is disinterested in loyalties or is a disinterested authority on the law even when the lawyer represents a client. In order to avoid a misunderstanding, a lawyer will typically need to identify the lawyer's client and, where necessary, explain that the client has interests opposed to those of the unrepresented person. For misunderstandings that sometimes arise when a lawyer for an organization deals with an unrepresented constituent, see Rule 1.13(f). For the definition of "unrepresented person" under this Rule, see Washington Comment [5].

[Comment 1 adopted effective September 1, 2006; Amended effective April 14, 2015.]

[2] **[Washington revision]** The Rule distinguishes between situations involving unrepresented persons whose interests may be adverse to those of the lawyer's client and those in which the person's interests are not in conflict with the client's. In the former situation, the possibility that the lawyer will compromise the unrepresented person's interests is so great that the Rule prohibits the giving of any advice, apart from the advice to obtain the services of another legal practitioner. Whether a lawyer is giving impermissible advice may depend on the experience and sophistication of the unrepresented person, as well as the setting in which the behavior and comments occur. This Rule does not prohibit a lawyer from negotiating the terms of a transaction or settling a dispute with an unrepresented person. So long as the lawyer has explained that the lawyer represents an adverse party and is not representing the person, the lawyer may inform the person of the terms on which the lawyer's client will enter into an agreement or settle a matter, prepare documents that require the person's signature and explain the lawyer's own view of the meaning of the document or the lawyer's view of the underlying legal obligations. For special considerations that may arise when a lawyer deals with a person who is assisted by an LLLT, see RPC 4.4 Comment [5].

[Comment 2 amended effective April 14, 2015.]

[98] **Additional Washington Comments (3-6)**

[3] An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a 169

written notice of appearance under which, or a written notice of time period during which, ~~they~~ ~~are he or she is~~ to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation. (The provisions of this Comment were taken from former Washington RPC 4.3(b)).

[4] Government lawyers are frequently called upon by unrepresented persons, and in some instances by the courts, to provide general information on laws and procedures relating to claims against the government. The provision of such general information by government lawyers is not a violation of this Rule.

[Comment 4 adopted effective September 1, 2006.]

[5] For purposes of this Rule, a person who is assisted by an LLLT is not represented by a lawyer and is an unrepresented person. See APR 28.

[Comment 5 adopted effective April 14, 2015; Amended effective June 4, 2019.]

[6] When a lawyer communicates with an LLLT who represents an opposing party about the subject of the representation, the lawyer should be guided by an understanding of the limitations imposed on the LLLT by APR 28, related regulations and the LLLT RPC. The lawyer should further take care not to overreach or intrude into privileged information. APR 28(K)(3) (“The Washington law of attorney-client privilege and law of a lawyer’s fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.”).

[Comment 6 adopted effective April 14, 2015; Amended effective June 4, 2019.]

(b) a lawyer having direct supervisory authority over the LLLT shall make reasonable efforts to ensure that the LLLT's conduct is compatible with the professional obligations of the lawyer and the professional obligations applicable to the LLLT directly;

(c) a lawyer shall be responsible for conduct of an LLLT that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the LLLT is employed, or has direct supervisory authority over the LLLT, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

[Adopted effective April 14, 2015.]

[121] **Comment**

[1] Lawyers may employ, hire, or associate with LLLTs. As with a lawyer's obligations under Rule 5.3 with respect to nonlawyer assistants, a lawyer with managerial authority over LLLTs must make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that LLLTs in the firm will act in a way compatible with the Rules of Professional Conduct, and a lawyer with supervisory authority over an LLLT must make reasonable efforts to ensure that the LLLT's conduct is compatible with the professional obligations of the lawyer. In addition, LLLTs are subject to the LLLT RPC and APR 28. A lawyer with managerial or supervisory authority over an LLLT is also ethically obligated to make reasonable efforts to ensure that the LLLTs conduct is compatible with those specific professional and ethical obligations.

[Comment adopted effective April 14, 2015.]

RPC 6.1

[122] **PRO BONO PUBLICO SERVICE**

Every lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay. A lawyer should aspire to render at least thirty (30) hours of pro bono publico service per year. In fulfilling this responsibility, the lawyers should:

(a) provide legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide pro bono publico service through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, or charitable, religious, civil, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate:

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

Pro bono publico service may be reported annually on a form provided by the WSBA. A lawyer rendering a minimum of fifty (50) hours of pro bono publico service shall receive commendation for such service from the WSBA.

[Adopted effective September 1, 1985; Amended effective September 1, 2006.]

[123] **Comment**

[124] **[Washington revision]** Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of ~~their~~^{his or her} [16] legal career, each lawyer should render on average per year, at a minimum, the number of hours set forth in this Rule. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation, such as postconviction death penalty appeal cases.

[125] **[Washington revision]** Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making and the provision of free training or mentoring to those who represent persons of limited means or organizations primarily representing such persons. The variety of these activities should facilitate participation by government lawyers, even when restrictions may exist on their engaging in the outside practice of law.

[126] **[Washington revision]** Persons eligible for legal services under paragraphs (a)(1) are those who qualify for services provided by a qualified legal services provider (see Washington Comment [14]) and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but nevertheless, cannot afford legal services. Legal services under paragraphs (a)(1) and (2) include those rendered to individuals or to organizations such as homeless shelters, battered women's centers and food pantries that serve those of limited means. The term "governmental organizations" includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

[Comment 3 amended effective April 14, 2015.]

[127] Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys' fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

[128] **[Washington revision]** A lawyer's responsibility under this Rule can be fulfilled either through the activities described in paragraph (a)(1) and (2) or in a variety of ways as set forth in paragraph (b).

[129] Paragraph (b)(1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural and religious groups.

[130] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this section.

[131] **[Washington revision]** Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving in a volunteer capacity on bar association committees or on boards of pro bono or legal services programs, taking part in Law Week activities, acting as an uncompensated continuing legal education instructor, an uncompensated mediator or arbitrator and engaging in uncompensated legislative lobbying to improve the law, the legal system or the profession are a few examples of the many activities that fall within this paragraph.

[132] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

[133] [10] **[Reserved.]**

[11] Law firms should act reasonably to enable and encourage all lawyers in the firm to provide the pro bono legal services called for by this Rule.

[12] The responsibility set forth in this Rule is not intended to be enforced through disciplinary process.

[134] Additional Washington Comments (13–16)

[13] Washington’s version of this Rule differs from the Model Rule. Washington’s Rule 6.1 specifies an aspirational minimum of thirty hours of pro bono publico legal services per year rather than fifty, but provides for presentation of a service recognition award to those lawyers reporting to the WSBA a minimum of fifty hours. Unlike the Model Rule, paragraph (a) of Washington’s Rule does not specify that the majority of the pro bono publico legal service hours should be provided without fee or expectation of fee. And Washington’s Rule does not include the final paragraph of the Model Rule relating to voluntary contributions of financial support to legal services organizations. The provisions of Rule 6.1 were taken from former Washington RPC 6.1 (as amended in 2003).

[14] For purposes of this Rule, a “qualified legal services provider” is a not-for-profit legal services organization whose primary purpose is to provide legal services to low-income clients.

[15] Pro bono publico service does not include services rendered for wages or other compensation by lawyers employed by qualified legal services providers (as that term is defined in Washington Comment [14]), government agencies, or other organizations as part of their employment.

[16] The amount of time spent rendering pro bono publico services should be calculated on the same basis that lawyers calculate their time on billable matters. For example, if time spent traveling to a client meeting or to a court hearing is considered to be part of the time for which a paying client would be billed, it is appropriate to include such time in calculating the number of pro bono publico service hours rendered under this Rule.

[Comments effective September 1, 2006.]

[154] **RPC 8.4 MISCONDUCT**

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
- (f) knowingly
 - (1) assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law, or
 - (2) assist or induce an LLLT in conduct that is a violation of the applicable rules of professional conduct or other law;
- (g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, honorably discharged veteran or military status, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, honorably discharged veteran or military status, or marital status. This Rule shall not limit the ability of a lawyer to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;
- (h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward judges, lawyers, or LLLTs, other parties, witnesses, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, honorably discharged veteran or military status, or marital status. This Rule does not restrict a lawyer from representing a client by advancing material factual or legal issues or arguments;
- (i) commit any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of ~~their~~^{his or her} [17] conduct as a lawyer, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent

to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;

(j) willfully disobey or violate a court order directing ~~them~~ ~~him or her~~ [18] to do or cease doing an act which ~~they~~ ~~he or she~~ ought in good faith to do or forbear;

(k) violate ~~their~~ ~~his or her~~ [19] oath as an attorney;

(l) violate a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter; including, but not limited to, the duties catalogued at ELC 1.5;

(m) violate the Code of Judicial Conduct; or

(n) engage in conduct demonstrating unfitness to practice law.

[Adopted effective September 1, 1985; Amended effective September 17, 1993; October 31, 2000; October 1, 2002; September 1, 2006; April 14, 2015; September 1, 2018.]

[155] Comments

[1] **[Washington revision]** Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Lawyers are also subject to discipline if they assist or induce an LLLT to violate the LLLT RPC. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[Comment 1 amended effective April 14, 2015.]

[156] [2] **[Reserved.]**

[3] **[Washington revision]** Legitimate advocacy respecting the factors set forth in paragraph (h) does not violate paragraphs (d) or (h). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this Rule.

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

[157] **Additional Washington Comment (6-8)**

[6] Paragraphs (g) - (n) were taken from former Washington RPC 8.4 (as amended in 2002).

[7] Under paragraph (f)(2), lawyers are also subject to discipline if they assist or induce an LLLT to violate the LLLT RPC. See also Rule 4.3 Washington Comment [6].

[Comment 7 amended effective April 14, 2015.]

[8] A lawyer who counsels a client regarding Washington's marijuana laws or assists a client in conduct that the lawyer reasonably believes is permitted by those laws does not thereby violate RPC 8.4. *See also* RPC 1.2 Washington Comment [18].

[Comment 8 adopted effective September 25, 2018.]

[Comments adopted effective September 1, 2006.]

[158] **RPC 8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW**

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

(c) Disciplinary Authority Over Judges. Notwithstanding the provisions of Rule 8.4(m), a lawyer, while serving as a judge or justice as defined in RCW 2.64.010, shall not be subject to the disciplinary authority provided for in these Rules or the Rules for Enforcement of Lawyer Conduct for acts performed in ~~their~~his or judicial capacity or as a candidate for judicial office unless judicial discipline is imposed for that conduct by the Commission on Judicial Conduct or the Supreme Court. Disciplinary authority should not be exercised for the identical conduct if the violation of the Code of Judicial Conduct pertains to the role of the judiciary and does not relate to the judge's or justice's fitness to practice law.

[Adopted effective September 1, 1985; Amended effective October 1, 2002; September 1, 2006; September 1, 2010.]

[159] **Comment***Disciplinary Authority*

[1] It is longstanding law that the conduct of a lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction. Extension of the disciplinary authority of this jurisdiction to other lawyers who provide or offer to provide legal services in this jurisdiction is for the protection of the citizens of this jurisdiction. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this Rule. See, Rules 6 and 22, ABA Model Rules for Lawyer Disciplinary Enforcement. A lawyer who is subject to the disciplinary authority of this jurisdiction under Rule 8.5(a) appoints an official to be designated by this Court to receive service of process in this jurisdiction. The fact that the lawyer is subject to the disciplinary authority of this jurisdiction may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

Choice of Law

[2] A lawyer may be potentially subject to more than one set of rules of professional conduct which impose different obligations. The lawyer may be licensed to practice in more than one jurisdiction with differing rules, or may be admitted to practice before a particular court with rules that differ from those of the jurisdiction or jurisdictions in which the lawyer is licensed to practice. Additionally, the lawyer's conduct may involve significant contacts with more than one jurisdiction.

[3] Paragraph (b) seeks to resolve such potential conflicts. Its premise is that minimizing conflicts between rules, as well as uncertainty about which rules are applicable, is in the best interest of both clients and the profession (as well as the bodies having authority to regulate the profession). Accordingly, it takes the approach of (i) providing that any particular conduct of a lawyer shall be subject to only one set of rules of professional conduct, (ii) making the determination of which set of rules applies to particular conduct as straightforward as possible, consistent with recognition of appropriate regulatory interests of relevant jurisdictions, and (iii) providing protection from discipline for lawyers who act reasonably in the face of uncertainty.

[4] Paragraph (b)(1) provides that as to a lawyer's conduct relating to a proceeding pending before a tribunal, the lawyer shall be subject only to the rules of the jurisdiction in which the tribunal sits unless the rules of the tribunal, including its choice of law rule, provide otherwise. As to all other conduct, including conduct in anticipation of a proceeding not yet pending before a tribunal, paragraph (b)(2) provides that a lawyer shall be subject to the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in another jurisdiction, the rules of that jurisdiction shall be applied to the conduct. In the case of conduct in anticipation of a proceeding that is likely to be before a tribunal, the predominant effect of such conduct could be where the conduct occurred, where the tribunal sits or in another jurisdiction.

[5] When a lawyer's conduct involves significant contacts with more than one jurisdiction, it may not be clear whether the predominant effect of the lawyer's conduct will occur in a jurisdiction other than the one in which the conduct occurred. So long as the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this Rule. With respect to conflicts of interest, in determining a lawyer's reasonable belief under paragraph (b)(2), a written agreement between the lawyer and client that reasonably specifies a particular jurisdiction as 178

within the scope of that paragraph may be considered if the agreement was obtained with the client's informed consent confirmed in the agreement.

[Comment 5 amended effective September 1, 2016.]

[6] If two admitting jurisdictions were to proceed against a lawyer for the same conduct, they should, applying this Rule, identify the same governing ethics rules. They should take all appropriate steps to see that they do apply the same rule to the same conduct, and in all events should avoid proceeding against a lawyer on the basis of two inconsistent rules.

[7] The choice of law provision applies to lawyers engaged in transnational practice, unless international law, treaties or other agreements between competent regulatory authorities in the affected jurisdictions provide otherwise.

[160] Additional Washington Comments (8–13)

[8] The Commission on Judicial Conduct is an independent agency of the judicial branch of state government. Wash. Const. art. IV, § 31; RCW 2.64.120. The Commission has authority to receive and investigate complaints of, and conduct proceedings as to, alleged violations of rules of judicial conduct by a “judge or justice”. Wash. Const. art. IV, § 31; RCW 2.64.057. The terms “judge” and “justice” are defined to include justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under RCW Titles 3 or 35, judges pro tempore, court commissioners, and magistrates, and the Commission's authority applies regardless of whether the judge or justice services full time or part time. RCW 2.64.010(4).

[9] Whether an act is performed in the judge's “judicial capacity” depends on the facts and circumstances of the conduct. In general, acts are performed in the judicial capacity ~~if they~~ ~~if they~~ involve the making of judicial decisions, the performance of judicial duties, or the discharge of administrative responsibilities in connection with judicial office. Other factors include whether the act was performed or purported to be performed in the individual's official capacity as a judge and whether the conduct is expressly governed by the Code of Judicial Conduct. With the exception of conduct committed during a judicial campaign, see Comment [12], paragraph (c) does not apply to conduct occurring prior to service as a judge, nor does it apply to conduct wholly outside of the judicial campaign.

[10] Paragraph (c) does not prevent the exercise of disciplinary authority over (1) a judge or justice after ~~they have~~ ~~he or she has~~ been disciplined for judicial misconduct by the Commission on Judicial Conduct or the Supreme Court, (2) a former judge or justice, or (3) a lawyer who serves as a pro tem or part time judge for acts performed by ~~them~~ ~~him or her~~ [20] as a lawyer and otherwise outside of ~~his or her~~ ~~their~~ [21] judicial capacity.

[161] [11] **[Reserved.]**

[12] Acts performed as a candidate for judicial office are governed by paragraph (c) if performed by a judge or a justice or a successful lawyer candidate for judicial office. This rule has no application to acts performed by an unsuccessful lawyer candidate for judicial office.

[13] Paragraph (c) applies to judges and justices defined to be within the jurisdiction of the Commission on Judicial Conduct under Wash. Const. art. IV, § 31 and Title 2.64 RCW and is 179

not intended to apply to other lawyers in this state designated as judges, including but not limited to federal judges, administrative law judges, and tribal judges.

[Comments adopted effective September 1, 2006; Amended effective September 1, 2010.]

ELC 2.2 BOARD OF GOVERNORS; DISCIPLINARY SELECTION PANEL

(a) Function. The Board of Governors of the Association:

- (1) through the Executive Director, provides administrative and managerial support to enable the Office of Disciplinary Counsel, the Disciplinary Board, review committees, and other Association staff and appointees to perform the functions specified by these rules;
- (2) makes appointments, removes those appointed, and fills vacancies as provided in these rules; and
- (3) performs other functions and takes other actions provided in these rules, delegated by the Supreme Court, or necessary and proper to carry out its duties.

(b) Limitation of Authority. The Board of Governors, officers of the Association, and the Executive Director of the Association have no right or responsibility to direct the investigations, prosecutions, appeals, or discretionary decisions of the Office of Disciplinary Counsel under these rules, or to review hearing officer, review committee, or Disciplinary Board decisions or recommendations in specific cases.

(c) Restrictions on Discipline-System Appointments. After leaving office, Association officers and Executive Director and Board of Governors members cannot serve as hearing officers, Disciplinary Board members, or Conflicts Review Officers until three years have expired after departure from office.

(d) Restriction on Advising or Representing Respondents or Grievants. Current and former members of the Board of Governors, Executive Directors, and officers of the Association are subject to the restrictions set forth in rule 2.14.

(e) Disciplinary Selection Pane. The Disciplinary Selection Panel makes recommendations to the Board of Governors for appointment, reappointment, and removal of Disciplinary Board members, hearing officers, chief hearing officer, and Conflicts Review Officers. The Panel is appointed by the Supreme Court, upon the recommendation of the Board of Governors, shall include a Board of Governors member who serves as its chair, and should include, without limitation, one or more former Chairs of the Disciplinary Board, one or more current or former hearing officers, and one or more former nonlawyer members of the Disciplinary Board.

(f) Diversity. The Disciplinary Selection Panel and the Board of Governors considers diversity in gender, ethnicity, disability status, sexual orientation, geography, area of practice, and practice experience, when making appointments under Rules 2.2, 2.3, 2.5, 2.7, and 2.9.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; September 1, 2015.]

ELC 2.3

DISCIPLINARY BOARD

(a) **Function.** The Board performs the functions provided under these rules, delegated by the Supreme Court, or necessary and proper to carry out its duties.

(b) **Membership.**

(1) *Composition.* The Board consists of not fewer than four nonlawyer members, appointed by the Court, and not fewer than ten lawyers, appointed by the Court, upon the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel.

(2) *Qualifications.* A lawyer Board member must be an Active member of the Association, have been an Active or Judicial member of the Association for at least five years, and have no record of public discipline.

(3) *Voting.* Each member, including the Chair and the Vice Chair, whether nonlawyer or lawyer, has one vote. Recused members may not attend or participate in the Board's deliberations on a matter. Board staff may attend Board deliberations, to serve as a resource.

(4) *Quorum.* A majority of the Board members constitutes a quorum. If there is a quorum, the concurrence of a majority of those present and voting constitutes action of the Board, so long as at least seven members vote.

(5) *Leave of Absence While Grievance Is Pending.* If a grievance is filed against a lawyer member of the Board, the following procedures apply:

(A) The member initially decides whether to remain on the Board or take a leave of absence until the matter is resolved.

(B) If the member chooses to remain on the Board, the Conflicts Review Officer who is conducting the review of the grievance under rule 2.7 must promptly provide a confidential summary of the grievance to a different Conflicts Review Officer who is not conducting the review. A copy of the summary is provided to the member at the same time.

(C) The Conflicts Review Officer who is not conducting the review of the grievance should then, or at any time thereafter as deemed appropriate, determine if the member is so impaired from serving on the Disciplinary Board that the member should take, or continue to take, a leave of absence to protect the integrity of the discipline system. In making this determination, the Conflicts Review Officer should consider, among other things, the facts, circumstances, and nature of the misconduct alleged, the possible outcome, and the extent of public concern regarding the matter.

(D) The Conflict Review Officer's determination is confidential. All materials used in connection with such a determination are confidential unless released under rule 3.4(d) or (e).

(c) **Terms of Office.** The term of office for a Board member is three years. Newly created Board positions may be filled by appointments of less than three years, as designated by the Court, to permit as equal a number of positions as possible to be filled each year. Terms of

office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later. Members may not serve more than one term except as otherwise provided in these rules. Members continue to serve until replaced, except a member's term of office ends immediately if a disciplinary sanction is imposed.

(d) Chair. The Supreme Court, upon the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, annually designates one lawyer member of the Board to act as Chair and another as Vice Chair. The Vice Chair serves in the absence of or at the request of the Chair.

(e) Unexpired Terms. The Supreme Court, upon the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, fills unexpired terms in membership on the Board. A member appointed to fill an unexpired term will complete the unexpired term of the member replaced, and may be reappointed to a consecutive term if the unexpired term is less than 18 months.

(f) Pro Tempore Members. If a Board member is disqualified or unable to function, the Chair may, by written order, designate a member pro tempore. A member pro tempore must have previously served on the Board. Only a lawyer may be appointed to substitute for a lawyer member, and only a nonlawyer to substitute for a nonlawyer member.

(g) Meetings. The Board meets regularly at times and places it determines. The Chair may convene special Board meetings. In the Chair's discretion, the Board may meet and act through electronic, telephonic, written, or other means of communication.

(h) Disqualification. A Board member should disqualify ~~themselves~~ ~~him~~ ~~or herself~~ from a particular matter in which the member's impartiality might reasonably be questioned, -including, but not limited to, instances in which:

- (1) the member has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the matter;
- (2) the member previously served as a lawyer or was a material witness in the matter in controversy, or a lawyer with whom the member practices law serves or has previously served as a lawyer concerning the matter, or such lawyer is or has been a material witness concerning the matter;
- (3) the member knows that, individually or as a fiduciary, the member or the member's spouse or relative residing in the member's household, has an economic interest in the subject matter in controversy or in a party to the matter, or is an officer, director, or trustee of a party or has any other interest that could be substantially affected by the outcome of the matter, unless there is a remittal of disqualification under subsection (i);
- (4) the member or the member's spouse or relative residing in the member's household, or the spouse of such a person:

(A) is a party to the matter, or an officer, director, or trustee of a party;

(B) is acting as a lawyer in the matter;

(C) is to the member's knowledge likely to be a material witness in the matter;

(5) the member served as a hearing officer for a hearing on the matter, or served on a review committee that issued an admonition to the lawyer regarding the matter.

(i) Remittal of Disqualification. A member disqualified under subsection (h)(3) or (h)(4) may, instead of withdrawing from consideration of the matter, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the member's participation, all agree in writing or on the record that the member's relationship is immaterial or that the member's economic interest is de minimis, the member is no longer disqualified, and may participate in the matter. If a party is not immediately available, the member may proceed on the assurance of the party's counsel that the party's consent will be subsequently given.

(j) Counsel and Clerk. The Executive Director of the Association may appoint a suitable person or persons to act as counsel and clerk to the Board, to assist the Board and the review committees in carrying out their functions under these rules.

(k) Restriction on Representing or Advising Respondents or Grievants. Current and former members of the Disciplinary Board are subject to the restrictions on representing respondents in rule 2.14.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 2.4 REVIEW COMMITTEES

- (a) **Function.** A review committee performs the functions provided under these rules, delegated by the Board or the Chair, or necessary and proper to carry out its duties.
- (b) **Membership.** The Chair appoints three or more review committees of three members each from among the Board members. Each review committee consists of two lawyers and one nonlawyer. The Chair may reassign members among the several committees on an interim or permanent basis. The Chair does not serve on a review committee.
- (c) **Review Committee Chair.** The Chair of the Disciplinary Board designates one member of each review committee to act as its chair.
- (d) **Terms of Office.** A review committee member serves as long as the member is on the Board.
- (e) **Distribution of Cases.** The Clerk assigns matters to the several review committees under the Chair's direction, equalizing the committee's caseloads as possible.
- (f) **Meetings.** A review committee meets at times and places determined by the review committee chair, under the general direction of the Chair of the Disciplinary Board. In the review committee chair's discretion, the committee may meet and act through electronic, telephonic, written, or other means of communication. A majority of a review committee constitutes a quorum. A review committee can act only upon at least two affirmative votes.
- (g) **Adjunct Review Committee Members.** Notwithstanding other provisions of these rules, if deemed necessary to the efficient operation of the discipline system, the Board may authorize the Chair to appoint former Board members as adjunct review committee members for a period deemed necessary by the Chair, but those appointments terminate at the end of the term of the Chair making the appointment. The Chair may remove adjunct review committee members when deemed appropriate. The Chair may appoint adjunct review committee members to existing review committees or may create adjunct review committees. An adjunct member has the same authority as a regular review committee member and must comply with rule 2.3(b)(5) but is not otherwise a Board member.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 2.5 HEARING OFFICERS

- (a) **Function.** A hearing officer to whom a case has been assigned for hearing conducts the hearing and performs other functions as provided under these rules.
- (b) **Qualifications.** A hearing officer must be an active member of the Association, have been an active or judicial member of the Association for at least seven years, have no record of public discipline, and have experience as an adjudicator or as an advocate in contested adjudicative hearings.

(c) **Appointment.** The Supreme Court, upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, appoints hearing officers to the hearing officer list. The list should include as many lawyers as necessary to carry out the provisions of these rules effectively and efficiently.

(d) **Terms of Appointment.** Appointment to the hearing officer list is for an initial period of two years, followed by periods of four years. Reappointment is in the discretion of the Supreme Court upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel. A hearing officer may continue to act in any matter assigned before ~~their~~ ~~his or her~~ term expires. On the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, the Supreme Court may remove a person from the list of hearing officers.

(e) **Chief Hearing Officer.**

(1) *Appointment.* The Supreme Court, upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, appoints a chief hearing officer for a renewable term of two years. The person appointed as chief hearing officer must meet the qualifications for hearing officers set forth in paragraph (b) above, have significant experience in the adjudication of contested matters, and have substantial administrative and managerial skills. If the chief hearing officer position is vacant or the chief hearing officer has recused or been disqualified from a particular matter, the Chair may, as necessary, perform the duties of chief hearing officer.

(2) *Duties and Authority.* The chief hearing officer:

- (A) hears matters,
- (B) assigns cases,
- (C) monitors and evaluates hearing officer performance,
- (D) hears motions for hearing officer disqualification,
- (E) hears prehearing motions when no hearing officer has been assigned,
- (F) hears motions for protective orders under rule 3.2(e),
- (G) hears motions prior to a matter being ordered to hearing, including while a grievance is being investigated,
- (H) hears requests for amendment of formal complaints under rule 10.7(c),
- (I) approves stipulations to discipline not involving suspension or disbarment as provided by rule 9.1(d)(2),

- (J) responds to hearing officer requests for information or advice related to their duties,
- (K) supervises hearing officer training in accordance with established policies, and
- (L) performs other duties as the chief hearing officer deems necessary for an efficient and effective hearing system.

(f) Case Assignment. The chief hearing officer assigns hearing officers to cases from the list of hearing officers appointed by the Supreme Court. The chief hearing officer shall be given confidential notice of any grievances filed against any hearing officers, and the ultimate disposition of those grievances, and shall consider this information when making assignments.

(g) Training. Hearing officers must comply with training requirements established by the chief hearing officer.

(h) Staff. The Executive Director of the Association may appoint a suitable person or persons to assist the hearing officers and the chief hearing officer in carrying out their functions under these rules.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; September 1, 2017.]

ELC 2.7 CONFLICTS REVIEW OFFICER

(a) Function. Conflicts Review Officers review grievances filed against disciplinary counsel and other lawyers employed by the Association, hearing officers, conflicts review officers and conflicts review officers pro tempore, members of the Disciplinary Board, officers and members of the Board of Governors, and staff, attorneys, and judicial officers of the Supreme Court. Conflicts Review Officers also review grievances filed against persons who have been assigned cases as adjunct disciplinary or special disciplinary counsel, or appointed in disability matters pursuant to ELC 8.2(c)(2), at the time the grievance is filed. A Conflicts Review Officer performs other functions as set forth in these rules.

(1) *Authority.* The Conflicts Review Officer's duties are limited to performing the initial review of grievances covered by this Rule. A Conflicts Review Officer may, under rule 5.3(b), obtain the respondent lawyer's response to the grievance, if ~~they~~ ~~he/she~~ feels it ~~is~~ necessary to do so, in ~~their~~ ~~his/her~~ sole discretion. A Conflicts Review Officer may dismiss the grievance under rule 5.7(a), defer the investigation under rule 5.3(d), or assign the grievance to special disciplinary counsel for investigation under rules 2.8(b) and 5.3. If a grievant requests review of a dismissal under rule 5.7(b), the Conflicts Review Officer may either reopen the matter for investigation or refer it to a review committee under that rule.

(2) *Independence.* Conflicts Review Officers act independently of disciplinary counsel and the Association.

(b) Appointment and Qualifications.

(1) The Supreme Court, on the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, shall appoint three active members of the Association as Conflicts Review Officers. Each Conflicts Review Officer is appointed for a three-year term on a staggered basis, and may be recommended for reappointment at the discretion of the Board of Governors. Applications shall be solicited from those eligible to serve, and submitted to the Board of Governors, in such manner as the Association deems most appropriate under the policies and procedures then in effect for recruitment and appointment of volunteers in the discipline system.

(2) When no Conflicts Review Officer is available to handle a matter due to conflict of interest or other good cause, the Supreme Court, on the recommendation of the Board of Governors, shall appoint a Conflicts Review Officer pro tempore for the matter.

(3) To be eligible for appointment as Conflicts Review Officer or Conflicts Review Officer pro tempore, a lawyer must have prior experience as a Disciplinary Board member, disciplinary counsel, or special disciplinary counsel. Conflicts Review Officers and Conflicts Review Officers pro tempore may have no other active role in the discipline system during the term of appointment.

(c) Counsel and Clerk; Assignment of Cases. The Association shall assign matters to the Conflicts Review Officers in such a manner as to balance their caseloads insofar as it is

practicable to do so. The Executive Director of the Association may appoint a suitable person or persons to act as counsel and clerk to the Conflicts Review Officers, to assist them in carrying out their functions under these rules.

(d) Access to Disciplinary Information. Conflicts Review Officers and Conflicts Review Officers pro tempore have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. Conflicts Review Officers and Conflicts Review Officers pro tempore shall return original files to the Association promptly upon completion of the duties required by these rules and shall not retain copies.

(e) Compensation and Expenses. The Association reimburses Conflicts Review Officers and Conflicts Review Officers pro tempore for all necessary and reasonable expenses, and may provide compensation at a level established by the Board of Governors.

(f) Restriction on Representing or Advising Respondents or Grievants. Current Conflicts Review Officers are subject to the restrictions set forth in rule 2.14. Members serving as Conflicts Review Officer pro tempore are subject to the same restriction while serving in that capacity.

[Adopted effective October 1, 2002; Amended effective January 12, 2010; January 1, 2014; January 1, 2015; September 1, 2017.]

The power granted by these rules to any person, committee, or board to make any appointment includes the power to remove the person appointed whenever that person appears unwilling or unable to perform their ~~his or her~~ duties, or for any other cause, and to fill the resulting vacancy.

[Adopted effective October 1, 2002.]

located in the county where the lawyer practiced, or the judge of any other court in which the lawyer may have practiced or is known to have practiced.

[Adopted effective October 2, 2002; Amended effective January 1, 2014.]

ELC 3.6 MAINTENANCE OF RECORDS

(a) Permanent Records. In any matter in which a disciplinary sanction or admonition has been imposed or the lawyer has resigned in lieu of discipline under rule 9.3, the bar file and transcripts of the proceeding are permanent records. Related file materials, including investigative files, may be maintained in disciplinary counsel's discretion. Exhibits may be returned to the party supplying them, but copies should be retained where possible.

(b) Destruction of Grievance and Investigation Files. In any matter in which a grievance or investigation has been dismissed without the imposition of a disciplinary sanction or admonition, whether following a hearing or otherwise, file materials relating to the matter may be destroyed three years after the dismissal first occurred, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. However, file materials on a matter dismissed after a diversion must be retained at least five years after the dismissal.

(c) Retention of Docket. If a file on a matter has been destroyed under section (b), the Association may retain a docket record of the matter for statistical purposes only. That docket record must not include the name or other identification of the respondent.

(d) Destruction of Random Examination Files. In any random examination matter concluded under rule 15.1 without a disciplinary grievance being ordered, the file materials relating to the matter may be destroyed three years after the matter was concluded, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. In any random examination matter that a review committee directs be made the subject of a disciplinary grievance, the materials related to the random examination will be made part of the disciplinary grievance. A docket, limited to the name of the lawyer and any law firm examined or reexamined under rule 15.1, together with the date the examination or reexamination was concluded, will be maintained for a period of seven years for the purpose of determining prior examinations under rule 15.1(b).

(e) Review. If disciplinary counsel opposes a request by a respondent for destruction of files under this rule, the Board rules on that request.

(f) Deceased Lawyers. Records and files relating to a deceased lawyer, including permanent records, may be destroyed at any time in disciplinary counsel's discretion.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; December 8, 2015.]

ELC 4.1

SERVICE OF PAPERS

(a) **Service Required.** Every pleading, every paper relating to discovery, every written request or motion other than one which may be heard ex parte, and every similar paper or document issued by disciplinary counsel or the respondent lawyer under these rules must be served on the opposing party. If a hearing is pending and a hearing officer has been assigned, except for discovery, the party also must serve a copy on the hearing officer.

(b) **Methods of Service.**

(1) *Service by Mail.*

(A) Unless personal service is required or these rules specifically provide otherwise, service may be accomplished by postage prepaid mail. If properly made, service by mail is deemed accomplished on the date of mailing and is effective regardless of whether the person to whom it is addressed actually receives it.

(B) Service by mail may be by first class mail or by certified or registered mail, return receipt requested.

(C) The address for service by mail is as follows:

(i) for the respondent, or ~~their his or her~~ attorney of record, the address in the answer, a notice of appearance, or any subsequent document filed by the respondent or ~~their his or her~~ attorney; or, in the absence of an answer, the respondent's address on file with the Association;

(ii) for disciplinary counsel, at the address of the Association or other address that disciplinary counsel requests;

(iii) for a hearing officer assigned to a matter, at the address of the hearing officer set forth on the notice of assignment of the hearing officer, or such other address as the hearing officer directs; and

(iv) for the chief hearing officer, the Chair, the Board, a review committee, Association counsel, or any other person or entity acting under the authority of these rules, addressed to that person or entity in care of the Clerk at the address of the Association.

(1) *Service by Delivery.* If service by mail is permitted, service may instead be accomplished by leaving the document at the address for service by mail.

(2) *Personal Service.* Personal service on a respondent is accomplished as follows:

(A) if the respondent is found in Washington State, by personal service in the manner required for personal service of a summons in a civil action in the superior court;

(B) if the respondent cannot be found in Washington State, service may be made either by:

- (i) leaving a copy at the respondent's place of usual abode in Washington State with a person of suitable age and discretion then resident therein; or
- (ii) mailing by registered or certified mail, postage prepaid, a copy addressed to the respondent at ~~their~~ ~~his or her~~ last known place of abode, office address maintained for the practice of law, post office address, or address on file with the Association, or to the respondent's resident agent whose name and address are on file with the Association under APR 5(f).

(C) if the respondent is found outside of Washington State, then by the methods of service described in (A) or (B) above.

(c) Service Where Question of Mental Competence. If the Superior Court has appointed a guardian or guardian ad litem for a respondent, service under sections (a) and (b) above must also be made on the guardian or guardian ad litem.

(d) Proof of Service. If personal service is required, proof of service may be made by affidavit of service, sheriff's return of service, or a signed acknowledgment of service. In other cases, proof of service may also be made by certificate of a lawyer similar to that allowed by CR 5(b)(2)(B), which certificate must state the form of mail used. Proof of service in all cases must be filed but need not be served on the opposing party.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

Service and filing of papers under these rules by an ~~individual incarcerated?~~ ~~incarcerated~~ ~~person~~ ~~[2]~~ ~~inmate~~ ~~confined~~ in an institution will conform to the requirements of GR 3.1.

[Adopted effective January 1, 2014.]

ELC 5.1 GRIEVANTS

- (a) **Filing of Grievance.** Any person or entity may file a grievance against a lawyer who is subject to the disciplinary authority of this jurisdiction.
- (b) **Consent to Disclosure.**
- (1) Subject to paragraph (2), by filing a grievance, the grievant consents to disclosure of all information submitted. This includes disclosure to the respondent lawyer or to any person under rules 3.1 – 3.4.
- (2) Disclosure may be specifically restricted, such as:
- (A) when a protective order is issued under rule 3.2(e); or
- (B) when the grievance was filed under rule 5.2; or
- (C) when necessary to protect a compelling privacy or safety interest of a grievant or other individual.
- (3) By filing a grievance, the grievant also agrees that the respondent or any other lawyer contacted by the grievant may disclose to disciplinary counsel any information relevant to the investigation, unless a protective order is issued under rule 3.2(e).
- (4) Consent to disclosure under this rule by submitting information to disciplinary counsel does not constitute a waiver of any privilege or restriction against disclosure in any other forum.

(c) Grievant Rights. A grievant has the following rights:

- (1) to be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;
- (2) to have a reasonable opportunity to communicate with the person assigned to the grievance, by telephone, in person, or in writing, about the substance of the grievance or its status;
- (3) to receive a copy of any response submitted by the respondent, subject to the following:
- (A) **Withholding Response.** Disciplinary counsel may withhold all or a portion of the response from the grievant when:
- (i) the response refers to information protected by RPC 1.6 or RPC 1.9 to which the grievant is not privy; or
- (ii) the response contains information of a personal and private nature about the respondent or others; or

- (iii) the interests of justice would be better served by not releasing the response.

(B) Challenge to Disclosure Decision. Either the grievant or the respondent may file a challenge to disciplinary counsel's decision to withhold or not withhold all or a portion of a grievance or response within 20 days of the date of mailing of the decision. The challenge shall be resolved by a review committee, unless the matter has previously been dismissed under rule 5.6 or the time period for submitting a request for review of a dismissal has expired under rule 5.7(b).

- (4) to attend any hearing conducted into the grievance, subject to these rules and any protective order issued under rule 3.2(e), except that if the grievant is also a witness, the hearing officer may order the grievant excluded during the testimony of any other witness whose testimony might affect the grievant's testimony;
- (5) to provide relevant testimony at any hearing conducted into the grievance, subject to these rules and any protective order issued under rule 3.2(e);
- (6) to be notified of any proposed decision to refer the respondent to diversion and to be given a reasonable opportunity to submit to disciplinary counsel a written comment thereon;
- (7) to be advised of the disposition of the grievance; and
- (8) to request reconsideration of a dismissal of the grievance as provided in rule 5.7(b).

(d) Duties. A grievant should do the following:

- (1) give the person assigned to the grievance documents or other evidence in their his or her possession, and witnesses' names and addresses;
- (2) assist in securing relevant evidence; and
- (3) appear and testify at any hearing resulting from the grievance.

(e) Vexatious grievants.

- (1) The Chair of the Disciplinary Board may enter an order declaring an individual or entity a vexatious grievant and restraining that individual from filing grievances or pursuing other rights under this rule, pursuant to the procedures set out in this subsection. A "vexatious grievant" is a person or entity who has engaged in a frivolous or harassing course of conduct that so departs from a reasonable standard of conduct as to render the grievant's conduct abusive to the disciplinary system or participants in the disciplinary system.
- (2) Either disciplinary counsel or a lawyer who has been the subject of a grievance may file a motion to declare the grievant vexatious.
- (3) The motion must set forth with particularity (A) the facts establishing that the grievant's

conduct is vexatious and (B) the restrictions on the grievant's conduct that are sought.

- (4) The moving party must serve a copy of the motion on the grievant. If the motion is filed by a respondent lawyer, the motion must also be served on disciplinary counsel. Service may be made by first class mail.
- (5) The grievant, disciplinary counsel, and the respondent lawyer shall have 20 days to file a written response.
- (6) If the Chair finds that the person is a vexatious grievant, the Chair shall enter an order setting out with particularity (A) the factual basis for such finding, (B) the restrictions imposed on the grievant's conduct, and (C) the basis for imposing such restrictions. The restrictions must be no broader than necessary to prevent the harassment and abuse found.
- (7) The moving party, the grievant, and the disciplinary counsel may seek review of the Chair's order by a petition for discretionary review under rule 12.4. No other appeal of the order shall be allowed.
- (8) The fact that a person or entity has been determined to be a vexatious grievant and the scope of any restrictions imposed shall be public information. All other proceedings and documents related to a motion under this subsection are confidential.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; January 1, 2014; January 1, 2015.]

(f) Action Final. Except as provided in subsection (e), a review committee's action under this rule is final and not subject to further review.

[Adopted effective October 1, 2002; Amended and Renumbered from 5.6 to 5.7 effective January 1, 2014.]

ELC 5.8 ADVISORY LETTER

(a) Grounds. An advisory letter may be issued by a review committee when:

(1) a respondent lawyer's conduct constitutes a violation, but does not warrant an admonition or sanction, but it appears appropriate to caution a respondent lawyer concerning ~~their~~ his or her conduct; or

(2) a respondent lawyer's conduct does not constitute a violation but the lawyer should be cautioned.

(b) Review Committee. An advisory letter may only be issued by a review committee. An advisory letter may not be issued when a grievance is dismissed following a hearing.

(c) Effect. An advisory letter is not a sanction and is not disciplinary action. An advisory letter is not public information, and may not be introduced into evidence in any subsequent disciplinary hearing.

[Adopted effective October 1, 2002; Amended and renumbered from 5.7 to 5.8 effective January 1, 2014.]

ELC 8.1 ACTION ON ADJUDICATION OF INCOMPETENCY OR INCAPACITY

(a) Grounds. The Association must automatically transfer a lawyer from active to disability inactive membership status upon receipt of a certified copy of the judgment, order, or other appropriate document demonstrating that the lawyer:

- (1) was found to be incapable of assisting in ~~their~~ ~~his or her~~ own defense in a criminal action;
- (2) was acquitted of a crime based on insanity^[PM3];
- (3) had a guardian (but not a limited guardian) appointed for ~~themselves~~ ~~his or her person~~ or ~~their~~ estate on a judicial finding of incapacity;
- (4) was involuntarily committed to a mental health facility for more than 14 days under 71.05 RCW; or
- (5) was found to be mentally incapable of conducting the practice of law in any other jurisdiction.

(b) Notice to Lawyer. The Association must forthwith notify the disabled lawyer and ~~their~~ ~~his or her~~ guardian or guardian ad litem, if any, of the transfer to disability inactive status. The Association must also notify the Supreme Court of the transfer and provide a copy of the judgment, order, or other appropriate document on which the transfer was based.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 8.2 DETERMINATION OF INCAPACITY TO PRACTICE LAW

(a) **Review Committee May Order Hearing.** Disciplinary counsel reports to a review committee on investigations into an active, suspended, or inactive respondent lawyer's mental or physical capacity to practice law. Subject to rule 5.2, the respondent lawyer and ~~their his or her~~ guardian or guardian ad litem, if any, shall be provided with a complete copy of disciplinary counsel's report and shall be afforded a reasonable opportunity to respond prior to the review committee taking action on the report. The committee orders a hearing if it appears there is reasonable cause to believe that the respondent does not have the mental or physical capacity to practice law. In other cases, the committee may direct further investigation as appears appropriate or dismiss the matter.

(b) **Not Disciplinary Proceedings.** Proceedings under this rule are not disciplinary proceedings.

(c) **Procedure.**

(1) *Applicable Rules and Case Caption.* Proceedings under this rule are conducted under the procedural rules for disciplinary proceedings except that the respondent lawyer's initials are to be used in the case caption rather than the lawyer's full name.

(2) *Appointment of Counsel.* If counsel for the respondent does not appear within the time for filing an answer, the Chair must appoint an active member of the Association as counsel for the respondent under rule 8.10.

(3) *Health Records.* After a review committee orders a hearing under this rule, disciplinary counsel may require the respondent to furnish written releases and authorizations for medical, psychological, or psychiatric records as may be relevant to the inquiry, subject to a motion to the hearing officer, or if no hearing officer has been appointed, to the chief hearing officer, to limit the scope of the requested releases or authorizations for good cause.

(4) *Examination.* Upon motion, the hearing officer, or if no hearing officer has been appointed, the chief hearing officer, may order an examination by a physician of the respondent's physical condition or by a mental health professional (as defined by RCW 71.05.020) of the respondent's mental condition to assist in determining the respondent's capacity to practice law. Unless waived by the parties, the examiner must submit a report of the examination, including the results of any tests administered and any diagnosis, to the hearing officer, disciplinary counsel, and the respondent.

(5) *Hearing Officer Recommendation.* If the hearing officer finds that the respondent does not have the mental or physical capacity to practice law, the hearing officer must recommend that the respondent be transferred to disability inactive status.

(6) *Appeal Procedure.* Either respondent or disciplinary counsel may appeal from a final determination of the hearing officer as to the respondent's capacity to practice law. The procedures for appeal and review of suspension recommendations apply to such appeals.

(7) *Transfer Following Board Review.* If, after review of the decision of the hearing officer, the Board finds that the respondent does not have the mental or physical capacity to practice law, it must enter an order immediately transferring the respondent to disability inactive status. The transfer is effective upon service of the order under rule 4.1.

(d) Interim Suspension.

(1) When a review committee orders a hearing on the capacity of a respondent to practice law, disciplinary counsel must petition the Supreme Court for the respondent's interim suspension under rule 7.2(a) unless the respondent is already suspended on an interim basis.

(2) Even if the Court previously denied a petition for interim suspension under subsection (d)(1), disciplinary counsel may petition the Court for the interim suspension of a respondent under rule 7.2(a)(3) if the respondent fails:

(A) to appear for an independent examination under this rule;

(B) to waive health care provider-patient privilege as required by this rule; or

(C) to appear at a hearing under this rule.

(e) Termination of Interim Suspension. If the hearing officer files a decision recommending that a respondent placed on interim suspension under this rule not be transferred to disability inactive status, upon either party's petition the Court may terminate the interim suspension.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 8.3 DISABILITY PROCEEDINGS DURING COURSE OF DISCIPLINARY PROCEEDINGS

(a) **Supplemental Proceedings on Capacity To Defend.** A hearing officer, or chief hearing officer if no hearing officer has been appointed, must order a supplemental proceeding on the respondent lawyer's capacity to defend the disciplinary proceedings if the respondent asserts, or there is reasonable cause to believe, that the respondent is incapable of properly defending the disciplinary proceeding because of mental or physical incapacity. A different hearing officer shall be appointed for the supplemental proceeding.

(b) **Purpose of Supplemental Proceedings.** In a supplemental proceeding, the hearing officer determines if the respondent:

- (1) is incapable of defending ~~himself or herself~~ themselves in the disciplinary proceedings because of mental or physical incapacity;
- (2) is incapable, because of mental or physical incapacity, of defending against the disciplinary charges without the assistance of counsel; or
- (3) is currently unable to practice law because of mental or physical incapacity.

(c) **Not Disciplinary Proceedings.** Proceedings under this rule are not disciplinary proceedings.

(d) **Procedure for Supplemental Proceedings.**

(1) *Applicable Rules and Case Caption.* Proceedings under this rule are conducted under the procedural rules for disciplinary proceedings except that the respondent lawyer's initials are to be used in the case caption rather than the lawyer's full name.

(2) *Effect on Pending Disciplinary Matters.* Pending the outcome of the supplemental proceedings, the hearing officer, or the chief hearing officer if no hearing officer has been appointed, must order any disciplinary proceedings pending against the respondent stayed. Disciplinary counsel may defer any pending disciplinary investigation in accordance with the provisions of rule 5.3(d).

(3) *Appointment of Counsel.* If counsel for the respondent does not appear within 20 days of notice to the respondent of the issues to be considered in a supplemental proceeding under this rule, or within the time for filing an answer, the Chair must appoint an active member of the Association as counsel for the respondent in the supplemental proceedings under rule 8.10.

(4) *Health Records.* Disciplinary counsel may require the respondent to furnish written releases and authorizations for medical, psychological, or psychiatric records as may be relevant to the determination under subsection (b), subject to a motion to the hearing officer to limit the scope of the requested releases or authorizations for good cause. If the respondent asserted incapacity, there is a rebuttable presumption that good cause does not exist.

(5) *Examination.* Upon motion, the hearing officer may order an examination by a physician of the respondent's physical condition or by a mental health professional (as defined by RCW 71.05.020) of the respondent's mental condition to assist in the determinations to be made under subsection (b). Unless waived by the parties, the examiner must submit a report of the examination, including the results of any tests administered and any diagnosis, to the hearing officer, disciplinary counsel, and the respondent.

(6) *Failure To Appear or Cooperate.* If the respondent fails to appear for an independent examination, fails to waive health care provider-patient privilege as required in these rules, or fails to appear at the hearing, unless the procedure under rule 8.10(d) is followed the following procedures apply:

(A) If the Association has the burden of proof, the hearing officer must hold a hearing and, if presented with sufficient evidence to determine incapacity, order the respondent transferred to disability inactive status. If there is insufficient evidence to determine incapacity, the hearing officer must enter an order terminating the supplemental proceedings and reinstating the disciplinary proceedings. A respondent who does not appear at the hearing may move to vacate the order of transfer under rule 10.6(c).

(B) If the respondent has the burden of proof, the hearing officer must enter an order terminating the supplemental proceedings and resuming the disciplinary proceedings.

(7) *Hearing Officer Decision.*

(A) *Capacity To Defend and Practice Law.* If the hearing officer finds that the respondent is capable of defending ~~themselves~~ and has the mental and physical capacity to practice law, the disciplinary proceedings resume.

(B) *Capacity To Defend with Counsel.* Regardless of the hearing officer's determination as to mental or physical capacity to practice law, if the hearing officer finds that the respondent is not capable of defending ~~themselves~~ in the disciplinary proceedings but is capable of adequately assisting counsel in the defense, the supplemental proceedings are dismissed and the disciplinary proceedings resume. If counsel does not appear on behalf of the respondent within 20 days of service of the hearing officer's decision, the Chair must appoint an active member of the Association as counsel for the respondent in the disciplinary proceeding.

(C) *Finding of Incapacity.* If the hearing officer finds that the respondent either does not have the mental or physical capacity to practice law, or is incapable of assisting counsel in properly defending a disciplinary proceeding because of mental or physical incapacity, the hearing officer must recommend that the respondent be transferred to disability inactive status.

(D) *Review and Appeals.* Either respondent or disciplinary counsel may appeal from a final determination of the hearing officer as to the respondent's capacity to practice law or respondent's capacity to defend a disciplinary proceeding. The procedures for appeal and review of suspension recommendations shall apply.

(8) *Transfer Following Board Review.*

(A) The Board must enter an order immediately transferring the respondent to disability inactive status if after review of a hearing officer's recommendation of transfer to disability inactive status, the Board finds that the respondent:

(i) does not have the mental or physical capacity to practice law; or

(ii) is incapable of assisting counsel in properly defending a disciplinary proceeding because of mental or physical incapacity.

(B) The transfer is effective upon service of the order on the respondent under rule 4.1.

(e) Interim Suspension. When supplemental proceedings have been ordered, disciplinary counsel must petition the Supreme Court for the respondent's interim suspension under rule 7.2(a)(1) or seek automatic suspension under rule 7.3 unless the respondent is already suspended on an interim basis.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 9.3 RESIGNATION IN LIEU OF DISCIPLINE

(a) **Grounds.** A respondent lawyer who desires not to contest or defend against allegations of misconduct may, at any time before the answer in any disciplinary proceeding is due, or thereafter with disciplinary counsel's consent, resign ~~their his or her~~ membership in the Association in lieu of further disciplinary proceedings.

(b) **Process.** The respondent first notifies disciplinary counsel that the respondent intends to submit a resignation and asks disciplinary counsel to prepare a statement of alleged misconduct and to provide a declaration of costs and a proposed resignation form. After receiving the statement and the declaration of costs, if any, the respondent may resign by signing and submitting to disciplinary counsel, the resignation form prepared by disciplinary counsel, sworn to or affirmed under oath, which must include the following:

- (1) Disciplinary counsel's statement of the misconduct alleged in the matters then pending.
- (2) Respondent's statement that ~~they are he or she is~~ aware of the alleged misconduct stated in disciplinary counsel's statement and that rather than defend against the allegations, ~~they he or she~~ wishes to permanently resign from membership in the Association.
- (3) Respondent's affirmative acknowledgment that the resignation is permanent including the statement:

"I understand that my resignation is permanent and that any future application by me for reinstatement as a member of the Washington State Bar Association is currently barred. If the Supreme Court changes this rule or an application is otherwise permitted in the future, it will be treated as an application by one who has been disbarred for ethical misconduct, and that, if I file an application, I will not be entitled to a reconsideration or reexamination of the facts, complaints, allegations, or instances of alleged misconduct on which this resignation was based."

- (4) Respondent's agreement:
 - (A) to notify all other jurisdictions in which the respondent is or has been admitted to practice law of the resignation in lieu of discipline;
 - (B) to seek to resign permanently from the practice of law in any other jurisdiction in which the respondent is admitted;
 - (C) to provide disciplinary counsel with copies of any of these notifications and any responses; and
 - (D) acknowledging that the resignation could be treated as a disbarment by all other jurisdictions.

(5) Respondent's agreement to:

- (A) notify all other professional licensing agencies in any jurisdiction from which the respondent has a professional license that is predicated on the respondent's admission to practice law of the resignation in lieu of discipline;
- (B) seek to resign permanently from any such license; and
- (C) provide disciplinary counsel with copies of any of these notifications and any responses.
- (6) Respondent's agreement that when applying for any employment or license the respondent agrees to disclose the resignation in lieu of discipline in response to any question regarding disciplinary action or the status of the respondent's license to practice law.
- (7) Respondent's agreement to pay any restitution or additional costs and expenses ordered by a review committee, and attaches payment for costs as described in subsection (f) below, or states that the respondent will execute a confession of judgment or deed of trust as described in subsection (f).
- (8) Respondent's agreement that when the resignation becomes effective, the respondent will be subject to all restrictions that apply to a disbarred lawyer.
- (c) Public Filing.** Upon receipt of a resignation meeting the requirements set forth above, and the costs and expenses and any executed confession of judgment or deed of trust required under subsection (f), disciplinary counsel will endorse the resignation and promptly causes it to be filed with the Clerk as a public and permanent record of the Association.
- (d) Effect.** A resignation under this rule is effective upon its filing with the Clerk. All disciplinary proceedings against the respondent terminate except disciplinary counsel has the discretion to continue any investigations deemed appropriate under the circumstances to create a record of the respondent's actions. The Association immediately notifies the Supreme Court of a resignation under this rule and the respondent's name is forthwith stricken from the roll of lawyers. Upon filing of the resignation, the resigned respondent must comply with the same duties as a disbarred lawyer under title 14 and comply with all restrictions that apply to a disbarred lawyer. Notice is given of the resignation in lieu of discipline under rule 3.5.
- (e) Resignation is Permanent.** Resignation under this rule is permanent. A respondent who has resigned under this rule will never be eligible to apply and will not be considered for admission or reinstatement to the practice of law nor will the respondent be eligible for admission for any limited practice of law.
- (f) Costs and Expenses.** If a respondent resigns under this rule, the expenses under rule 13.9(c) are \$1,500 and respondent must consent to the entry of an order assessing these expenses under ELC 13.9(e). Disciplinary counsel may file a claim under section (g) for costs not covered by this amount.
- (g) Review of Costs, Expenses, and Restitution.** Any claims for restitution or for costs and expenses not resolved by agreement between disciplinary counsel and the respondent may be

submitted at any time, including after the resignation, to a review committee in writing for the determination of appropriate restitution or costs and expenses. The Lawyers' Fund for Client Protection may request review including a determination by the review committee of whether any funds were obtained by the respondent by dishonesty of, or failure to account for money or property entrusted to, the respondent in connection with the respondent's practice of law or while acting as a fiduciary in a matter related to the respondent's practice of law. The review committee's order is not subject to further review and is the final assessment of restitution or costs and expenses for the purposes of rule 13.9 and may be enforced as any other order for restitution or costs and expenses. The record before the review committee and the review committee's order is public information under rule 3.1(b).

[Adopted effective October 1, 2002; Amended effective January 1, 2014; September 1, 2017.]

ELC 9.4

RECIPROCAL RESIGNATION IN LIEU OF DISCIPLINE

(a) Duty To Self-Report Resignation in Lieu of Discipline. Within 30 days of resigning in lieu of discipline from another jurisdiction, a lawyer admitted to practice in this state must inform disciplinary counsel of the resignation in lieu of discipline.

(b) Obtaining Order. Upon notification from any source that a lawyer admitted to practice in this state has resigned in lieu of discipline in another jurisdiction, disciplinary counsel must obtain a copy of the resignation in lieu of discipline and any order approving the resignation and file it with the Supreme Court, except in circumstances set forth in subsection (e).

(c) Supreme Court Action. Except in circumstances set forth in subsection (e), upon receipt of a copy of a resignation in lieu of discipline and any order approving the resignation the Supreme Court orders the respondent lawyer to show cause within 60 days of service why the lawyer should not be disbarred in this jurisdiction. The Association must personally serve this order and a copy of the resignation in lieu of discipline and any order from the other jurisdiction approving the resignation, on the respondent under rule 4.1(b)(3).

(d) Discipline To Be Imposed.

(1) Sixty days after service of the order under subsection (c), the Supreme Court enters an order disbarring the respondent lawyer unless the lawyer demonstrates that disbarment would result in grave injustice.

(2) The burden is on the respondent to establish that continuing to remain admitted to practice in this jurisdiction will not place the public at risk.

(3) If the Supreme Court determines that disbarment would result in a grave injustice, the Court may enter an appropriate order.

(e) Prior Matter In Washington. No action will be taken against a lawyer under this rule when the lawyer has already been the subject of disciplinary action or other final disposition of a

ELC 10.13

(b) Respondent Must Attend. A respondent given notice of a hearing must attend the hearing. Failure to attend the hearing, without good cause, may be grounds for discipline. If, after proper notice, the respondent fails to attend the hearing, the hearing may proceed, and the hearing officer:

(1) may draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and

(2) must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if:

(A) the facts stated are within the witness's personal knowledge;

(B) the facts are set forth with particularity; and

(C) it shows affirmatively that the witness could testify competently to the stated facts.

(c) Respondent Must Bring Requested Materials. Disciplinary counsel may request in writing, served on the respondent at least three days before the hearing, that the respondent bring to the hearing any documents, files, records, or other written materials or things previously requested in accordance with these rules. The respondent must comply with this request and failure to bring requested materials, without good cause, may be grounds for discipline.

(d) Witnesses. Except as provided in subsection (b)(2), witnesses must testify under oath. Testimony may also be submitted by deposition as permitted by CR 32. If ordered by the hearing officer, testimony may be taken by telephone, television, video connection, or other contemporaneous electronic means. Testimony must be recorded by a court reporter or, if allowed by the hearing officer, by tape or electronic recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.

(e) Subpoenas. The parties may subpoena witnesses, documents, or things under the terms of CR 45. A witness must promptly comply with all subpoenas issued under this rule and with all lawful orders made by the hearing officer under this rule. Subpoenas may be enforced under rule 4.7. The hearing officer may additionally draw adverse inferences as appear warranted by the respondent's failure to respond.

(f) Prior Disciplinary Record. The respondent's record of prior disciplinary action, or the fact that the respondent has no prior disciplinary action, must be made a part of the hearing record before the hearing officer files a recommendation.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

EVIDENCE AND BURDEN OF PROOF

(a) Proceedings Not Civil or Criminal. Hearing officers should be guided in their evidentiary and procedural rulings by the principle that disciplinary proceedings are neither civil

ELC 10.14

nor criminal but are sui generis hearings to determine if a lawyer's conduct should have an impact on ~~their~~ ~~his or her~~ license to practice law.

(b) Burden of Proof. Disciplinary counsel has the burden of establishing an act of misconduct by a clear preponderance of the evidence.

(c) Proceeding Based on Criminal Conviction. If a formal complaint charges a respondent lawyer with an act of misconduct for which the respondent has been convicted in a criminal proceeding, the court record of the conviction is conclusive evidence at the disciplinary hearing of the respondent's guilt of the crime and violation of the statute on which the conviction was based.

(d) Rules of Evidence. Consistent with subsection (a) of this rule, the following rules of evidence apply during disciplinary hearings:

(1) Evidence, including hearsay evidence, is admissible if in the hearing officer's judgment it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The hearing officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious;

(2) If not inconsistent with subsection (1), the hearing officer shall refer to the Washington Rules of Evidence as guidelines for evidentiary rulings;

(3) Documents may be admitted in the form of copies or excerpts, or by incorporation by reference;

(4) *Official Notice.*

(A) official notice may be taken of:

(i) any judicially cognizable facts;

(ii) technical or scientific facts within the hearing officer's specialized knowledge; and

(iii) codes or standards adopted by an agency of the United States, of this state, or of another state, or by a nationally recognized organization or association.

(B) The parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material noticed and the sources thereof, including any staff memoranda and data, and they shall have an opportunity to contest the facts and material noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

ELC 11.14
DECISION OF BOARD

- (a) **Basis for Review.** Board review is based on the hearing officer's Decision, the parties' briefs filed under rule 11.9, and the record on review.
- (b) **Standards of Review.** The Board reviews findings of fact for substantial evidence. The Board reviews conclusions of law and recommendation de novo. Evidence not presented to the hearing officer cannot be considered by the Board.
- (c) **Oral Argument.** The Board hears oral argument if requested by either party or the Chair. A party's request must be filed no later than the deadline for that party to file ~~their~~ ~~his or her~~ last brief, including a response or reply, under rule 11.9. The Chair's notice of oral argument must be filed and served on the parties no later than 14 days before the oral argument. The Chair sets the time, place, and terms for oral argument.
- (d) **Action by Board.** On review, the Board may adopt, modify, or reverse the findings, conclusions, or recommendation of the hearing officer. The Board may also direct that the hearing officer hold an additional hearing on any issue, on its own motion, or on either party's request.
- (e) **Order or Opinion.** The Board must issue a written order or opinion. If the Board amends, modifies, or reverses any finding, conclusion, or recommendation of the hearing officer, the Board must state the reasons for its decision in a written order or opinion. A Board member agreeing with the majority's order or opinion may file separate concurring reasons. A Board member dissenting from the majority's order or opinion may set forth in writing the reasons for that dissent. Regardless of whether or not a dissenting member files a written dissent, the Board order or opinion must set forth the result favored by each dissenting member. The decision should be prepared as expeditiously as possible and consists of the majority's opinion or order together with any concurring or dissenting opinions. None of the opinions or orders may be filed until all opinions are filed. A copy of the complete decision is served by the Clerk on the parties.
- (f) **Procedure to Amend, Modify, or Reverse if No Appeal.**
- (1) If the Board intends to amend, modify, or reverse the hearing officer's recommendation in a matter that has not been appealed to the Board by either party, the Board issues a notice of intended decision.
 - (2) Either party may, within 15 days of service of this notice, file a request that the Board reconsider the intended decision.
 - (3) If a request is filed, the Board reconsiders its intended decision and the intended decision has no force or effect. The Chair determines the procedure for the Board's reconsideration, including whether to grant requests for oral argument.
 - (4) If no timely request for reconsideration is filed, the Board forthwith issues an order adopting the intended decision effective on the date of the order. If a party files a timely request

ELC 12.4 DISCRETIONARY REVIEW

(a) Decisions Subject to Discretionary Review. Respondent or disciplinary counsel may seek discretionary review of Board decisions under rule 11.12(e) not subject to appeal under rule 12.3. The Court accepts discretionary review only if:

- (1) the Board's decision is in conflict with a Supreme Court decision;
- (2) a significant question of law is involved;
- (3) there is no substantial evidence in the record to support a material finding of fact on which the Board's decision is based; or
- (4) the petition involves an issue of substantial public interest that the Court should determine.

(b) Petition for Review. Respondent or disciplinary counsel may seek discretionary review by filing a petition for review with the Clerk within 30 days of service of the Board's decision on respondent.

(c) Content of Petition; Answer; Service; Decision. A petition for review should be substantially in the form prescribed by RAP 13.4(c) for petitions for Supreme Court review of Court of Appeals decisions. References in that rule to the Court of Appeals are considered references to the Board. The appendix to the petition or an appendix to an answer or reply may additionally contain any part of the record, including portions of the transcript or exhibits, to which the party refers. RAP 13.4(d) (h) governs answers and replies to petitions for review and related matters including service and decision by the Court.

(d) Subsequent Petition By Other Parties. If a timely petition for discretionary review is filed by the Respondent or disciplinary counsel, and the other party wants relief from the Board's decision, ~~they~~ he or she must file a petition for discretionary review with the Clerk within the later of:

- (1) 14 days after service of the petition filed by the other party, or
- (2) the time for filing a petition under subsection (b) of this rule.

(e) Filing Fee. The first party to file a petition for discretionary review must, at the time the petition is filed, either pay the statutory filing fee to the Clerk of the Disciplinary Board by cash or by check made payable to the Clerk of the Supreme Court, or by appropriate motion apply to the Clerk of the Supreme Court for a waiver of the filing fee based upon a showing of indigency.

(f) **Acceptance of Review.** The Court accepts discretionary review of a Board decision by granting a petition for review. Upon acceptance of review, the same procedures apply to matters subject to appeal and matters subject to discretionary review.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 12.5 RECORD TO SUPREME COURT

(a) **Transmittal.** The Clerk should transmit the record, including the filing fee, to the Supreme Court within 30 days of the filing of the notice of appeal, service of the order accepting review, or filing of the transcript of oral argument before the Board, if any. Notwithstanding these deadlines, the Clerk should not transmit the record to the Supreme Court prior to payment of the filing fee or receipt of proof that the Supreme Court has waived the filing fee.

(b) **Content.** The record transmitted to the Court consists of:

- (1) the notice of appeal, if any;
- (2) the Board's decision;
- (3) the record before the Board;
- (4) the transcript of any oral argument before the Board; and
- (5) any other portions of the record before the hearing officer, including any bar file documents or exhibits, that the Court deems necessary for full review.

(c) **Notice to Parties.** The Clerk serves each party with a list of the portions of the record transmitted.

(d) **Transmittal of Cost Orders.** Within 10 days of entry of an order assessing costs under rule 13.9(e), the Clerk should transmit it to the Court as a separate part of the record, together with the supporting statements of costs and expenses and any exceptions or reply filed under rule 13.9(d).

(e) **Additions to Record.** Either party may request that the Clerk transmit additional portions of the record to the Court prior to or with the filing of the party's last brief. Thereafter, either party may move the Court for an order directing the transmittal of additional portions of the record to the Court.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 12.6 BRIEFS

- (a) **Brief Required.** The party seeking review must file a brief stating ~~their~~ ~~his or her~~ objections to the Board's decision.
- (b) **Time for Filing.** The brief of the party seeking review should be filed with the Supreme Court within 30 days of service under rule 12.5(c) of the list of portions of the record transmitted to the Court.
- (c) **Answering Brief.** The answering brief of the other party should be filed with the Court within 30 days after service of the brief of the party seeking review.
- (d) **Reply Brief.** A reply brief of a party seeking review should be filed with the Court within the sooner of 20 days after service of the answering brief or 14 days before oral argument. A reply brief should be limited to a response to the issues in the brief to which the reply brief is directed.
- (e) **Briefs When Both Parties Seek Review.** When both the respondent lawyer and disciplinary counsel seek review of a Board decision, the respondent is deemed the party seeking review for the purposes of this rule. In that case, disciplinary counsel may file a brief in reply to any response the respondent has made to the issues presented by disciplinary counsel, to be filed with the Court the sooner of 20 days after service of the respondent's reply brief or 14 days before oral argument.
- (f) **Form of Briefs.** Briefs filed under this rule must conform as nearly as possible to the requirements of RAP 10.3 and 10.4. Bar file documents should be abbreviated BF, the transcript or partial transcript of the hearing should be abbreviated TR, and exhibits should be abbreviated EX.
- (g) **Reproduction and Service of Briefs by Clerk.** The Supreme Court clerk reproduces and distributes briefs as provided in RAP 10.5.

[Adopted effective October 1, 2002.]

ELC 12.7 ARGUMENT

- (a) **Rules Applicable.** Oral argument before the Supreme Court is conducted under Title 11 of the Rules of Appellate Procedure, unless the Court directs otherwise.

the costs and expenses as provided by this rule. The Association must serve the application for a money judgment on the respondent under rule 4.1. The respondent may file an objection with the commissioner or clerk within 20 days of service of the application. The sole issue to be determined by the commissioner or clerk is whether the respondent has complied with the duty to pay costs and expenses under this rule. The commissioner or clerk may enter a money judgment in compliance with RCW 4.64.030 and notify the Association and the respondent of the judgment. On application, the commissioner or clerk transmits the judgment to the clerk of the superior court in any county selected by the Association and notifies the respondent of the transmittal. The clerk of the superior court files the judgment as a judgment in that court without payment of a filing fee.

[Adopted effective October 1, 2002. Amended effective January 1, 2014.]

ELC 14.1 NOTICE TO CLIENTS AND OTHERS; PROVIDING CLIENT PROPERTY

(a) Providing Client Property. A lawyer who has been suspended from the practice of law, has been disbarred, has resigned in lieu of discipline, or has been transferred to disability inactive status must provide each client or the client's substituted counsel upon request with the client's assets, files, and other documents in the lawyer's possession, regardless of any possible claim of lien under 60.40.RCW.

(b) Notice if Suspended for 60 Days or Less. A lawyer who has been suspended for 60 days or less under rule 13.3 must within 10 days of the effective date of the suspension:

(1) notify every client involved in litigation or administrative proceedings, and counsel for each adverse party (or the adverse party directly if not represented by counsel), of the suspension, that the suspension is a disciplinary suspension, and of the lawyer's consequent inability to act as a lawyer after the effective date of the suspension, and advise each of these clients to seek prompt substitution of another lawyer. If the client does not substitute counsel within 10 days of this notice, the lawyer must advise the court or agency of the lawyer's inability to act; and

(2) notify all other clients of the suspension and consequent inability to act during the suspension. The notice must advise the client to seek legal advice elsewhere if needed during the suspension.

(c) Notice if Otherwise Suspended, Disbarred, or Resigned in Lieu of Discipline. A lawyer who has been disbarred, has resigned in lieu of discipline, or has been suspended for more than 60 days, for nonpayment of dues, or under Title 7 or APR 11, APR 17, or APR 26, must within 10 days of the effective date of the disbarment, suspension, or resignation:

(1) notify every client of the lawyer's suspension, disbarment, or resignation in lieu of discipline, whether a suspension is a disciplinary suspension, an interim suspension, or an administrative suspension, and of the lawyer's consequent inability to act as the client's lawyer, and advise the client to seek legal advice elsewhere;

(2) advise every client involved in litigation or administrative proceedings to seek the prompt substitution of another lawyer. If the client does not substitute counsel within ten days of being notified of the lawyer's inability to act, the lawyer must advise the court or agency of the lawyer's inability to act; and

(3) notify counsel for each adverse party in pending litigation or administrative proceedings, or the adverse party directly if not represented by counsel, of the lawyer's suspension, disbarment, or resignation in lieu of discipline, and the lawyer's inability to act further on the client's behalf.

(d) **Notice if Transferred to Disability Inactive Status.** A lawyer transferred to disability inactive status, or ~~their his or her~~ guardian if one has been appointed, must give all notices required by subsection (c), except that while the notices need not refer to the specifics of the disability, the notice must advise that the lawyer has been transferred to disability inactive status.

(e) **Address of Client.** All notices to lawyers, adverse parties, courts, or agencies as required by sections (b), (c), or (d) must contain the client's name and last known address, unless doing so would disclose a confidence or secret of the client. If the name and address are omitted, the client must be advised that so long as ~~their his or her~~ address remains undisclosed and no new lawyer is substituted, the client may be served by leaving papers with the clerk of the court under CR 5(b)(1) in pending superior court actions, and that comparable provisions may allow similar service in other court proceedings or administrative actions.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 14.2 LAWYER TO DISCONTINUE PRACTICE

(a) Discontinue Practice. A disbarred or suspended lawyer, or a lawyer who has resigned in lieu of disbarment or discipline, or a lawyer transferred to disability inactive status, must not practice law after the effective date of the disbarment, resignation in lieu of disbarment or discipline, suspension, or transfer to disability inactive status, and also must take whatever steps necessary to avoid any reasonable likelihood that anyone will rely on them ~~him or her~~ as a lawyer authorized to practice law.

(b) Continuing Duties to Former Clients. This rule does not preclude a disbarred or suspended lawyer, or a lawyer who has resigned in lieu of disbarment or discipline, or a lawyer transferred to disability inactive status, from disbursing assets held by the lawyer to clients or other persons or from providing information on the facts and the lawyer's theory of a case and its status to a succeeding lawyer, provided that the lawyer not be involved in any discussion regarding matters occurring after the date of the suspension, resignation in lieu of disbarment or discipline, transfer to disability inactive status, or disbarment. The lawyer must provide this information on request and without charge.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]

ELC 14.4
LAWYER TO KEEP RECORDS OF COMPLIANCE

A lawyer who has been disbarred, suspended, or transferred to disability inactive status must maintain written records of the various steps taken by them ~~him or her~~ under this title, so that proof of compliance will be available in any subsequent proceeding.

[Adopted effective October 1, 2002.]

ER 803
HEARSAY RULE

Hearsay is not admissible except as provided by these rules, by other court rules, or by statute.

[Adopted effective April 2, 1979.]

Comment 802

[Deleted effective September 1, 2006.]

HEARSAY EXCEPTIONS; AVAILABILITY OF DECLARANT IMMATERIAL

(a) Specific Exceptions. The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

- (1) *Present Sense Impression.* A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
- (2) *Excited Utterance.* A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) *Then Existing Mental, Emotional, or Physical Condition.* A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) *Statements for Purposes of Medical Diagnosis or Treatment.* Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
- (5) *Recorded Recollection.* A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.
- (6) *Records of Regularly Conducted Activity.* [Reserved. See RCW 5.45.]
- (7) *Absence of Entry in Records Kept in Accordance With RCW 5.45.* Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of RCW 5.45, to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (8) *Public Records and Reports.* [Reserved. See RCW 5.44.040.]
- (9) *Records of Vital Statistics.* Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.
- (10) *Absence of Public Record or Entry.* To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a

ER 805

record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) *Records of Religious Organizations.* Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) *Marriage, Baptismal, and Similar Certificates.* Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) *Family Records.* Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, tattoos, engravings on urns, crypts, or tombstones, or the like.

(14) *Records of Documents Affecting an Interest in Property.* The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office.

(15) *Statements in Documents Affecting an Interest in Property.* A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) *Statements in Ancient Documents.* Statements in a document in existence 20 years or more whose authenticity is established.

(17) *Market Reports, Commercial Publications.* Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) *Learned Treatises.* To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) *Reputation Concerning Personal or Family History.* Reputation among members of a person's family by blood, adoption, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy,

relationship by blood, adoption, or marriage, ancestry, or other similar fact of a person's personal or family history.

(20) *Reputation Concerning Boundaries or General History.* Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) *Reputation as to Character.* Reputation of a person's character among ~~his~~ their associates or in the community.

(22) *Judgment of Previous Conviction.* Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year, to prove any fact essential to sustain the judgment, but not including, when offered by the prosecution in a criminal case for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) *Judgment as to Personal, Family, or General History, or Boundaries.* Judgments as proof of matters of personal, family, or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(b) *Other Exceptions.* [Reserved.]

[Amended effective September 1, 1992.]

Comment 803

[Deleted effective September 1, 2006.]

ER 805 HEARSAY WITHIN HEARSAY

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

[Adopted effective April 2, 1979.]

Comment 805

[Deleted effective September 1, 2006.]

ER 1101
APPLICABILITY OF RULES

(a) Courts Generally. Except as otherwise provided in section (c), these rules apply to all actions and proceedings in the courts of the state of Washington. The terms "judge" and "court" in these rules refer to any judge of any court to which these rules apply or any other officer who is authorized by law to hold any hearing to which these rules apply.

(b) Law With Respect to Privilege. The law with respect to privileges applies at all stages of all actions, cases, and proceedings.

(c) When Rules Need Not Be Applied. The rules (other than with respect to privileges, the rape shield statute and ER 412) need not be applied in the following situations:

(1) *Preliminary Questions of Fact.* The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104(a).

(2) *Grand Jury.* Proceedings before grand juries and special inquiry judges.

(3) *Miscellaneous Proceedings.* Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims court; supplemental proceedings under RCW 6.32; coroners' inquests; preliminary determinations in juvenile court; juvenile court hearings on declining jurisdiction; disposition, review, and permanency planning hearings in juvenile court; dispositional determinations related to treatment for alcoholism, intoxication, or drug addiction under RCW 70.96A; and dispositional determinations under RCW 71.05 and 71.34.

(4) *Applications for Protection Orders.* Protection order proceedings under Chapters 7.90, 7.92, 7.94, 10.14, 26.50, and 74.34 RCW. Provided when a judge proposes to consider information from a criminal or civil database, the judge shall disclose the information to each party present at the hearing; on timely request, provide each party with an opportunity to be heard; and take appropriate measures to alleviate litigants' safety concerns. The judge has discretion not to disclose information that ~~they do he or she does~~ not propose to consider.

(d) Arbitration Hearings. In a mandatory arbitration hearing under RCW 7.06, the admissibility of evidence is governed by MAR 5.3.

[Adopted effective April 2, 1979. Amended effective January 1, 1980; August 27, 1980; September 1, 1989; September 1, 1992; September 21, 1999; January 2, 2008;

September 1, 2008, September 1, 2010; December 10, 2013; May 27, 2014; December 8, 2015; July 4, 2017.]

Comment 1101

[Deleted effective September 1, 2006.]

**ER 1102
AMENDMENTS**

[RESERVED]

[Adopted as Reserved effective April 2, 1979.]

standards to assist the LPO in determining the appropriate conduct. So long as LPOs are guided by these principles, their conduct will assist in assuring the law continues to be a noble profession.

SCOPE

The Limited Practice Officer Rules of Professional Conduct, where mandatory in character, state the minimum level of conduct below which no LPO can fall without being subject to disciplinary action. Other LPORPC may afford the LPO some discretion in exercising professional judgment and may provide guidance for compliance, rather than adding mandatory professional obligations.

Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of an LPO's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that an LPO often has to act upon uncertain or incomplete knowledge of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations. Violation of a Rule should not itself give rise to a cause of action against an LPO nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other non-disciplinary remedy, such as disqualification of an LPO in a pending transaction. The Rules are designed to provide guidance to LPOs and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Nothing in these Rules is intended to change existing Washington law on the use of rules of professional conduct in a civil action. *Cf. Hizey v. Carpenter*, 119 Wn.2d 251, 830 P.2d 646 (1992) (lawyer rules of professional conduct do not define standards of civil liability of lawyers for professional conduct, but provide only a public disciplinary remedy).

The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative.

LPORPC 1.0 TERMINOLOGY

The following definitions apply to all rules and regulations governing LPOs under APR 12 except only where a term is expressly differently defined for use in particular provisions of any rule or regulation.

- (a) "Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.
- (b) "Client(s)" when used in a purchase and sale transaction denotes the buyer and seller and may include the purchase money lender for the same transaction only if the LPO accepts the duty to select, prepare, or complete legal documents for the purchase money loans. When used in a loan-only transaction, whether or not the LPO accepts the duty to select, prepare, or complete legal documents, "Clients" are the borrower and lender.

- (c) “Closing Firm” means any bank, depository institution, escrow agent, title company, law firm, or other business, whether public or private, that employs, or contracts for the services of, an LPO for the purpose of providing real or personal property closing services for a transaction.
- (d) “Fraud” or “fraudulent” denotes conduct that has a purpose to deceive and is fraudulent under the substantive or procedural law of Washington, except that it is not necessary that anyone has suffered damages or relied on the misrepresentation or failure to inform.
- (e) “Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.
- (f) “Limited Practice Officer” or “LPO” means a person licensed in accordance with the procedures set forth in APR 12 and who has maintained ~~his or her~~their certification in accordance with the rules and regulations of the Limited Practice Board.
- (g) “LPO Services” means those documentation activities for use by others performed by an LPO under the authorization of APR 12(d).
- (h) “Party(ies)” or “Participant(s)” in a closing transaction includes persons other than “clients” from whom the LPO accepts instructions or to whom the LPO may make deliveries or disburse funds.
- (i) “Reasonable” or “reasonably” when used in relation to conduct by an LPO denotes the conduct of a reasonably prudent and competent LPO performing the same LPO services.
- (j) “Reasonable belief” or “reasonably believes” when used in reference to an LPO denotes that the LPO believes the matter in question and that the circumstances are such that the belief is reasonable.
- (k) “Reasonably should know” when used in reference to an LPO denotes that an LPO of reasonable prudence and competence would ascertain the matter in question.
- (l) “Substantial” when used in reference to degree or extent denotes a material matter of clear and weighty importance.
- (m) “Transaction” means any real or personal property closing requiring the involvement of a lawyer or LPO to select, prepare or complete documents for the purpose of closing a loan, extension of credit, sale or other transfer of title to or interest in real or personal property.
- (n) “Written” denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and e-mail.

Comment

LPO services arise from a writing in which the clients have agreed to the basic terms of a transaction (APR 12(e)(1)). In a sale transaction, LPO services arise from a purchase and sale agreement between the buyer and seller. Lenders and others involved (brokers, lien-holders, etc.) are accommodated parties.

In loan-only transactions, LPO services arise from closing instructions between the closing firm, lender and borrower. Thus, the lender and borrower each is a client; lien-holders and nonborrowing owners, etc. are accommodated parties.

LPORPC 1.1 COMPETENCE

An LPO shall provide competent LPO services. Competence requires the knowledge, thoroughness and preparation reasonably necessary to provide the LPO services. Not every LPO is competent to provide LPO services for every transaction.

Comment

Continuing competence is an ongoing core professional obligation. To maintain the requisite knowledge and skill, an LPO should keep abreast of changes in the law and its practice relevant to LPO duties, engage in continuing study and education and comply with all continuing education requirements to which the LPO is subject. The rule also reminds the LPO that the competence required for a particular transaction is neither universal nor automatic.

LPORPC 1.2 DILIGENCE

An LPO must act with reasonable diligence and promptness in the performance of ~~his~~ ~~or her~~ their duties, including the timely preparation of documents required to meet the closing date specified by the clients.

Comment

Lack of diligence is a professional defect. An LPO's work load must be controlled so that each transaction can be handled competently. However, timely action under this rule should be measured by circumstances under the LPO's control (as distinguished from unreasonable timing demands imposed by employer work load, the parties or the terms of the transaction). Unless the client relationship is terminated as provided in Rule 1.6, an LPO should carry through to conclusion all matters undertaken for a client. *See also* Rule 1.3, Communication with Clients, *infra*.

LPORPC 1.3 COMMUNICATION WITH CLIENTS

- (a) Upon reasonable request, an LPO shall promptly provide relevant information to the clients regarding the documents selected, prepared, and completed for the transaction.
- (b) An LPO shall timely notify its clients of omissions or discrepancies in the documentation provided to the LPO which must be resolved before the LPO can provide LPO services in the transaction.
- (c) An LPO must inform a client to seek legal advice from a lawyer if the LPO is reliably informed or, based on contact with the client reasonably believes, that the client does not understand or appreciate the meaning or effect of an instrument prepared by the LPO for signature by the client.

Comment

The performance of LPO services occasionally may require direct communication with multiple clients in a transaction. Proper focus for LPO communication with clients is not as an advocate or advisor, but as necessary to clear up documentary discrepancies and insure that there is an adequate written agreement for the LPO to select, prepare and complete the documentation for the transaction.

See also Rules 1.2, Diligence; 1.6, Declining Services, *infra*.

LPORPC 1.4 CONFIDENTIALITY

These rules do not impose any duty of confidentiality on an LPO. Any LPO duty of confidentiality arising under common law, statute, or contract is not affected by these rules.

LPORPC 1.5 CONFLICT OF INTEREST

- (a) An LPO shall not provide LPO services in a transaction where the LPO, or a member of the LPO's immediate family, is either a party or client. For purposes of this rule, "immediate family" includes a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the LPO maintains a close, familial relationship.
- (b) An LPO shall not use information obtained from the provision of LPO services to a client in a transaction for personal gain to the disadvantage of the client.
- (c) Where an LPO's employer is a buyer or seller in a transaction, the LPO shall not provide LPO services unless the LPO provides written notice of the conflict to all other clients and obtains a written waiver of the conflict from all other clients. The notice and waiver shall be substantially in the form below.

As required by rule 1.5 of the Limited Practice Officer Rules of Professional Conduct, you are hereby notified that the limited practice officer providing LPO services for this transaction is employed by {name of closing firm}, which has an interest in this transaction. Specifically, {set forth the closing firm's interest in the transaction}.

By signing below, you acknowledge that you (1) understand and have received the notice of conflict of interest; (2) have been advised to seek legal counsel if you do not understand the conflict or this waiver; and (3) waive the conflict of interest created by the closing firm having an interest in the transaction.

LPORPC 1.6 DECLINING OR TERMINATING SERVICES

(a) An LPO shall decline to provide LPO services or, where LPO services have commenced, shall terminate LPO services if:

- (1) The LPO services will clearly result in violation of the Limited Practice Officer Rules of Professional Conduct or other law, including the unauthorized practice of law by the LPO;
- (2) The LPO's physical or mental condition materially impairs ~~his or her~~their ability to provide LPO services;

- (3) The LPO reasonably believes that the documentation requirements of the transaction exceed the LPO's competence;
- (4) The LPO is discharged; or
- (5) A client insists on confidentiality of information disclosed to the LPO to which the LPO cannot agree.

(b) An LPO may refuse to provide LPO services for any other reason, including without limitation the following, if:

- (1) A client persists in a course of action involving the LPO's services that the LPO reasonably believes is criminal or fraudulent or illegal, or that might require the LPO to exceed ~~his or her~~their authority as an LPO;
- (2) A client has used the services of the LPO to perpetrate a crime or fraud;
- (3) A client insists upon pursuing an objective or practice that the LPO reasonably considers repugnant or with which an LPO has a fundamental disagreement;
- (4) A client fails substantially to fulfill an obligation to the LPO regarding the LPO's services and has been given reasonable warning that the LPO will terminate services unless the obligation is fulfilled;
- (5) The LPO services will result in an unreasonable financial burden on the LPO or its services in the transaction have been rendered unreasonably difficult by the clients; or
- (6) Other cause for refusal of services exists. Where the clients are unwilling or unable to correct the situation, other cause for refusal of services may include, but is not limited to: insufficient or conflicting documentation that is not timely corrected by the clients; direction from a client to use forms not approved by the Limited Practice Board or to make unauthorized alterations to approved forms; direction from a client that is inconsistent with the existing documentation; apparent lack of or defect in the capacity of a client or signatory; or failure of the clients to allow sufficient time for competent and orderly performance of LPO services.

(c) Upon termination of an LPO's services, the LPO must take steps to the extent reasonably practicable to protect the clients' interests, such as giving reasonable notice to the clients (as determined by the circumstances of the transaction), advising the clients that they can seek the advice of a lawyer regarding the transaction, allowing time for employment of a lawyer or another LPO where reasonable, and surrendering papers and property to which the clients are entitled if requested and if all LPO fees and costs are paid.

Comment

The rule first identifies situations where an LPO must decline followed by situations where an LPO may decline to provide LPO services. An LPO ordinarily must decline or terminate services if a client demands that the LPO engage in conduct that is illegal or violates the LPO Rules of Professional Conduct or other law, or in the other enumerated instances.

LPORPC 1.7 TRUTHFULNESS IN STATEMENTS TO OTHERS

In the course of performing LPO services in a transaction, an LPO shall not knowingly fail to disclose all material facts to clients or any parties to the transaction, or make false statements of material facts to clients or any such party.

LPORPC 1.8 UNAUTHORIZED PRACTICE OF LAW

An LPO shall not:

- (a) engage in, or assist others in, the unauthorized practice of law, including the giving of legal advice;
- (b) permit ~~his or her~~their name, signature stamp or LPO number to be used by any other person;
- (c) select, prepare, or complete documents authorized by APR 12 for or together with any person whose LPO certification has been revoked or suspended, if the LPO knows, or reasonably should know, of such revocation or suspension; or
- (d) work as an LPO while on inactive status, or while ~~his or her~~their LPO certification is suspended or revoked for any cause.

Comment

Clearly, the selection and completion of legal forms constitutes the practice of law. *Bowers v. Transamerica Title Ins. Co.*, 100 Wn.2d 582; 1586, (1983). Adjudicated cases finding LPO unauthorized practice of law have involved LPO use of unapproved forms and unapproved alterations of approved forms. *See Bishop v. Jefferson Title Co.*, 107 Wn.App 833, 128 p. 3d 802 (2001). Washington General Rule (GR) 24 sets forth the definition of the practice of law.

LPORPC 1.9 LPO DUTIES AND AUTHORITY ARE NOT DELEGABLE

The powers, duties and responsibilities of an LPO are personal to the LPO and may not be assigned or delegated to a person who is not an LPO. An LPO may be supported and assisted by one or more persons who are not LPOs if the LPO adequately supervises the assistants and retains sole and final responsibility for the work performed by the assistants. An LPO must take all steps reasonably necessary to insure that an assistant's activities do not violate APR 12 and regulations of the Limited Practice Board and are consistent with the LPO's duties under these rules. An LPO must review and approve the assistant's activities and document preparation. An LPO should have no more assistants and support staff than the LPO can adequately directly supervise, to insure that the assistant activities conform to assigned LPO support tasks defined in writing. Nothing in this rule authorizes an LPO assistant to exercise the authority or perform the duties of an LPO independently.

LPORPC 1.10 MISCONDUCT

It is professional misconduct for an LPO to:

- (a) violate or attempt to violate the Limited Practice Officer Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

- (b) commit a criminal act that reflects adversely on the LPO’s honesty, trustworthiness or fitness as an LPO in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) willfully disobey or violate a valid court order directing ~~him or her~~them to do or cease doing an act which ~~he or she~~they ought in good faith to do or forbear;
- (e) violate ~~his or her~~their oath as an LPO;
- (f) violate a duty or sanction imposed by or under the Rules for Enforcement of Limited Practice Officer Conduct in connection with a disciplinary matter, including, but not limited to, the duties catalogued at ELPOC 1.5, Violation of Duties Imposed by These Rules;
- (g) engage in conduct demonstrating unfitness to practice as an LPO. “Unfitness to practice” includes but is not limited to the inability, unwillingness or repeated failure to perform adequately the material functions required of an LPO or to comply with the LPORPC and/or ELPOC;
- (h) misrepresent or conceal a material fact made in an application for admission under APR 12 or in support thereof;
- (i) commit any act involving moral turpitude, or corruption, or any unjustified act of assault or other act that reflects disregard for the rule of law, whether the same be committed in the course of ~~his or her~~their conduct as an LPO, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding.

Comment

Regarding subparagraph (d), it is common for courts to issue orders to the parties to engage in a transaction involving a closing agent. The LPO should seek legal advice as to whether such orders are valid.

LPORPC 1.11 REPORTING PROFESSIONAL MISCONDUCT

An LPO who knows that another LPO has committed repeated and material violations of the LPORPC should inform the Limited Practice Board.

Comment

The intent of this rule is to encourage an LPO to report professional misconduct in order to ensure effective self-regulation of LPOs. Examples of misconduct include, but are not limited to use of unapproved forms, unauthorized delegation or performance of LPO duties, use of an LPO’s name, signature stamp or identification number by unlicensed persons, or an LPO acting as an LPO while one’s license is inactive or suspended. If an LPO knows of the unauthorized practice of law by someone other than an LPO, the LPO should report the person to the Practice of Law Board (GR 25).

The purpose of this comment is to discuss the legal standard of care to which a limited practice officer is subject, while also clarifying the limited duties of a limited practice officer compared to an attorney when selecting and preparing legal documents and to show the greater breadth of a lawyer's duties and services which a party may not expect when engaging a limited practice officer.

Generally, when anyone selects and prepares a legal document for another, they (including licensed limited practice officers) will be held to the standard of a lawyer: “to comply with the duty of care, an attorney must exercise the degree of care, skill, diligence, and knowledge commonly possessed and exercised by a reasonable, careful, and prudent lawyer in the practice of law in this jurisdiction” *Hizey v. Carpenter*, 119 Wn.2d 251, 261, 830 P.2d 246 (1992). However, when selecting and preparing approved forms a limited practice officer, though having a limited license to practice law as defined and limited in APR 12, will not be authorized or charged with many of the duties of a lawyer. Except as provided otherwise in APR 12 rules and regulations, these include the duty to investigate legal matters, to form legal opinions (including but not limited to the capacity of an individual to sign for an entity or whether a legal document is effective), to give legal advice (including advice on how a legal document affects the rights or duties of a party), or to consult with a party on the advisability of a transaction. See also LPORPC 1.1, Competence, and LPORPC 1.3, Communication.

APR 12 APPENDIX. [Reserved.]

[Adopted effective February 12, 1965; Amended effective January 21, 1983; October 28, 1983; September 13, 1985; December 9, 1995; July 1, 2002; January 1, 2009; March 1, 2016; September 1, 2017.]

RULES FOR ENFORCEMENT OF LIMITED PRACTICE OFFICER CONDUCT (ELPOC) TITLE 1—SCOPE, JURISDICTION, AND DEFINITIONS

ELPOC 1.1 SCOPE OF RULES

These rules govern the procedure by which a Limited Practice Officer may be subjected to disciplinary sanctions or actions for violation of the Limited Practice Officer Rules of Professional Conduct (LPORPC) adopted by the Washington Supreme Court.

[Adopted effective January 1, 2009.]

ELPOC 1.2 JURISDICTION

Any licensed LPO permitted to engage in the limited practice of law in this state is subject to these Rules for Enforcement of Limited Practice Officer Conduct. Jurisdiction exists regardless of the LPO’s residency or authority to engage in the limited practice of law in this state.

[Adopted effective January 1, 2009.]

ELPOC 1.3 DEFINITIONS

Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:

- (b) "Public file" means the pleadings, motions, rulings, decisions, and other formal papers filed in a proceeding;
- (c) "Board" when used alone means the Limited Practice Board;
- (d) "Board of Governors" means the Board of Governors of the Washington State Bar Association;
- (e) "Chair" when used alone means the Chair of the Limited Practice Board;
- (f) "Clerk" when used alone means the Association's staff designated to work with the Limited Practice Board and includes the Directory of Regulatory Services and other Association counsel where appropriate;
- (g) "Closing Firm" means any bank, depository institution, escrow agent, title company, law firm, or other business, whether public or private, that employs, or contracts for the services of, an LPO for the purpose of providing real or personal property closing services for a transaction;
- (h) "Court" unless otherwise specified, means the Supreme Court of Washington;
- (i) "Disciplinary action" means sanctions under rule 13.1 and admonitions under rule 13.5;
- (j) "ELC" means the Rules for Enforcement of Lawyer Conduct;
- (k) "Final" means no review has been sought in a timely fashion or all appeals have been concluded;
- (l) "Grievant" means the person or entity who files a grievance (except for a confidential source under rule 5.2);
- (m) "Hearing Officer" means the person assigned under rule 10.2(a)(1) or, when a hearing panel has been assigned, the hearing panel chair;
- (n) "LPO" means limited practice officer;
- (o) "Mental or physical incapacity" includes, but is not limited to, insanity[1], mental illness, senility, or debilitating use of alcohol or drugs;
- (p) "Panel" means a hearing panel under rule 10.2(a)(2);
- (q) "Party" means disciplinary counsel or respondent, except in rule 2.3(f) "party" also includes a grievant;
- (r) "Respondent" means an LPO against whom a grievance is filed or an LPO investigated by the Clerk or disciplinary counsel;

- (s) “APR” means the Admission and Practice Rules;
- (t) “CR” means the Superior Court Civil Rules;
- (u) “RAP” means the Rules of Appellate Procedure;
- (v) “LPORPC” means the Limited Practice Officer Rules of Professional Conduct adopted by the Washington Supreme Court.
- (w) Words of authority.

(1) “May” means “has discretion to,” “has a right to,” or “is permitted to.”

(2) “Must” means “is required to.”

(3) “Should” means recommended but not required.

[Adopted effective January 1, 2009; Amended effective March 1, 2016.]

ELPOC 1.4 NO STATUTE OF LIMITATION

No statute of limitation or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.

[Adopted effective January 1, 2009.]

ELPOC 1.5 VIOLATION OF DUTIES IMPOSED BY THESE RULES

An LPO violates LPORPC 1.10 and may be disciplined under these rules for violating duties imposed by these rules, including but not limited to the following duties:

- respond to inquiries or requests about matters under investigation, rule 5.3(e);
- file an answer to a formal complaint or to an amendment to a formal complaint, rule 10.5;
- cooperate with discovery and comply with hearing orders, rules 5.5 and 10.11(g);
- attend a hearing and bring materials requested by Association staff and/or disciplinary counsel, rule 10.13(b) and (c);
- respond to subpoenas and comply with orders enforcing subpoenas, rule 10.13(e);
- notify clients and others of inability to act, rule 14.1;
- discontinue practice, rule 14.2;
- file an affidavit of compliance, rule 14.3;
- maintain confidentiality, rule 3.2;

- cooperate with an examination of books and records, rule 15.2;
- notify the Association of a trust account overdraft, rule 15.4(d);
- file a declaration or questionnaire certifying compliance with LPORPC 1.12A and B, rule 15.5;
- comply with conditions of probation, rule 13.8;
- comply with conditions of a stipulation, rule 9.1;
- pay restitution, rule 13.7; or
- pay costs, rule 5.3(e) or 13.9.

[Adopted effective January 1, 2009.]

TITLE 2—ORGANIZATION AND STRUCTURE

ELPOC 2.1 SUPREME COURT

The Washington Supreme Court has exclusive responsibility in the state to administer the LPO discipline and disability system and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of LPO discipline and disability. Persons carrying out the functions set forth in these rules act under the Supreme Court's authority. [Adopted effective January 1, 2009.]

ELPOC 2.2 BOARD OF GOVERNORS

(a) Function. The Board of Governors of the Association:

- (1) supervises the general functioning of the disciplinary counsel and Association staff; and
- (2) performs other functions and takes other actions provided in these rules, delegated by the Supreme Court, or necessary and proper to carry out its duties.

(b) Limitation of Authority. The Board of Governors has no right or responsibility to review hearing officer, hearing panel, or Limited Practice Board decisions or recommendations in specific cases.

[Adopted effective January 1, 2009.]

ELPOC 2.3 LIMITED PRACTICE BOARD

(a) Function for purposes of these rules. The Board performs the functions provided under these rules, delegated by the Supreme Court, or necessary and proper to carry out its duties.

(b) Membership.

- (1) *Composition.* The Board is composed as set forth in APR 12(b)(1).

- (2) *Voting.* Each member, including the Chair, whether nonlawyer or lawyer, has one vote.
- (3) *Quorum.* A majority of the Board members constitutes a quorum. If there is a quorum, the concurrence of a majority of those present and voting constitutes action of the Board, so long as at least five members vote.
- (4) *Leave of Absence While Grievance Is Pending.* If a grievance is filed against a member of the Board, the member shall take a leave of absence until the matter is resolved.

(c) Disqualification.

(1) A Board member should disqualify ~~him or herself~~themselves from a particular matter in which the member's impartiality might reasonably be questioned, including, but not limited to, instances in which:

- (A) the member has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the matter;
- (B) the member previously served as a lawyer or LPO or was a material witness in the matter in controversy, or a lawyer or LPO with whom the member works serves or has previously served as a lawyer or LPO concerning the matter, or such lawyer or LPO is or has been a material witness concerning the matter;
- (C) the member knows that, individually or as a fiduciary, the member or the member's spouse or relative residing in the member's household, has an economic interest in the subject matter in controversy or in a party to the matter, or is an officer, director, or trustee of a party or has any other interest that could be substantially affected by the outcome of the matter, unless there is a remittal of disqualification under section (d);
- (D) the member or the member's spouse or relative residing in the member's household, or the spouse of such a person:
 - (i) is a party to the matter, or an officer, director, or trustee of a party;
 - (ii) is acting as a lawyer or LPO in the matter;
 - (iii) is to the member's knowledge likely to be a material witness in the matter;

(d) Remittal of Disqualification. A member disqualified under subsection (c)(1)(C) or (c)(1)(D) may, instead of withdrawing from consideration of the matter, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the member's participation, all agree in writing or on the record that the member's relationship is immaterial or that the member's economic interest is de minimis, the member is no longer disqualified, and may participate in the matter. If a party is not immediately available, the member may proceed on the assurance of the party's counsel that the party's consent will be subsequently given.

(e) Counsel and Clerk. The Executive Director of the Association, under the direction of the Association's Board of Governors, may appoint a suitable person or persons to act as counsel and

Clerk to the Board, to assist the Board and the discipline committee in carrying out their functions under these rules.

- (f) Restriction on Representing Respondents.** Former members of the Board are subject to the restrictions on representing respondents in rule 2.11(b).
[Adopted effective January 1, 2009.]

ELPOC 2.4 DISCIPLINE COMMITTEE

- (a) Function.** The discipline committee performs the functions provided under these rules, delegated by the Board or the Chair, or necessary and proper to carry out its duties.
- (b) Membership.** The Chair appoints a discipline committee of three members from among the Board members. At least one of the members must have substantial experience in the industry. The Chair may change the appointment of members to the discipline committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the discipline committee.
- (c) Discipline Committee Chair.** The Chair of the Limited Practice Board designates one member of the discipline committee with substantial experience in the industry to act as its chair.
- (d) Terms of Office.** A Limited Practice Board member may serve as a discipline committee member as long as the member is on the Board or for other shorter terms as determined by the Chair of the Limited Practice Board to be appropriate.
- (e) Meetings.** The discipline committee meets at times and places determined by the discipline committee chair, under the general direction of the Chair of the Limited Practice Board. In the discipline committee chair's discretion, the committee may meet and act through electronic, telephonic, written, or other means of communication.
[Adopted effective January 1, 2009.]

ELPOC 2.5 HEARING OFFICER OR PANEL

- (a) Function.** A hearing officer or panel to whom a case has been assigned for hearing conducts the hearing and performs other functions as provided under these rules.
- (b) Qualifications.** A hearing officer must be an active hearing officer in the lawyer discipline system as set forth in rule 2.5 of the Rules for Enforcement of Lawyer Conduct (ELC), preferably with practice or adjudicative experience in law related to real estate transactions.
[Adopted effective January 1, 2009.]

ELPOC 2.6 HEARING OFFICER CONDUCT

Conduct of Those on Hearing Officer List. The duties and responsibilities imposed on hearing officers by ELC 2.6 apply to hearing officers for LPO disciplinary proceedings. Additionally, a person on the hearing officer list should not:

- (1) testify voluntarily as a character witness in an LPO disciplinary proceeding;

- (2) serve as an expert witness related to the professional conduct of LPOs in any proceeding;
or
- (3) serve as respondent's counsel in LPO disciplinary proceedings.
[Adopted effective January 1, 2009.]

ELPOC 2.7 DISCIPLINARY COUNSEL

Association disciplinary counsel appointed under ELC 2.8, or other designated Association staff who are WSBA members, acts as counsel on the Board's behalf on all matters under these rules, and performs other duties as required by these rules. Special disciplinary counsel may be appointed whenever necessary to conduct an individual investigation or proceeding. [Adopted effective January 1, 2009.]

ELPOC 2.8 REMOVAL OF APPOINTEES

The power granted by these rules to any person, committee, or board to make any appointment includes the power to remove the person appointed whenever that person appears unwilling or unable to perform ~~his or her~~their duties, or for any other cause, and to fill the resulting vacancy.

[Adopted effective January 1, 2009.]

ELPOC 2.9 COMPENSATION AND EXPENSES

Compensation and expenses of hearing officers will be as prescribed in ELC 2.11.
[Adopted effective January 1, 2009.]

ELPOC 2.10 COMMUNICATIONS TO THE BOARD PRIVILEGED

Communications to the Board, discipline committee, Association, Board of Governors, hearing officer, disciplinary counsel, Association staff, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any grievant, witness, or other person providing information. [Adopted effective January 1, 2009.]

ELPOC 2.11 RESPONDENT LIMITED PRACTICE OFFICER

- (a) **Right to Representation.** An LPO may be represented by counsel during any stage of an investigation or proceeding under these rules.
- (b) **Restrictions on Representation of Respondent.** A former Chair of the Board or Board member cannot represent a respondent LPO in any proceeding under these rules until three years after leaving office.
- (c) **Restriction on Charging Fee To Respond to Grievance.** A respondent LPO may not seek to charge a grievant a fee or recover costs from a grievant for responding to a grievance unless otherwise permitted by these rules.
- (d) **Medical and Psychological Records.** A respondent LPO must furnish written releases or authorizations to permit disciplinary counsel access to medical, psychiatric, or psychological

- (d) **Deceased Limited Practice Officers.** Records and files relating to a deceased LPO, including permanent records, may be destroyed at any time in the Clerk's discretion. [Adoptive effective January 1, 2009.]

TITLE 4—GENERAL PROCEDURAL RULES

ELPOC 4.1 SERVICE OF PAPERS

- (a) **Service Required.** Every pleading, every paper relating to discovery, every written request or motion other than one which may be heard *ex parte*, and every similar paper or document issued by the Board, the Clerk, disciplinary counsel or the respondent LPO under these rules must be served on the opposing party. If a hearing is pending and a hearing officer has been assigned, except for discovery, the party also must serve a copy on the hearing officer.

- (b) **Methods of Service.**

(1) *Service by Mail.*

- (A) Unless personal service is required or these rules specifically provide otherwise, service may be accomplished by postage prepaid mail. If properly made, service by mail is deemed accomplished on the date of mailing and is effective regardless of whether the person to whom it is addressed actually receives it.

- (B) Except as provided below, service by mail must be by certified or registered mail, return receipt requested. Service may be by first class mail if:

- (i) the parties so agree;
- (ii) the document is a notice of dismissal by the Clerk or disciplinary counsel, a notice regarding deferral under rule 5.3(b), or a request for review of any of these notices;
- (iii) one or more properly made certified mailings is returned as unclaimed; or
- (iv) service is on a hearing officer.

(C) The address for service by mail is as follows:

- (i) for the respondent, or ~~his or her~~their attorney of record, the address in the answer, a notice of appearance, or any subsequent document filed by the respondent or ~~his or her~~their attorney; or, in the absence of an answer, the respondent's address on file with the Association;
- (ii) for the Board, the Clerk or disciplinary counsel, at the address of the Association or other address that disciplinary counsel requests.

- (2) *Service by Delivery.* If service by mail is permitted, service may instead be accomplished by leaving the document at the address for service by mail.

- (3) *Personal Service.* Personal service on a respondent is accomplished as follows:

- (A) if the respondent is found in Washington State, by personal service in the manner required for personal service of a summons in a civil action in the superior court;
- (B) if the respondent cannot be found in Washington State, service may be made either by:
- (i) leaving a copy at the respondent's place of usual abode in Washington State with a person of suitable age and discretion then resident therein; or
- (ii) mailing by registered or certified mail, postage prepaid, a copy addressed to the respondent at ~~his or her~~their last known place of abode, office address maintained for the practice as an LPO, post office address, or address on file with the Association.

(C) if the respondent is found outside of Washington State, then by the methods of service described in (A) or (B) above.

(c) Service Where Question of Mental Competence. If a guardian or guardian ad litem has been appointed for a respondent who has been judicially declared to be ~~of unsound mind~~incapacitated or [2]incapable of conducting ~~his or her~~their own affairs, service under sections (a) and (b) above must also be made on the guardian or guardian ad litem.

(d) Proof of Service. If personal service is required, proof of service may be made by affidavit of service, sheriff's return of service, or a signed acknowledgment of service. In other cases, proof of service may also be made by certificate of a lawyer similar to that allowed by CR 5(b)(2)(B), which certificate must state the form of mail used. Proof of service in all cases must be filed but need not be served on the opposing party.

[Adopted effective January 1, 2009.]

ELPOC 4.2 FILING; ORDERS

(a) Filing Originals. Except in matters before the Supreme Court, the original of any pleading, motion, or other paper authorized by these rules, other than discovery, must be filed with the Clerk. Filing may be made by first class mail and is deemed accomplished on the date of mailing. Filing of papers for matters before the Supreme Court is governed by the Rules of Appellate Procedure.

(b) Filing and Service of Orders. Any written order, decision, or ruling, except an order of the Supreme Court or an informal ruling issued under rule 10.8(e), must be filed with the Clerk, and the Clerk serves it on the respondent LPO and disciplinary counsel.

[Adopted effective January 1, 2009.]

ELPOC 4.3 PAPERS

All pleadings or other papers must be typewritten or printed, double spaced, on good quality 8-1/2 by 11-inch paper. The use of letter size copies of exhibits is encouraged if it does not impair legibility.

[Adopted effective January 1, 2009.]

ELPOC 4.4 COMPUTATION OF TIME

CR 6(a) and (e) govern the computation of time under these rules.

[Adopted effective January 1, 2009.]

ELPOC 4.5 STIPULATION TO EXTENSION OR REDUCTION OF TIME

Except for notices of appeal or matters pending before the Supreme Court, the respondent LPO and the Board, the Clerk or disciplinary counsel may stipulate in any proceeding to extension or reduction of the time requirements.

[Adopted effective January 1, 2009.]

ELPOC 4.6 ENFORCEMENT OF SUBPOENAS

- (a) **Authority.** To enforce subpoenas issued under these rules, the Supreme Court delegates contempt authority to the Superior Courts as necessary for the Superior Courts to act under this rule.
- (b) **Procedure.**

(1) If a person fails to obey a subpoena, or obeys the subpoena but refuses to testify or produce documents when requested, disciplinary counsel, the respondent LPO or the person issuing the subpoena may petition the Superior Court of the county where the hearing is being conducted, where the subpoenaed person resides or is found, or where the subpoenaed documents are located, for enforcement of the subpoena. The petition must:

(A) be accompanied by a copy of the subpoena and proof of service;

(B) state the specific manner of the lack of compliance; and

(C) request an order compelling compliance.

- (2) Upon the filing of the petition, the Superior Court enters an order directing the person to appear before it at a specified time and place to show cause why the person has not obeyed the subpoena or has refused to testify or produce documents. A copy of the Superior Court's show cause order must be served on the person.
- (3) At the show cause hearing, if it appears to the Superior Court that the subpoena was properly issued, and that the particular questions the person refused to answer or the requests for production of documents were reasonable and relevant, the Superior Court enters an order requiring the person to appear at a specified time and place and testify or produce the required documents. On failing to obey this order, the person is dealt with as for contempt of court.
- [Adopted effective January 1, 2009.]

TITLE 5—GRIEVANCE INVESTIGATIONS AND DISPOSITION

ELPOC 5.1 GRIEVANTS

- (a) **Filing of Grievance.** Any person or entity may file a grievance against an LPO licensed in this state.
- (b) **Consent to Disclosure.** By filing a grievance, the grievant consents to disclosure of the content of the grievance to the respondent LPO or to any other person contacted during the investigation.

of the grievance, or to any person under rules 3.1 – 3.4, unless a protective order is issued under rule 3.2(c) or the grievance was filed under rule 5.2. By filing a grievance, the grievant also agrees that the respondent may disclose to the Clerk or disciplinary counsel investigating the grievance any information relevant to the investigation, unless a protective order is issued under rule 3.2(c).

(c) Grievant Rights. A grievant has the following rights:

- (1) to be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;
- (2) to have a reasonable opportunity to speak with the person assigned to the grievance, by telephone or in person, about the substance of the grievance or its status;
- (3) to receive a copy of any response submitted by the respondent, except:
 - (A) if the response contains information of a personal and private nature about the respondent; or
 - (B) if the discipline committee determines that the interests of justice would be better served by not releasing the response;
- (4) to submit additional supplemental written information or documentation at any time;
- (5) to attend any hearing conducted into the grievance, subject to these rules and any protective order issued under rule 3.2(c);
- (6) to provide relevant testimony at any hearing conducted into the grievance, subject to these rules and any protective order issued under rule 3.2(c);
- (7) to be notified of any proposed decision to refer the respondent to diversion and to be given a reasonable opportunity to submit to the Clerk or disciplinary counsel a written comment thereon;
- (8) to be advised of the disposition of the grievance; and
- (9) to request reconsideration of a dismissal of the grievance as provided in rule 5.6(b).

(d) Grievant Duties. A grievant must do the following, or the grievance may be dismissed:

- (1) give the person assigned to the grievance documents or other evidence in ~~his or her~~their possession, and witnesses' names and addresses;
 - (2) assist in securing relevant evidence; and
 - (3) appear and testify at any hearing resulting from the grievance.
- [Adopted effective January 1, 2009.]

ELPOC 5.7 ADVISORY LETTER

An advisory letter may be issued when a hearing does not appear warranted but it appears appropriate to caution a respondent LPO concerning ~~his or her~~their conduct. An advisory letter may be issued by the discipline committee but may not be issued when a grievance is dismissed following a hearing. An advisory letter does not constitute a finding of misconduct, is not a sanction, is not disciplinary action, and is not public information. [Adopted effective January 1, 2009.]

TITLE 6—DIVERSION

ELPOC 6.1 REFERRAL TO DIVERSION

In a matter involving less serious misconduct as defined in rule 6.2, before filing a formal complaint, disciplinary counsel or the Clerk may refer a respondent LPO to diversion. Diversion may include

- arbitration;
- mediation;
- psychological and behavioral counseling;
- monitoring;
- restitution;
- continuing education programs; or
- any other program or corrective course of action agreed to by disciplinary counsel and respondent to address respondent's misconduct.

Disciplinary counsel or the Clerk may negotiate and execute diversion contracts, monitor and determine compliance with the terms of diversion contracts, and determine fulfillment or any material breach of diversion contracts, subject to review under rule 6.9. [Adopted effective January 1, 2009.]

ELPOC 6.2 LESS SERIOUS MISCONDUCT

Less serious misconduct is conduct not warranting a sanction restricting the respondent LPO's license to practice as an LPO. Conduct is not ordinarily considered less serious misconduct if any of the following considerations apply:

- (A) the misconduct involves the misappropriation of funds;
- (B) the misconduct results in or is likely to result in substantial prejudice to a third person, absent adequate provisions for restitution;
- (C) the respondent has been sanctioned in the last three years;

ELPOC 7.5 INTERIM SUSPENSIONS EXPEDITED

- (a) **Expedited Review.** Petitions seeking interim suspension under this title receive an expedited hearing, ordinarily no later than 14 days from issuance of an order to show cause.
- (b) **Procedure During Court Recess.** When a petition seeking interim suspension under this title is filed during a recess of the Supreme Court, the Chief Justice, the Acting Chief Justice, or the Senior Justice under SAR 10, subject to review by the full Court on motion for reconsideration, may rule on the motion for interim suspension.
[Adopted effective January 1, 2009.]

ELPOC 7.6 EFFECTIVE DATE OF INTERIM SUSPENSIONS

Interim suspensions become effective on the date of the Supreme Court's order unless the order provides otherwise.
[Adopted effective January 1, 2009.]

TITLE 8—DISABILITY PROCEEDINGS

ELPOC 8.1 ACTION ON ADJUDICATION OF INCOMPETENCY

(a) **Grounds.** The Board must automatically transfer an LPO from active to disability inactive membership status upon receipt of a certified copy of the judgment, order, or other appropriate document demonstrating that the LPO:

- (1) was found to be incapable of assisting in ~~his or her~~their own defense in a criminal action;
- (2) was acquitted of a crime based on insanity; [PM3]
- (3) had a guardian (but not a limited guardian) appointed for ~~his or her person~~themselves or their estate on a finding of incompetency; or

(b) **Notice to LPO.** The Board must forthwith notify the disabled LPO and ~~his or her~~their guardian, if one has been appointed, of the transfer to disability inactive status. The Association must also notify the Supreme Court of the transfer and provide a copy of the judgment, order, or other appropriate document on which the transfer was based. [Adopted effective January 1, 2009.]

ELPOC 8.2 DETERMINATION OF INCAPACITY TO PRACTICE AS AN LPO

- (a) **Discipline Committee May Order Hearing.** The Clerk or disciplinary counsel reports to the discipline committee on investigations into an active, suspended, or inactive respondent LPO's mental or physical capacity to practice as an LPO. The committee orders a hearing if it appears there is reasonable cause to believe that the respondent does not have the mental or physical capacity to practice as an LPO. In other cases, the committee may direct further investigation as appears appropriate or dismiss the matter.
- (b) **Not Disciplinary Proceedings.** Proceedings under this rule are not disciplinary proceedings.

(c) Procedure.

- (1) *Applicable Rules.* Proceedings under this rule are conducted under the procedural rules for disciplinary proceedings.
- (2) *Appointment of Counsel.* If counsel for the respondent does not appear within the time for filing an answer, the Chair must appoint a member of the Association as counsel for the respondent.
- (3) *Health Records.* After a review committee orders a hearing under this rule, disciplinary counsel may require the respondent to furnish written releases and authorizations for medical, psychological, or psychiatric records as may be relevant to the inquiry, subject to a motion to the hearing officer, or if no hearing officer has been appointed, to the chief hearing officer, to limit the scope of the requested releases or authorizations for good cause.
- (4) *Examination.* Upon motion, the hearing officer, or if no hearing officer has been appointed, the chief hearing officer as defined in ELC 2.5(f), may order an examination by a physician of the respondent's physical condition or by a mental health professional (as defined by RCW 71.05.020) of the respondent's mental condition to assist in determining the respondent's capacity to practice as an LPO. Unless waived by the parties, the examiner must submit a report of the examination, including the results of any tests administered and any diagnosis, to the hearing officer, disciplinary counsel, and the respondent.
- (5) *Hearing Officer Recommendation.* If the hearing officer or panel finds that the respondent does not have the mental or physical capacity to practice as an LPO, the hearing officer or panel must recommend that the respondent be transferred to disability inactive status.
- (6) *Appeal Procedure.* The procedures for appeal and review of suspension recommendations apply to recommendations for transfer to disability inactive status.
- (7) *Transfer Following Board Review.* If, after review of the decision of the hearing officer or panel, the Board finds that the respondent does not have the mental or physical capacity to practice as an LPO, it must enter an order immediately transferring the respondent to disability inactive status. The transfer is effective upon service of the order under rule 4.1.

(d) Interim Suspension.

- (1) When the discipline committee orders a hearing on the capacity of a respondent to practice as an LPO, disciplinary counsel must petition the Supreme Court for the respondent's interim suspension under rule 7.2(a) unless the respondent is already suspended on an interim basis.
- (2) Even if the Court previously denied a petition for interim suspension under subsection (d)(1), disciplinary counsel may petition the Court for the interim suspension of a respondent under rule 7.2(a)(3) if the respondent fails:
 - (A) to appear for an independent examination under this rule;
 - (B) to waive health care provider-patient privilege as required by this rule; or
 - (C) to appear at a hearing under this rule.

(e) Termination of Interim Suspension. If the hearing officer or panel files a decision recommending that a respondent placed on interim suspension under this rule not be transferred to disability inactive status, upon either party's petition, the Court may terminate the interim suspension.

[Adopted effective January 1, 2009.]

ELPOC 8.3 DISABILITY PROCEEDINGS DURING THE COURSE OF DISCIPLINARY PROCEEDINGS

(a) Supplemental Proceedings on Capacity To Defend. A hearing officer or hearing panel, or chief hearing officer if no hearing officer has been appointed, must order a supplemental proceeding on the respondent LPO's capacity to defend the disciplinary proceedings if the respondent asserts, or there is reasonable cause to believe, that the respondent is incapable of properly defending the disciplinary proceeding because of mental or physical incapacity.

(b) Purpose of Supplemental Proceedings. In a supplemental proceeding, the hearing officer or panel determines if the respondent:

- (1) is incapable of defending ~~himself or herself~~themselves in the disciplinary proceedings because of mental or physical incapacity;
- (2) is incapable, because of mental or physical incapacity, of defending against the disciplinary charges without the assistance of counsel; or
- (3) is currently unable to practice as an LPO because of mental or physical incapacity.

(c) Not Disciplinary Proceedings. Proceedings under this rule are not disciplinary proceedings.

(d) Procedure for Supplemental Proceedings.

- (1) *Applicable Rules.* Proceedings under this rule are conducted under the procedural rules for disciplinary proceedings.
- (2) *Deferral of Disciplinary Proceedings.* The disciplinary proceedings are deferred pending the outcome of the supplemental proceeding.
- (3) *Appointment of Counsel.* If counsel for the respondent does not appear within 20 days of notice to the respondent of the issues to be considered in a supplemental proceeding under this rule, or within the time for filing an answer, the Chair must appoint a member of the Association as counsel for the respondent in the supplemental proceedings.
- (4) *Health Records.* Disciplinary counsel may require the respondent to furnish written releases and authorizations for medical, psychological, or psychiatric records as may be relevant to the determination under section (b), subject to a motion to the hearing officer to limit the scope of the requested releases or authorizations for good cause. If the respondent asserted incapacity, there is a rebuttable presumption that good cause does not exist.

(5) *Examination.* Upon motion, the hearing officer may order an examination by a physician of the respondent's physical condition or by a mental health professional (as defined by RCW 71.05.020) of the respondent's mental condition to assist in the determinations to be made under 247

section (b). Unless waived by the parties, the examiner must submit a report of the examination, including the results of any tests administered and any diagnosis, to the hearing officer, disciplinary counsel, and the respondent.

(6) *Failure To Appear or Cooperate.* If the respondent fails to appear for an independent examination, fails to waive health care provider-patient privilege as required in these rules, or fails to appear at the hearing, the following procedures apply:

- (A) If the Association has the burden of proof, the hearing officer must hold a hearing and, if presented with sufficient evidence to determine incapacity, order the respondent transferred to disability inactive status. If there is insufficient evidence to determine incapacity, the hearing officer must enter an order terminating the supplemental proceedings and reinstating the disciplinary proceedings. A respondent who does not appear at the hearing may move to vacate the order of transfer under rule 10.6(c).
- (B) If the respondent has the burden of proof, the hearing officer must enter an order terminating the supplemental proceedings and resuming the disciplinary proceedings.

(7) *Hearing Officer Decision.*

- (A) Capacity To Defend and practice as an LPO. If the hearing officer or panel finds that the respondent is capable of defending ~~himself or herself~~themselves and has the mental and physical capacity to practice as an LPO, the disciplinary proceedings resume.
- (B) Capacity To Defend with Counsel. If the hearing officer or panel finds that the respondent is not capable of defending ~~himself or herself~~themselves in the disciplinary proceedings but is capable of adequately assisting counsel in the defense, the supplemental proceedings are dismissed and the disciplinary proceedings resume. If counsel does not appear on behalf of the respondent within 20 days of service of the hearing officer's decision, the Chair must appoint a member of the Association as counsel for the respondent in the disciplinary proceeding.
- (C) Finding of Incapacity. If the hearing officer or panel finds that the respondent either does not have the mental or physical capacity to practice as an LPO, or is incapable of assisting counsel in properly defending a disciplinary proceeding because of mental or physical incapacity, the hearing officer or panel must recommend that the respondent be transferred to disability inactive status. The procedures for appeal and review of suspension recommendations apply to recommendations for transfer to disability inactive status.

(8) *Transfer Following Board Review.*

(A) The Board must enter an order immediately transferring the respondent to disability inactive status if after review of a hearing officer's or panel's recommendation of transfer to disability inactive status, the Board finds that the respondent:

- (i) does not have the mental or physical capacity to practice as an LPO; or
- (ii) is incapable of assisting counsel in properly defending a disciplinary proceeding because of mental or physical incapacity.

(B) The transfer is effective upon service of the order on the respondent under rule 4.1. 248

- (2) set forth the respondent's prior disciplinary record or its absence;
- (3) state that the stipulation is not binding on the Association as a statement of facts about the respondent's conduct, and that additional facts may be proved in a subsequent disciplinary proceeding; and
- (4) fix the amount of costs and expenses to be paid by the respondent.

(c) Approval.

- (1) *By Hearing Officer.* A hearing officer or panel may approve a stipulation disposing of a matter pending before the officer or panel, unless the stipulation requires the respondent's license suspension or revocation. This approval constitutes a final decision and is not subject to further review.
 - (2) *By Board.* All other stipulations must be presented to the Board. The Board reviews a stipulation based solely on the record agreed to by the respondent LPO and disciplinary counsel or the Clerk. All parties to the stipulation may jointly ask the Chair to permit them to address the Board regarding a stipulation. Such presentations are at the Chair's discretion. The Board may approve, conditionally approve, or reject a stipulation. Regardless of the provisions of rule 3.3(a), the Board may direct that information or documents considered in reviewing a stipulation be kept confidential.
- (d) Conditional Approval.** The Board may condition its approval of a stipulation on the agreement by the respondent and disciplinary counsel or the clerk to a different disciplinary action, probation, restitution, or other terms the Board deems necessary to accomplish the purposes of LPO discipline. If the Board conditions approval of a stipulation, the stipulation as conditioned is deemed approved if, within 14 days of service of the order, or within additional time granted by the Chair, all parties to the stipulation serve on the Clerk written consent to the conditional terms in the Board's order.
- (e) Reconsideration.** Within 14 days of service of an order rejecting or conditionally approving a stipulation, all parties to the stipulation may serve on the Clerk a joint motion for reconsideration and may ask to address the Board on the motion.
- (f) Stipulation Rejected.** The Board's order rejecting a stipulation must state the reasons for the rejection. A rejected stipulation has no force or effect and neither it nor the fact of its execution is admissible in evidence in any disciplinary, civil, or criminal proceeding.
- (g) Failure To Comply.** A respondent's failure to comply with the terms of an approved stipulation may be grounds for discipline.
[Adopted effective January 1, 2009.]

ELPOC 9.2 VOLUNTARY CANCELLATION IN LIEU OF REVOCATION

(a) Grounds. A respondent LPO who desires not to contest or defend against allegations of misconduct may, at any time before the answer in any disciplinary proceeding is due, voluntarily cancel ~~his or her~~their certification as an LPO in lieu of further disciplinary proceedings. **(b) Process.** The respondent first notifies the Clerk or disciplinary counsel that the

respondent intends to submit a voluntary cancellation request and asks the Clerk or disciplinary counsel to prepare a statement of alleged misconduct and to provide a declaration of costs. After receiving the statement and the declaration of costs, if any, the respondent may resign by submitting to disciplinary counsel or the Clerk a signed voluntary cancellation, sworn to or affirmed under oath and notarized, that:

(1) includes disciplinary counsel's or the Clerk's statement of the alleged misconduct and either an admission of that misconduct or a statement that while not admitting the misconduct the respondent agrees that the Board could prove by a clear preponderance of the evidence that the respondent committed violations sufficient to result in the revocation of respondent's LPO certification;

(2) affirmatively acknowledges that the voluntary cancellation is permanent including the statement:

I understand that my voluntary cancellation is permanent and that any future application by me for reinstatement as an LPO is currently barred. If the Supreme Court changes this rule or an application is otherwise permitted in the future, it will be treated as an application by one whose certification has been revoked for ethical misconduct, and that, if I file an application, I will not be entitled to a reconsideration or reexamination of the facts, complaints, allegations, or instances of alleged misconduct on which this voluntary cancellation was based.;

(3) assures that the respondent will:

(A) notify all other professional licensing agencies in any jurisdiction from which the respondent has a professional license of the voluntary cancellation in lieu of revocation;

(B) seek to resign permanently from any such license; and

(C) provide disciplinary counsel or the Clerk with copies of any of these notifications and any responses;

(4) states that when applying for any employment or license the respondent agrees to disclose the voluntary cancellation in lieu of revocation in response to any question regarding disciplinary action or the status of the respondent's limited license to practice law;

(5) states that the respondent agrees to pay any restitution or additional costs and expenses ordered by the discipline committee, and attaches payment for costs as described in section (f) below, or states that the respondent will execute a confession of judgment or deed of trust as described in section (f); and

(6) states that when the voluntary cancellation becomes effective, the respondent will be subject to all restrictions that apply to an LPO whose certification has been revoked.

(c) **Public Filing.** Upon receipt of a voluntary cancellation meeting the requirements set forth above, and any executed confession of judgment or deed of trust required under section (f), disciplinary counsel promptly causes it to be filed with the Clerk as a public and permanent record of the Board.

(d) **Effect.** A voluntary cancellation under this rule is effective upon its filing with the

Clerk. All disciplinary proceedings against the respondent terminate except the Clerk or disciplinary counsel has the discretion to continue any investigations deemed appropriate under the circumstances to create a record of the respondent's actions. The Association immediately notifies the Supreme Court of a voluntary cancellation under this rule and the respondent's name is forthwith stricken from the roll of LPOs. Upon filing of the voluntary cancellation, respondent must comply with the same duties under Title 14 as an LPO whose license has been revoked and comply with all restrictions that apply to an LPO whose license has been revoked. Notice is given of the voluntary cancellation in lieu of revocation under rule 3.5.

(e) **Voluntary Cancellation is Permanent.** Voluntary cancellation under this rule is permanent. A respondent who has voluntarily cancelled under this rule will never be eligible to apply and will not be considered for admission to the practice of law nor will the respondent be eligible for admission or reinstatement for any limited practice of law.

(f) **Costs and Expenses.**

(A) If a respondent voluntarily cancels under this rule, the expenses under rule 13.9(c) are \$1,000 for any proceedings for which an answer was not due when the respondent notified disciplinary counsel of the respondent's intent to voluntarily cancel under section (b). With the voluntary cancellation, the respondent must pay this \$1,000 expense, plus all actual costs for which disciplinary counsel or the Clerk provides documentation, up to an additional \$1,000. If the respondent demonstrates inability to pay these costs and expenses, instead of paying this amount, the respondent must execute, in disciplinary counsel's or the Clerk's discretion, a confession of judgment or a deed of trust for that amount. Disciplinary counsel may file a claim under section (g) for costs not covered by the payment, confession of judgment, or deed of trust.

(B) If at the time respondent serves the notice of intent to voluntarily cancel, an additional proceeding is pending against the respondent for which an answer has been filed or is due, disciplinary counsel may also file a claim under section (g) for costs and expenses for that proceeding.

(g) **Review of Costs, Expenses, and Restitution.** Any claims for restitution or for costs and expenses not resolved by agreement between the Clerk or disciplinary counsel and the respondent may be submitted at any time, including after the voluntary cancellation, to the discipline committee in writing for the determination of appropriate restitution or costs and expenses. The discipline committee's order is not subject to further review and is the final assessment of restitution or costs and expenses for the purposes of rule 13.9 and may be enforced as any other order for restitution or costs and expenses. The record before the discipline committee and the discipline committee's order is public information under rule 3.1(b).

[Adopted effective January 1, 2009.]

TITLE 10—HEARING PROCEDURES

ELPOC 10.1 GENERAL PROCEDURE

(a) **Applicability of Civil Rules.** The civil rules for the superior courts of the State of Washington serve as guidance in proceedings under this title and, where indicated, apply directly. A party may not move for summary judgment, but either party may move at any time for an order determining the collateral estoppel effect of a judgment in another proceeding. Motions for

[Adopted effective January 1, 2009.]

ELPOC 10.13 DISCIPLINARY HEARING

- (a) Representation.** The Board is represented at the hearing by disciplinary counsel. The respondent LPO may be represented by counsel.
- (b) Respondent Must Attend.** A respondent given notice of a hearing must attend the hearing. Failure to attend the hearing, without good cause, may be grounds for discipline. If, after proper notice, the respondent fails to attend the hearing, the hearing officer or panel:
- (1) may draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and
 - (2) must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if:
 - (A) the facts stated are within the witness's personal knowledge;
 - (B) the facts are set forth with particularity; and
 - (C) it shows affirmatively that the witness could testify competently to the stated facts.
- (c) Respondent Must Bring Requested Materials.** Disciplinary counsel may request in writing, served on the respondent at least three days before the hearing, that the respondent bring to the hearing any documents, files, records, or other written materials or things. The respondent must comply with this request and failure to bring requested materials, without good cause, may be grounds for discipline.
- (d) Witnesses.** Except as provided in subsection (b)(2) and rule 10.6, witnesses must testify under oath. Testimony may also be submitted by deposition as permitted by CR 32. Testimony must be recorded by a court reporter or, if allowed by the hearing officer, by tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.
- (e) Subpoenas.** The parties may subpoena witnesses, documents, or things under the terms of CR 45. A witness must promptly comply with all subpoenas issued under this rule and with all lawful orders made by the hearing officer under this rule. Subpoenas may be enforced under rule 4.6. The hearing officer or panel may additionally draw adverse inferences as appear warranted by the respondent's failure to respond.
- (f) Prior Disciplinary Record.** The respondent's record of prior disciplinary action, or the fact that the respondent has no prior disciplinary action, must be made a part of the hearing record before the hearing officer or panel files a decision.
- [Adopted effective January 1, 2009.]

ELPOC 10.14 EVIDENCE AND BURDEN OF PROOF

- (a) Proceedings Not Civil or Criminal.** Hearing officers should be guided in their evidentiary and procedural rulings by the principle that disciplinary proceedings are neither civil nor criminal ^{but}

are sui generis hearings to determine if an LPO's conduct should have an impact on ~~his or~~ her~~their~~ license to practice as an LPO.

(b) Burden of Proof. Disciplinary counsel has the burden of establishing an act of misconduct by a clear preponderance of the evidence.

(c) Proceeding Based on Criminal Conviction. If a formal complaint charges a respondent LPO with an act of misconduct for which the respondent has been convicted in a criminal proceeding, the court record of the conviction is conclusive evidence at the disciplinary hearing of the respondent's guilt of the crime and violation of the statute on which the conviction was based.

(d) Rules of Evidence. Consistent with section (a) of this rule, the following rules of evidence apply during disciplinary hearings:

- (1) evidence, including hearsay evidence, is admissible if in the hearing officer's judgment it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The hearing officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
- (2) if not inconsistent with subsection (1), the hearing officer shall refer to the Washington Rules of Evidence as guidelines for evidentiary rulings;
- (3) documents may be admitted in the form of copies or excerpts, or by incorporation by reference;
- (4) *Official Notice.*

(A) official notice may be taken of:

- (i) any judicially cognizable facts;
- (ii) technical or scientific facts within the hearing officer's or panel's specialized knowledge; and
- (iii) codes or standards adopted by an agency of the United States, of this state, or of another state, or by a nationally recognized organization or association.

(B) the parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material noticed and the sources thereof, including any staff memoranda and data, and they shall have an opportunity to contest the facts and material noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

(e) APA as Guidance. The evidence standards in this rule are based on the evidence provisions of the Washington Administrative Procedures Act, which, when not inconsistent with these standards, should be looked to for guidance. "Shall" has the meaning in this rule ascribed to it in the APA.

[Adopted effective January 1, 2009.]

describing in detail the additional evidence sought to be admitted and any reasons why it was not presented at the previous hearing. The Board may grant or deny the request in its discretion. [Adopted effective January 1, 2009.]

ELPOC 11.12 DECISION OF BOARD

- (a) Basis for Review.** Board review is based on the hearing officer or panel's Decision, any hearing panel member's dissent, the parties' briefs filed under rule 11.8 or 11.9, and the record on review.
- (b) Standards of Review.** The Board reviews findings of fact for substantial evidence. The Board reviews conclusions of law and recommendation de novo. Evidence not presented to the hearing officer or panel cannot be considered by the Board.
- (c) Oral Argument.** The Board hears oral argument if requested by either party or the Chair. A party's request must be filed no later than the deadline for that party to file ~~their~~ ~~his or her~~ last brief, including a response or reply, under rule 11.8 or 11.9. The Chair's notice of oral argument must be filed and served on the parties no later than 14 days before the oral argument. The Chair sets the time, place, and terms for oral argument.
- (d) Action by Board.** Neither the Chair nor any members of the Board who also serve on the Discipline Committee are, by virtue of that office or service, disqualified from participating in the review before the Board or from participating in the Board's vote on a matter. On review, the Board may adopt, modify, or reverse the findings, conclusions, or recommendation of the hearing officer or panel. The Board may also direct that the hearing officer or panel hold an additional hearing on any issue, on its own motion, or on either party's request.
- (e) Order or Opinion.** The Board must issue a written order or opinion. If the Board amends, modifies, or reverses any finding, conclusion, or recommendation of the hearing officer or panel, the Board must state the reasons for its decision in a written order or opinion. A Board member agreeing with the majority's order or opinion may file separate concurring reasons. A Board member dissenting from the majority's order or opinion may set forth in writing the reasons for that dissent. The decision should be prepared as expeditiously as possible and consists of the majority's opinion or order together with any concurring or dissenting opinions. None of the opinions or orders may be filed until all opinions are filed. A copy of the complete decision is served by the Clerk on the parties.
- (f) Procedure to Amend, Modify, or Reverse if No Appeal.**
- (1) If the Board intends to amend, modify, or reverse the hearing officer or panel's recommendation in a matter that has not been appealed to the Board by either party, the Board issues a notice of intended decision.
 - (2) Either party may, within 15 days of service of this notice, file a request that the Board reconsider the intended decision.
 - (3) If a request is filed, the Board reconsiders its intended decision and the intended decision has no force or effect. The Chair determines the procedure for the Board's reconsideration, including whether to grant requests for oral argument.

- (4) If no timely request for reconsideration is filed, the Board forthwith issues an order adopting the intended decision effective on the date of the order. If a party files a timely request for reconsideration, the Board issues an order or opinion after reconsideration under section (e).
- (g) **Decision Ordering Dismissal, Admonition or Reprimand Final Unless Review Granted.** The Board's decision of dismissal, admonition or reprimand is final if neither party files a petition for review within the time permitted by title 12 or upon the Supreme Court's denial of a petition for discretionary review.
- (h) **Decision Requiring Supreme Court Action.** After the time for filing a petition for review has expired or a petition has been denied, if the recommendation of the Board is that the respondent LPO's certification be suspended or revoked, that recommendation along with the record shall be transmitted to the Supreme Court for entry of an appropriate order or other action as the Court deems appropriate under Title 12.
[Adopted effective January 1, 2009.]

ELPOC 11.13 CHAIR MAY MODIFY REQUIREMENTS

Upon written motion filed with the Clerk by either party, for good cause shown, the Chair may modify the time periods in Title 11, and make other orders as appear appropriate to assure fair and orderly Board review. However, the time period for filing a notice of appeal in rule 11.2(b)(3)(A) may not be extended or altered.
[Adopted effective January 1, 2009.]

TITLE 12—REVIEW BY SUPREME COURT

ELPOC 12.1 APPLICABILITY OF RULES OF APPELLATE PROCEDURE

The Rules of Appellate Procedure serve as guidance for review under this title except as to matters specifically dealt with in these rules.
[Adopted effective January 1, 2009.]

ELPOC 12.2 METHODS OF SEEKING REVIEW

- (a) **Two Methods for Seeking Review of Board Decisions.** The methods for seeking Supreme Court review of Board decisions entered under rule 11.12(e) are: review as a matter of right, called "appeal," and review with Court permission, called "discretionary review." Both "appeal" and "discretionary review" are called "review."
- (b) **Power of Court Not Affected.** This rule does not affect the Court's power to review any Board decision recommending suspension or revocation and to exercise its inherent and exclusive jurisdiction over the LPO discipline and disability system. The Court notifies the respondent LPO and disciplinary counsel of the Court's intent to exercise sua sponte review within 90 days of the Court receiving notice of the decision under rule 3.5(a), rule 7.1(h), or otherwise.
[Adopted effective January 1, 2009.]

ELPOC 12.3 APPEAL

- (a) **Respondent's Right to Appeal.** The respondent LPO has the right to appeal a Board decision recommending suspension or revocation. There is no other right of appeal.

- (3) the record before the Board;
- (4) the transcript of any oral argument before the Board; and
- (5) any other portions of the record before the hearing officer, including any public file documents or exhibits, that the Court deems necessary for full review.

(c) Notice to Parties. The Clerk serves each party with a list of the portions of the record transmitted.

(d) Transmittal of Cost Orders. Within ten days of entry of an order assessing costs under rule 13.9(e), the Clerk should transmit it to the Court as a separate part of the record, together with the supporting statements of costs and expenses and any exceptions or reply filed under rule 13.9(d).

(e) Additions to Record. Either party may at any time move the Court for an order directing the transmittal of additional portions of the record to the Court.

[Adopted effective January 1, 2009.]

ELPOC 12.6 BRIEFS

(a) Brief Required. The party seeking review must file a brief stating ~~his or her~~their objections to the Board's decision.

(b) Time for Filing. The brief of the party seeking review should be filed with the Supreme Court within 30 days of service under rule 12.5(c) of the list of portions of the record transmitted to the Court.

(c) Answering Brief. The answering brief of the other party should be filed with the Court within 30 days after service of the brief of the party seeking review.

(d) Reply Brief. A reply brief of a party seeking review should be filed with the Court within the sooner of 20 days after service of the answering brief or 14 days before oral argument. A reply brief should be limited to a response to the issues in the brief to which the reply brief is directed.

(e) Briefs When Both Parties Seek Review. When both the respondent LPO and disciplinary counsel seek review of a Board decision, the respondent is deemed the party seeking review for the purposes of this rule. In that case, disciplinary counsel may file a brief in reply to any response the respondent has made to the issues presented by disciplinary counsel, to be filed with the Court the sooner of 20 days after service of the respondent's reply brief or 14 days before oral argument.

(f) Form of Briefs. Briefs filed under this rule must conform as nearly as possible to the requirements of RAP 10.3 and 10.4. Public file documents should be abbreviated PF, the transcript or partial transcript of the hearing should be abbreviated TR, and exhibits should be abbreviated EX.

(g) Reproduction and Service of Briefs by Clerk. The Supreme Court Clerk reproduces and distributes briefs as provided in RAP 10.5.

judgment on the respondent under rule 4.1. The respondent may file an objection with the commissioner or clerk within 20 days of service of the application. The sole issue to be determined by the commissioner or clerk is whether the respondent has complied with the duty to pay costs and expenses under this rule. The commissioner or clerk may enter a money judgment in compliance with RCW 4.64.030 and notify the Association and the respondent of the judgment. On application, the commissioner or clerk transmits the judgment to the clerk of the superior court in any county selected by the Association and notifies the respondent of the transmittal. The clerk of the superior court files the judgment as a judgment in that court without payment of a filing fee.

[Adopted effective January 1, 2009.]

TITLE 14—DUTIES ON SUSPENSION OR REVOCATION

ELPOC 14.1 NOTICE TO CLIENTS IN WHICH LPO IS PROVIDING SERVICES; PROVIDING PROPERTY BELONGING TO CLIENTS IN WHICH LPO IS PROVIDING SERVICES

- (a) **Providing Clients' Property.** An LPO who has been suspended, revoked, or transferred to disability inactive status must provide each client to a transaction in which the LPO is providing services with the client's assets, files, and other documents in the LPO's possession.
- (b) **Notice if Suspended for 60 Days or Less.** An LPO who has been suspended for 60 days or less under rule 13.3 must within ten days of the effective date of the suspension:
- (1) notify every client to a transaction in which the LPO is providing services, of the suspension, the reason therefor, and of the LPO's consequent inability to act as an LPO after the effective date of the suspension, and advise each of these clients to seek prompt substitution of another LPO; and
 - (2) notify the LPO's employer and all others seeking to employ the LPO of the suspension, the reason therefor, and consequent inability to act during the suspension.
- (c) **Notice if Otherwise Suspended or Revoked.** An LPO whose license has been revoked, or suspended for more than 60 days as a disciplinary sanction, suspended for nonpayment of fees or under Title 7 or APR 12 must within 10 days of the effective date of the revocation or suspension notify every client to a transaction in which the LPO is providing services of the LPO's inability to act as the LPO for the transaction and the reason therefor, and advise the client to seek LPO services elsewhere.
- (d) **Notice if Transferred to Disability Inactive Status.** An LPO transferred to disability inactive status, or ~~his or her~~their guardian if one has been appointed, must give all notices required by section (c), except that the notices need not refer to disability.
- [Adopted effective January 1, 2009.]

ELPOC 14.2 LPO TO DISCONTINUE PRACTICE AS AN LPO

A revoked or suspended LPO, or an LPO transferred to disability inactive status, must not practice as an LPO after the effective date of the revocation, suspension, or transfer to disability inactive status, and also must take whatever steps are necessary to avoid any reasonable likelihood that anyone will rely on ~~him or her~~them as an LPO. This rule does not

preclude a revoked or suspended LPO, or an LPO transferred to disability inactive status, from disbursing assets held by the LPO to parties to transactions or other persons.

[Adopted effective January 1, 2009.]

ELPOC 14.3 AFFIDAVIT OF COMPLIANCE

Within 10 days of the effective date of an LPO's revocation, suspension, or transfer to disability inactive status, the LPO must serve on the Clerk an affidavit stating that the LPO has fully complied with the provisions of this title. The affidavit must also provide a mailing address where communications to the LPO may thereafter be directed. The LPO must attach to the affidavit copies of the form letters of notification sent to the parties to transactions in which the LPO was providing services together with a list of names and addresses of all persons, entities or parties to whom notices were sent. The affidavit is a confidential document except the LPO's mailing address is treated as a change of mailing address.

[Adopted effective January 1, 2009.]

ELPOC 14.4 LPO TO KEEP RECORDS OF COMPLIANCE

When an LPO's certification has been revoked, suspended, or transferred to disability inactive status the LPO must maintain written records of the various steps taken by ~~him or her~~them under this title, so that proof of compliance will be available in any subsequent proceeding. [Adopted effective January 1, 2009.]

TITLE 15—AUDITS AND TRUST ACCOUNT OVERDRAFT NOTIFICATION

ELPOC 15.1 AUDIT AND INVESTIGATION OF BOOKS AND RECORDS

The Board and its Chair have the following authority to examine, investigate, and audit the books and records of any LPO and Closing Firm to ascertain and obtain reports on whether the LPO or Closing Firm has been and is complying with LPORPC 1.12A and B:

- (a) Random Examination.** The Board may authorize examinations of the books and records of any LPO or Closing Firm selected at random. Only the books and records of transactions in which an LPO participated may be examined in an examination under this section.
 - (b) Particular Examination.** Upon receipt of information that a particular LPO or Closing Firm may not be in compliance with LPORPC 1.12A and B the Chair may authorize an examination limited to the LPO or Closing Firm's books and records. Information may be presented to the Chair without notice to the LPO or Closing Firm. Disclosure of this information is subject to rules 3.1-3.4.
 - (c) Audit.** After an examination under section (a) or (b), if the Chair determines that further examination is warranted, the Chair may order an appropriate audit of the LPO's or Closing Firm's books and records, including verification of the information in those records from available sources.
- [Adopted effective January 1, 2009.]

ELPOC 15.2 COOPERATION OF LPO

- 6.2 [Reserved.]
- 6.3 Membership in Legal Services Organization.
- 6.4 Law Reform Activities Affecting Client Interests.
- 6.5 Nonprofit and Court-Annexed Limited Legal Service Programs.

TITLE 7. INFORMATION ABOUT LEGAL SERVICES

- 7.1 Communications Concerning an LLLT's Services.
- 7.2 [Reserved.]
- 7.3 Solicitation of Clients.
- 7.4 [Reserved.]
- 7.5 [Reserved.]
- 7.6 Political Contributions to Obtain Government Legal Engagements or Appointments by Judges.

TITLE 8. MAINTAINING THE INTEGRITY OF THE PROFESSION

- 8.1 Limited Licensure and Disciplinary Matters.
- 8.2 Judicial and Legal Officials.
- 8.3 Reporting Professional Misconduct.
- 8.4 Misconduct.
- 8.5 Disciplinary Authority.

APPENDIX.

[Reserved.]

FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT FOR AN LLLT*

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Lawyers, as guardians of the law, play a vital role in the preservation of society. LLLTs, within the scope of their limited licenses to deliver legal services, also play a significant role. The fulfillment of the LLLT's role requires an understanding of their relationship with and function in our legal system. A consequent obligation of LLLTs is to maintain the highest standards of ethical conduct.

In fulfilling professional responsibilities, an LLLT may provide services consistent with the authorized scope of ~~his or her~~their practice that require the performance of many difficult tasks. Not every situation that an LLLT may encounter can be foreseen, but fundamental ethical principles are always present as guidelines.

The Rules of Professional Conduct for LLLTs point the way for the LLLT who aspires to the highest level of ethical conduct, and provide standards by which to judge the transgressor. Each LLLT must find within ~~his or her~~their own conscience the touchstone against which to test the extent to which ~~his or her~~their actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession, including LLLTs and the society that LLLTs serve, that should provide to an LLLT the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction.

* These Fundamental Principles of the Rules of Professional Conduct are taken from the former Preamble to the Rules of Professional Conduct for lawyers as approved and adopted by the Supreme Court in 1985. Washington lawyers and judges have looked to the 1985 Preamble of the Rules of Professional Conduct as a statement of our overarching aspiration to faithfully serve the best interests of the public, the legal system, and the efficient administration of justice. The former Preamble is preserved here to inspire LLLTs to strive for the highest possible degree of ethical conduct, and these Fundamental Principles should inform many of our decisions as LLLTs. The Fundamental Principles do not, however, alter any of the obligations expressly set forth in the Rules of Professional Conduct, nor are they intended to affect in any way the manner in which the Rules are to be interpreted or applied.

PREAMBLE AND SCOPE

PREAMBLE: AN LLLT'S RESPONSIBILITIES

- [1] An LLLT is authorized to provide limited legal services that lie within the scope of the practice that the LLLT is licensed to undertake. Within that scope, an LLLT is a member of the legal profession, is a representative of clients, and has a special responsibility for the quality of justice.
- [2] As a representative of clients within a limited scope, an LLLT performs various functions. As advisor, an LLLT provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As an evaluator, an LLLT acts by examining a client's legal affairs and reporting about them to the client or to others. To the extent an LLLT is allowed to act as an advocate or as a negotiator under APR 28, an LLLT conscientiously acts in the best interest of the client, and seeks a result that is advantageous to the client but consistent with the requirements of honest dealings with others.

(e) "Legal practitioner" denotes a lawyer or a limited license legal technician.

(f) "Limited License Legal Technician" or "LLLT" denotes a person qualified by education, training, and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by APR 28 and related regulations.

(g) "ELLLTC" denotes the Washington Supreme Court's Rules for Enforcement of Limited License Legal Technician Conduct.

(h) "Representation" or "represent," when used in connection with the provision of legal assistance by an LLLT, denotes limited legal assistance as set forth in APR 28 to a pro se client.

Comment

[1] Rule 1.0A was adapted from Lawyer RPC 1.0 with no substantive changes and applies to LLLTs analogously. Rule 1.0B adds terms that require definitions in light of the licensing of LLLTs as legal practitioners in Washington.

[2] The definition of the term "lawyer" is taken from APR 28(B). When used in the LLLT RPC, however, the term is used to denote a lawyer who is acting within the scope of the lawyer's license and in accordance with the Lawyer RPC. So, for example, the authorization in Rule 5.9 to enter into a law partnership with a lawyer requires that the lawyer is admitted and authorized to practice in the State of Washington.

[3] The terms "firm" and "law firm" are used interchangeably in the Lawyer RPC and also in these Rules. An LLLT should be cautious, however, in using the words "law firm" to describe a law practice that includes only LLLTs. The name and description of an LLLT's practice should not imply that a lawyer is associated with the firm unless that is the case. Any firm name used for an LLLT practice that does not include a lawyer must include the words "Legal Technician." See LLLT RPC 7.1 cmt. 2.

TITLE 1. CLIENT-LLLT RELATIONSHIP

LLLT RPC 1.1 COMPETENCE

An LLLT shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Comment

[1] Rule 1.1 was adapted from Lawyer RPC 1.1 with no substantive changes and applies to LLLTs analogously.

LLLT RPC 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LLLT

(a) Subject to paragraphs (c), (d), and (g), an LLLT shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. An LLLT may take such action on behalf of the client as is impliedly authorized to carry out the representation. An LLLT shall abide by a client's decision whether to settle a matter.

(b) An LLLT's representation of a client does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(c) An LLLT must limit the scope of the representation and provide disclosures informing a potential client as required by these Rules and APR 28.

(d) An LLLT shall not counsel a client to engage, or assist a client, in conduct that the LLLT knows is criminal or fraudulent.

(e) [Reserved.]

(f) An LLLT shall not purport to act as an LLLT for any person or organization if the LLLT knows or reasonably should know that the LLLT is acting without the authority of that person or organization and beyond ~~his or her~~ the LLLT's authorized scope of practice, unless the LLLT is authorized or required to so act by law or a court order.

(g) Nothing in this Rule expands an LLLT's authorized scope of practice provided in APR 28.

Comment

[1] Rule 1.2 was adapted from Lawyer RPC 1.2 with changes to reflect the limited scope of practice authorized by APR 28. Otherwise, it applies to LLLTs analogously.

[2] Paragraph (a) was modified from the Lawyer RPC to exclude references to criminal cases, and paragraph (d) was modified from the Lawyer RPC to exclude (and therefore prohibit) an LLLT from discussing with a client the legal consequences of any proposed criminal or fraudulent conduct and assisting a client in determining the validity, scope, meaning, or application of the law with respect to any such conduct. In circumstances where a client has engaged or may engage in conduct that the LLLT knows is criminal or fraudulent, the LLLT shall not provide services related to such conduct and shall inform the client that the client should seek the services of a lawyer.

[3] Unlike a lawyer, an LLLT may perform only limited services for a client. Before performing any services for a fee, an LLLT must enter into a written contract with the client as required by APR 28(G)(2).

[4] Additional requirements concerning the authorized scope of an LLLT's practice are imposed by APR 28. An LLLT must ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If not, the LLLT shall not render any legal assistance on the issue and must advise the client to seek the services of a lawyer. If the issue does lie within the defined practice area for which the LLLT is licensed, then the LLLT is authorized to render the services that are enumerated in APR 28.

[5] An LLLT must personally perform the authorized services for the client and may not delegate those services to a person who is not either an LLLT or a lawyer. This prohibition, however, does not prevent a person who is neither an LLLT nor a lawyer from performing translation services. APR 28(G)(1).

[6] An LLLT may not provide services that exceed the scope of the LLLT's authority under APR 28. If an issue arises for which the client needs services that exceed the scope of the LLLT's authority, the LLLT must inform that client that the client should seek the services of a lawyer. APR 28(G)(3).

[7] [Reserved.]

[8] Certain conduct and services are specifically prohibited to an LLLT by APR 28(H).

LLLT RPC 1.3 DILIGENCE

An LLLT shall act with reasonable diligence and promptness in representing a client.

Comment

[1] Rule 1.3 was adapted from Lawyer RPC 1.3 with no substantive changes and applies to LLLTs analogously. *See also* Comment [5] to Rule 1.2.

LLLT RPC 1.4 COMMUNICATION

(a) An LLLT shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the LLLT's conduct when the LLLT knows that the client expects assistance not permitted by the LLLT RPC or other law.

(b) An LLLT shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

[1] Rule 1.4 was adapted from Lawyer RPC 1.4 with no substantive changes and applies to LLLTs analogously.

- (1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or
- (2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

Comment

[1] Rule 1.9 was adapted from Lawyer RPC 1.9 with no substantive changes and applies to LLLTs analogously.

LLLT RPC 1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE

(a) Except as provided in paragraph (e), while LLLTs are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the disqualified LLLT and does not present a significant risk of materially limiting the representation of the client by the remaining LLLTs in the firm.

(b) When an LLLT has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated LLLT and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated LLLT represented the client; and

(2) any LLLT remaining in the firm has information that is material to the matter and that is protected by Rules 1.6 and 1.9(c).

(c) A disqualification prescribed by this Rule may be waived by the affected client under the conditions stated in Rule 1.7.

(d) The disqualification of LLLTs associated in a firm with former or current government LLLTs is governed by Rule 1.11.

(e) When the prohibition on representation under paragraph (a) is based on Rule 1.9(a) or

(b) and arises out of the disqualified LLLT's association with a prior firm, no other LLLT in the firm shall knowingly represent a person in a matter in which that LLLT is disqualified unless:

(1) the personally disqualified LLLT is screened by effective means from participation in the matter and is apportioned no part of the fee therefrom;

(2) the former client of the personally disqualified LLLT receives notice of the conflict and the screening mechanism used to prohibit dissemination of information relating to the former representation;

(3) the firm is able to demonstrate by convincing evidence that no material information relating to the former representation was transmitted by the personally disqualified LLLT before implementation of the screening mechanism and notice to the former client.

Any presumption that information protected by Rules 1.6 and 1.9(c) has been or will be transmitted may be rebutted if the personally disqualified LLLT serves on ~~his or her~~their former firm and former client an affidavit attesting that the personally disqualified LLLT will not participate in the matter and will not discuss the matter or the representation with any other LLLT or employee of ~~his or her~~their current firm, and attesting that during the period of the LLLT's personal disqualification those LLLTs, or employees who do participate in the matter will be apprised that the personally disqualified LLLT is screened from participating in or discussing the matter. Such affidavit shall describe the procedures being used effectively to screen the personally disqualified LLLT. Upon request of the former client, such affidavit shall be updated periodically to show actual compliance with the screening procedures. The firm, the personally disqualified LLLT, or the former client may seek judicial review in a court of general jurisdiction of the screening mechanism used, or may seek court supervision to ensure that implementation of the screening procedures has occurred and that effective actual compliance has been achieved.

(f) When LLLTs and lawyers are associated in a firm, a lawyer's conflict of interest under Lawyer RPC 1.7 or Lawyer RPC 1.9 is imputed to LLLTs in the firm in the same way as conflicts are imputed to LLLTs under this Rule. Each of the other provisions of this Rule also applies in the same way when lawyer conflicts are imputed to LLLTs in the firm.

Comment

[1] Rule 1.10 was adapted from Lawyer RPC 1.10 with no substantive changes except to reflect the fact that LLLTs and lawyers may practice in a firm together. The general rules concerning imputation of conflicts of interest apply to LLLTs and firms in which both LLLTs and lawyers are associated analogously.

LLLT RPC 1.11

SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

(a) Except as law may otherwise expressly permit, an LLLT who has formerly served as a public officer or employee of the government:

(1) is subject to Rule 1.9(c); and

(2) shall not otherwise represent a client in connection with a matter in which the LLLT participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(2) a person who is not an LLLT is a corporate director or officer (other than as secretary or treasurer) thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a person who is not an LLLT has the right to direct or control the professional judgment of an LLLT.

Comment

[1] This Rule was adapted from Lawyer RPC 5.4 with no substantive changes except to change references to a “nonlawyer” to “person who is not an LLLT” to avoid confusion. It applies to LLLTs analogously.

[2] Rule 5.4 does not prohibit lawyers and LLLTs from sharing fees and forming business structures to the extent permitted by Rule 5.9.

LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF LAW

(a) An LLLT shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) [Reserved.]

(c) [Reserved.]

(d) [Reserved.]

Comment

[1] Lawyer RPC 5.5(a) expresses the basic prohibition on a legal practitioner practicing law in a jurisdiction where that individual is not specifically licensed or otherwise authorized to practice law. It reflects the general notion (enforced through criminal-legal prohibitions and other law) that legal services may only be provided by those licensed to do so. This limitation on the ability to practice law is designed to protect the public against the rendition of legal services by unqualified persons. *See* Comment [2] to Lawyer RPC 5.5.

As applied to LLLTs, this principle should apply with equal force. An actively licensed LLLT should practice law as an LLLT only in a jurisdiction where ~~he or she is~~ they are licensed to do so, i.e., Washington State. An LLLT must not practice law in a jurisdiction where ~~he or she is~~ they are not authorized to do so. Unless and until other jurisdictions authorize Washington-licensed LLLTs to practice law, it will be unethical under this Rule for the LLLT to provide or attempt to provide legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities that constitute the unauthorized practice of law in any jurisdiction. *See also* APR 28(H)(6) (prohibiting an LLLT from providing services to a client in connection with a legal matter in another state unless permitted by the laws of that state to perform the services for the client).

[2] Lawyer RPC 5.5(b) through (d) define the circumstances in which lawyers can practice in Washington despite being unlicensed here. For example, lawyers actively licensed elsewhere may provide services on a temporary basis in Washington in association with a lawyer admitted to practice here or when the lawyer's activities "arise out of or are reasonably related to the lawyer's practice in ~~his or her~~their home jurisdiction." These provisions also recognize that certain non-Washington-licensed lawyers may practice here on more than a temporary basis (e.g., lawyers providing services authorized by federal law), and otherwise prohibit non-Washington-licensed lawyers from establishing a systematic and continuous presence in Washington for the practice of law.

These provisions are, at this time, unnecessary in the LLLT RPC because there are no limited licenses in other jurisdictions tantamount to Washington's LLLT rules and no need to authorize limited license practitioners in other jurisdictions to practice law in Washington, either temporarily or on an ongoing basis. For this reason, paragraphs (b) through (d) are reserved.

LLLT RPC 5.6 RESTRICTIONS ON RIGHT TO PRACTICE

An LLLT shall not participate in offering or making:

- (a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the rights of an LLLT or lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
- (b) an agreement in which a restriction on the LLLT's right to practice is part of the settlement of a client controversy.

Comment

[1] This Rule was adapted from Lawyer RPC 5.6 with no substantive changes except to reflect that LLLTs and lawyers may practice in the same firm. It applies to LLLTs and to firms in which both LLLTs and lawyers are associated analogously.

LLLT RPC 5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES

- (a) An LLLT shall be subject to the LLLT RPC with respect to the provision of law-related services, as defined in paragraph (b), if the law-related services are provided:
 - (1) by the LLLT in circumstances that are not distinct from the LLLT's provision of legal services to clients; or
 - (2) in other circumstances by an entity controlled by the LLLT individually or with others if the LLLT fails to take reasonable measures to assure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-LLLT relationship do not exist.

- (b) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and

JUDICIAL AND LEGAL OFFICIALS

(a) An LLLT shall not make a statement that the LLLT knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications, integrity, or record of a judge, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) [Reserved.]

Comment

[1] Rule 8.2(a) was adapted from Lawyer RPC 8.2(a) with no substantive changes and applies to LLLTs analogously.

[2] Lawyer Rule 8.2(b) pertains to lawyers who are candidates for judicial office. Judges in the judicial branch of the state of Washington must be lawyers. Accordingly, Rule 8.2(b) does not apply to LLLTs and is reserved.

LLLT RPC 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) An LLLT who knows that another LLLT or a lawyer has committed a violation of the applicable Rules of Professional Conduct that raises a substantial question as to that LLLT's or that lawyer's honesty, trustworthiness, or fitness as an LLLT or lawyer in other respects, should inform the appropriate professional authority.

(b) An LLLT who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office should inform the appropriate authority.

(c) This Rule does not permit an LLLT to report the professional misconduct of another LLLT, a lawyer, or a judge to the appropriate authority if doing so would require the LLLT to disclose information otherwise protected by Rule 1.6.

Comment

[1] This Rule was adapted from Lawyer RPC 8.3 with no substantive changes except to reflect that LLLTs have the same rights and responsibilities with respect to the actions of lawyers that they have with respect to the actions of LLLTs. It applies to LLLTs analogously.

LLLT RPC 8.4 MISCONDUCT

It is professional misconduct for an LLLT to:

(a) violate or attempt to violate the LLLT RPC, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the LLLT's honesty, trustworthiness, or fitness as an LLLT in other respects;

- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the LLLT Rules of Professional Conduct or other law;
- (f) knowingly assist
 - (1) a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law or
 - (2) a lawyer in conduct that is a violation of the lawyer Rules of Professional Conduct or other law;
- (g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status, where the act of discrimination is committed in connection with the LLLT's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, or marital status. This Rule shall not limit the ability of an LLLT to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;
- (h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward LLLTs, lawyers, judges, other parties, witnesses, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. This Rule does not restrict an LLLT from assisting a client to advance material factual or legal issues or arguments.
- (i) commit any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of ~~his or her~~their conduct as an LLLT, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;
- (j) willfully disobey or violate a court order directing ~~him or her~~them to do or cease doing an act which ~~he or she~~they ought in good faith to do or forbear;
- (k) violate ~~his or her~~their oath as an LLLT;
- (l) violate a duty or sanction imposed by or under the ELLLTC in connection with a disciplinary matter; including, but not limited to, the duties catalogued at ELLLTC 1.5;
- (m) [Reserved.];

- (n) engage in conduct demonstrating unfitness to practice law; or
- (o) violate or attempt to violate APR 28 (F)-(H) or Appendix APR 28 Regulation 2.

Comment

[1] This Rule was adapted from Lawyer RPC 8.4 with no substantive changes except as discussed in these Comments, and otherwise applies to LLLTs analogously.

[2] An LLLT holds a unique form of license to practice law. As a legal professional, an LLLT has a duty to uphold the integrity of the justice system and of those who are authorized to participate in it as judges, lawyers, and LLLTs. Rule 8.4(f)(1) prohibits an LLLT from knowingly assisting a judge or judicial officer in conduct that violates applicable rules of judicial conduct or other law. Rule 8.4(f)(2) adds a prohibition against knowingly assisting a lawyer in conduct that violates the Lawyer RPC or other law. Rule 8.4(f)(2) is substantially identical to Rule 8.4(f)(1) except for its reference to the applicable code of conduct and should be interpreted and applied analogously. Similarly, Rule 8.4(h) has been modified to reflect that an LLLT's obligation to avoid conduct that is prejudicial to the administration of justice extends to an LLLT's conduct toward lawyers.

[3] Lawyer Rule 8.4(m) pertains to lawyers who serve as judges. Judges in the judicial branch of the state of Washington must in nearly all instances be lawyers. Accordingly, because Rule 8.4(m) will have little or no applicability to LLLTs, it is reserved.

[4] LLLTs are subject to discipline when they violate or attempt to violate the LLLT RPC, knowingly assist or induce another to do so, or do so through the acts of another, as when they require or instruct an agent to do so on the LLLT's behalf. In this way, LLLTs are held to the same standards that apply to lawyers. Rule 8.4(o), which does not appear in the Lawyer RPC, states that violating or attempting to violate APR 28(F-H) or Appendix APR 28 Regulation 2 is professional misconduct that subjects an LLLT to discipline.

LLLT RPC 8.5 DISCIPLINARY AUTHORITY

(a) Disciplinary Authority. An LLLT licensed to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the LLLT's conduct occurs.

(b)[Reserved.]

(c) [Reserved.]

Comment

[1] The first sentence of Rule 8.5 was adapted from the first sentence of Lawyer RPC 8.5 with no substantive changes and applies to LLLTs analogously.

[2] An LLLT holds a unique form of license to practice law. Unlike lawyers, LLLTs are not recognized licensed legal practitioners in jurisdictions other than Washington. With the exception of the first sentence of Lawyer RPC 8.5, that rule applies either to the conduct of lawyers from this jurisdiction who practice law in another jurisdiction, lawyers from another 270



TO: WSBA Board of Governors

CC: Terra Nevitt, Executive Director

FROM: Hunter Abell, Governor At-Large and Awards Committee Chair, and Michael Kroner, Outreach Specialist and Awards Committee Staff Liaison

DATE: March 1, 2022

RE: Renaming the APEX Award of Merit the "Chief Justice Mary E. Fairhurst Award of Merit"

ACTION: Approve request to rename the APEX Award of Merit the "Chief Justice Mary E. Fairhurst Award of Merit," beginning with the 2022 APEX Awards

Chief Justice Mary E. Fairhurst was a legal luminary and a model of WSBA service and professionalism. To honor and celebrate her legacy, the Awards Committee unanimously recommends renaming the WSBA APEX Award of Merit the "Chief Justice Mary E. Fairhurst Award of Merit." This is particularly meaningful because it is the WSBA's highest award, Chief Justice Fairhurst served as the WSBA President in 1997-1998, and she received the Award of Merit in 2011.

Background

The APEX (Acknowledging Professional Excellence) Awards are the WSBA's highest form of professional recognition, and the APEX Award of Merit is considered the Bar's highest honor; it is bestowed annually to an individual for a recent, singular achievement. The WSBA Board of Governors ("Board") first considered renaming the Award of Merit after Chief Justice Fairhurst in 2019. The Awards Committee at that time recommended that the Board adopt guidelines for when and how to name an APEX Award after a person and, following those guidelines, that the Board honor Chief Justice Fairhurst through a different method at the 2019 APEX Award ceremony. When presented to the entire Board, there was robust discussion. Ultimately, the Board adopted the guidelines and created a resolution to honor Chief Justice Fairhurst. One of the debated points in the guidelines that was ultimately agreed upon by the Board is that a person should be deceased. Therefore, the Board elected not to name an award in Chief Justice Fairhurst's honor at that juncture.

With Chief Justice Fairhurst's passing in December 2021, Governors Clark and Stephens asked the Awards Committee to again consider naming the Award of Merit in honor of Chief Justice Fairhurst. At its Feb. 23, 2022, meeting, Awards Committee members unanimously agreed to recommend the name change to the Board of Governors. Among their reasoning (reflected in the attached letter by Gov. Clark):

- Chief Justice Fairhurst fits every definition of legal "giant," with an array of professional and personal achievements that epitomize the spirit of the award category. She is distinguished among her peers and has served—and will continue to serve—as an inspiration to countless WSBA members.
- Chief Justice Fairhurst served 16 years as an Assistant Attorney General before being elected to the Supreme Court in 2002 and being named Chief Justice in 2017. Throughout her career she worked to

expand opportunities for women, people of color, and other traditionally underrepresented groups within the legal profession. She served as President of the Washington Women Lawyers, and served on the Washington Supreme Court's Gender and Justice Commission and Access to Justice Board and committees.

- Chief Justice Fairhurst received considerable recognition for her work throughout her career, including the Washington Women Lawyers President's Award, the Betty B. Fletcher Judge of the Year Award, the Council for Public Legal Education's 2011 Judge William Nevins Award for distinguished public legal education, and the WSBA Award of Merit in 2011.
- Within the WSBA, she volunteered thousands of hours of service, including serving as President (she was the second woman and the first public-sector governmental attorney to hold the position), Governor, Treasurer, and in leadership roles on many WSBA committees, work groups, and councils, including heading the 2019 Bar Structure Work Group during a time of personal health struggles.
- On a personal level, she served as an inspiration to countless WSBA members, with Governors Clark and Stephens attesting to the strong, positive influence she had on their careers.

The Awards Committee believes that Chief Justice Fairhurst meets all the criteria in the guidelines for renaming an APEX Award in honor of a person, and, most importantly, that by renaming APEX's highest award, Chief Justice Fairhurst's legacy will continue to inspire and uplift all of us in the legal community.

Please note: If the Board passes this action at the March 2022 meeting, we anticipate being able to reflect the new award name at the 2022 APEX ceremony. This will include notifying all nominators in the Award of Merit category to ensure they are aware of the change before the official judging/selection process happens (since nominations will already be in by the time the change occurs).

Attachments

- Attachment A: "Request to Rename the WSBA APEX Awards Award of Merit, 'The Chief Justice Mary E. Fairhurst Award of Merit,'" District 4 Governor & WSBA President-Elect Daniel D. Clark
- Attachment B: "Process and Criteria to Name an Award in Honor of a Person," Adopted July 2019
- Attachment C: List of WSBA APEX Award categories and descriptions as appearing on WSBA.org

DISTRICT 4 GOVERNOR & WSBA PRESIDENT-ELECT DANIEL D. CLARK

Request to Rename the WSBA APEX Awards Award of Merit, “The Chief Justice Mary E. Fairhurst Award of Merit.”

My fellow Governors,

I am respectfully submitting this formal written request and memorandum in support of my request of each of you that you please join me in supporting renaming the current WSBA Apex Award of Merit, to the “Chief Justice Mary E. Fairhurst Award of Merit” in honor of the late former Chief Justice of the Washington Supreme Court Mary. E. Fairhurst. In the following I will detail why I believe that such a request is appropriate, complies with existing Board of Governor policies for renaming WSBA Apex Awards adopted July 2019, and certainly would be honoring the first female WSBA President, governmental attorney to serve as WSBA President, and someone that was a true legal luminary, mentor and champion for justice in our state and legal profession.

2019 Apex Award Policy Process & Criteria to Name an Award in Honor of a Person

WSBA annually recognizes legal luminaries through its APEX Awards. These awards are meant to illustrate and inspire legal professionals to advance WSBA’s mission.

The current WSBA policy allows for in exceptional cases, an award may be named after an individual who exemplifies the spirit of the award category and embodies the WSBA mission. To name an Apex Award after an individual, the individual should:

- Be deceased
- Be a legal “giant” known to, and significant to, the WSBA legal community, preferably across the state, generally considered an upstanding recognizable name within the profession.
- Have an array of professional and personal achievements that epitomize the spirit and characteristics of the award category and are distinguished even among other leaders in his/her practice area.
- Have a personal story and/or philosophy that inspires WSBA members to follow in his/her footsteps.

In the following, I will detail why I believe that renaming the Award of Merit to the Chief Justice Mary E. Fairhurst Award of Merit, meets all of the above criteria for justification to rename the award.

First, the award that is being proposed to be renamed is, The Award of Merit and is described as:

This Award is the Bar’s highest honor and is given to an individual for a recent, singular achievement. The singular achievement may involve an

individual who has displayed exceptional courage in the face of adversity, thus bring credit to the legal profession. It is awarded to individuals only, - both legal professionals and members of the public.

In looking at the intent of this Apex Award, and then considering the numerous extraordinary career and accomplishments that Mary did during her lifetime, I can think of no other WSBA member that would be more deserving of having this award named after.

In the following, I will detail why I believe that clearly Mary meets the above four prong criteria, was considered a legal giant, well known not only among the state, but nationally, and her life and career truly inspired numerous attorneys. I will share with her that she inspired me and encouraged me not to let my disability of stuttering prevent me from serving as WSBA Treasurer, and now WSBA President-Elect. Mary was a true role model for me, and countless others that had the honor of getting to know and interact with her.

The last time I had the honor of seeing Mary and speaking with her in person was November 7, 2019. It was at the annual WSBA Officer meeting that we used to have physically at the Temple of Justice. Mary had just announced she was going to have to step down and retire from the Court due to her battle with Cancer. Mary told me that she was proud of me, and that she was going to be sticking around and would be watching with great interest what I was able to do. She told me to “make her proud.” I will never forget my interactions with her, and honestly, without a doubt, Mary E. Fairhurst deserves to have this award named after her. No words that I can write will really detail or give justice to her true amazing positive impact on our legal profession, and countless WSBA members.

In support of this request, I strongly believe that Mary clearly meets all of the criteria for the award to be renamed after her. She also previous won the award sought to be renamed after her in 2011. She practiced law for approximately 37 years. She would have continued to do so had her life not been tragically cut short due to Cancer. She dedicated her life to public service and volunteered thousands of hours to WSBA, having previously served as President of the Washington State Bar Association, as the second woman and first public-sector governmental attorney to hold this position. I am extremely honored that I will be the second this fall to assume that honor, but Mary was a true mentor not only to myself but to countless other WSBA members. Prior she served on the Board of Governors as a Governor, and also WSBA Treasurer. She subsequently led many WSBA committees, taskforces, work groups, councils, including in 2019, heading the WSBA Bar Structure Work Group. Despite ongoing Cancer treatments, Mary cared enough about our organization and the future of WSBA to spearhead the important Bar Structure work group.

Mary dedicated her entire legal career striving to carry out WSBA’s mission of serving the public. She dedicated her career in public serving, serving sixteen (16) years as an

Assistant Attorney General with the A.G.'s office, prior to being elected to the Supreme Court in 2002, and being named Chief Justice on January 9, 2017.

Mary's career focused on her work on expansion of diversity, equity and inclusion and expanding opportunities for women and people of color and other traditionally underrepresented groups within the legal profession and to insure access to justice and equal justice for all. She served as former President of the Washington Woman Lawyer, has served on the Washington State Supreme Court's General and Justice Commission, Access to Justice Board and committees, and previously was awarded the WWL President Award, the Betty B. Fletcher Judge of the Year Award, the Pass the Torch Award, the LEGALS P.S. Allies for Justice Award, and the Council for Public Legal Education's 2011 Judge William Nevins Award for distinguished public legal education. There are likely countless other awards that I am omitting from this list, but I believe that there is more than ample evidence to support establishing that no issue of material fact exists to preclude a finding as a matter of law and common sense that Mary was a true legal luminary in our legal profession.

Given the foregoing, I strongly believe that Mary clearly meets the other criteria to have the award named after her. She was truly a legal giant and luminary in our legal profession. Her career accomplishments clearly epitomize the spirit and characteristics of the award category and are very distinguished. Finally, her accomplishments and character are certainly something that each of us should inspire to follow in her footsteps in regard to service to the public, to WSBA and to our fellow WSBA members.

In closing, I believe that a post that a current APR Rule 6 Law Clerk student Sarah Matheny said when Mary passed, is pertinent for this discussion. Sarah wrote:

This bright light in the world; trailblazer; friend; mentor and hero has passed into the beautiful gates of Heaven. She has been a mentor, friend, and penpal; and the world and legal profession will be a bit dimmer without her optimism, steadfast positivity, bright shining light and beautiful example of humanity. [Mary Fairhurst](#) touched countless lives in her time here with us and I am absolutely a better person to have known her. We love you Mary, till we meet again one day.

Sarah is not alone in feeling this way, and doing a simple search on social media or the internet will show a tremendous outpouring of support of literally the vast majority of the legal profession feeling this same way.

Therefore, this is my written submission to respectfully request that we rename the Apex Award of Merit, the "Chief Justice Mary E. Fairhurst Award of Merit."

Respectfully Submitted,

Daniel D. Clark

WSBA #35901

Current WSBA District 4 Governor & WSBA President-Elect.

WASHINGTON STATE BAR ASSOCIATION

Board of Governors Awards Committee

Adopted by the Board of Governors July 2019

Process and Criteria to Name an Award in Honor of a Person

The Washington State Bar Association annually recognizes luminaries of the Washington legal profession through its APEX (Acknowledging Professional Excellence) Awards. The awards are meant to illustrate and inspire legal professionals to advance WSBA's mission.

In general, each award should be named for the aspect of the legal profession the award highlights, and not after an individual due to the potential subjectivity of the naming process, need to appeal broadly to nominees in each award category, and the possible diminishing of name recognition through the years. However, in exceptional cases, an award may be named after an individual who exemplifies the spirit of the award category and embodies the WSBA mission.

The APEX Awards Committee is responsible for receiving and responding to requests to name awards, screening the request using the criteria below, and making a recommendation to the Board of Governors, which will make the final decision.

Although no single factor is determinative, in order to accomplish the purpose of the Apex Awards and maintain consistency, the Board of Governors decision to approve a recommendation to name an APEX Award should be governed by the following criteria:

To name an APEX Award after an individual, the individual should:

- Be deceased.
- Be a legal "giant" known to, and significant to, the WSBA legal community—preferably across the state—generally considered an upstanding recognizable name within the profession.
- Have an array of professional and personal achievements that epitomize the spirit and characteristics of the award category and are distinguished even among other leaders in his/her practice area.
- Have a personal story and/or philosophy that inspires WSBA members to follow in his/her footsteps.

Procedure for naming an APEX Award:

- The APEX Award should not be renamed until the following fiscal year if the Board of Governor's action is less than 9 months before the APEX Award ceremony, although the Board of Governors may act on less notice when it deems appropriate and if it is practical to do so
- Any WSBA member or group of members may make a recommendation to name an existing APEX Award after someone they believe meets the above criteria. The recommendation should be made in writing to the WSBA with more information about the nominee's qualifications and the level of membership outreach and support for the proposal.
- The APEX Awards Committee will determine whether the nominee meets all of the above criteria. It may be necessary for Committee members to consult with legal leaders in the area of the award category to make an informed decision.
- A quorum of the Committee must be present to vote on the recommendation, and 75 percent of Committee members present must vote in favor of the recommendation for it to pass to the Board of Governors.

- If the Committee moves forward with a recommendation to the Board of Governors, and the board votes in approval, committee members will make a good-faith effort to contact and seek input from the closet relatives and colleagues of the nominee.



WSBA APEX Award Categories and Descriptions

Award descriptions as currently posted on [WSBA.org/news-events/apex-awards](https://www.wsba.org/news-events/apex-awards)
February 24, 2022

Award of Merit

This award is the Bar's highest honor and is given to an individual for a recent, singular achievement. The singular achievement may involve an individual who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession. It is awarded to individuals only – both legal professionals and members of the public.

Angelo Petrucci Award for Lawyers in Government Service

Named in honor of Angelo R. Petrucci, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors, this award is given to a lawyer in government service who has made a significant contribution to the legal profession, the justice system, and the public.

Justice Charles Z. Smith Excellence in Diversity Award

Named in honor of Justice C. Z. Smith, the first African-American to serve on the Washington Supreme Court, this award goes to a lawyer, law firm, or law-related group that has made a significant contribution to diversity in the legal profession.

Legal Innovation Award

This award recognizes legal professionals, law firms, courts, law schools, individuals, or organizations who demonstrate leadership in promoting innovation in the practice of law. Innovation may be defined as programs, processes, or technology that advance or streamline the future of the profession and accessibility/delivery of legal services.

Lifetime Service Award

This award is a special award given for a lifetime of service to the legal community and the public.

Norm Maleng Leadership Award, Presented jointly with the Access to Justice Board

This award is given jointly by the WSBA and the Access to Justice Board, in honor of the late King County Prosecutor Norm Maleng's legacy as a leader. He was an innovative and optimistic leader committed to justice and access to justice in both civil and criminal settings. Within the profession, his leadership was characterized by his love of the law and commitment to diversity and mentorship. This award recognizes those who embody these qualities.

Outstanding Judge Award

This award is presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.

Outstanding Young Lawyer Award

This award recognizes one attorney who has made significant contributions to the professional community, especially the community of young lawyers, within their initial years of practice. Recipients must be active WSBA members within five years of admission to any bar association or less than 36 years of age.

Pro Bono and Public Service Awards

These awards are presented to an individual, a lawyer, other legal professional, law firm, or other legal entity for outstanding cumulative efforts in providing pro bono services or who gives back in meaningful ways to the public, the community, or to the legal profession. Nominations considered in two categories: 1) for an individual, or solo or small firm practitioner; 2) for a multi-person law firm or organization.

Professionalism Award

This honor is awarded to a WSBA member who exemplifies the spirit of professionalism in the practice of law, as defined in the WSBA's Creed of Professionalism.

Sally P. Savage Leadership in Philanthropy Award, Presented jointly with the Washington State Bar Foundation

Sally Savage led the Bar Foundation's renaissance and was a catalyst for its refocused mission to sustain the WSBA's effort to advance justice and diversity. Her clarity, expertise and vision helped establish a path for enduring support of a strong bar association that provides statewide leadership on matters of profound importance to the profession and the citizenry. Sally's spirit of generosity and leadership continue to inspire all who recognize the transformative potential of philanthropy. Philanthropy means "love of humanity" and focuses on private initiatives for the public good, focusing on quality of life. Sally Savage emulated this spirit of philanthropy in her life, and it is in her memory that we continue to honor donors, volunteers and friends of the Washington State Bar Foundation who embody Sally's spirit.

WASHINGTON STATE BAR ASSOCIATION

TO: WSBA Board of Governors
CC: Brian Tollefson, President, and Terra Nevitt, Executive Director
FROM: Carla J. Higginson, Personnel Committee Chair 
DATE: February 17, 2022
RE: Executive Director Annual Evaluation

DISCUSSION & ACTION: Review and approve the questionnaires and process adopted by the Personnel Committee at its January 21, 2022 meeting, or take other action as determined by the Board, on the process for conducting the annual evaluation of the Executive Director that is required by her contract.

The Board of Governors evaluates the Executive Director's performance every year. The Personnel Committee has been tasked with conducting this evaluation as set forth in their charter. A discussion about the process is needed before the evaluation can be conducted.

Summarize the problem and the proposed solution:

The Personnel Committee unanimously voted at its January 21, 2022 meeting to approve the questionnaires to the Executive Director and to the Governors and Executive Management Team, and the process for their submission, including insuring confidentiality of the responses from the Governors and the Executive Management Team. This was in accordance with the task of the committee per the Personnel Committee Handbook and the executive director's contract, which provide in pertinent part:

Personnel Handbook: "The Personnel Committee conducts the annual evaluation of the Executive Director and is the touch point for notice of significant personnel actions **in accordance with the protocol adopted by the committee.**" [Emphasis added.]

Executive Director Contract: "The Executive's performance shall be reviewed with her annually **by the WSBA Personnel Committee**, with the result being reported, for discussion, to the WSBA Board of Governors at its next regular meeting." [Emphasis added.]

In addition to the January 21, 2022 meeting, the evaluation process was reviewed and discussed in the Personnel Committee Meetings on November 18, 2021 and December 21, 2021 and the questionnaires were reviewed and discussed on December 21, 2021.

An evaluation of the executive director was not conducted in 2021.

What is the problem we are trying to solve?

Shortly after the evaluation was sent out, President Tollefson and the Board Officers determined that the Board should make the final decision on the evaluation process of the Executive Director and so directed the Personnel Committee to withdraw the questionnaires that had been submitted by that time to the executive director, the governors, and the executive management team.

MEMO – PAGE 2
WSBA Board of Governors
February 17, 2022
Re: Executive Director Annual Evaluation

What does success look like and how will we measure it?

The Board come to an agreement on the process for this year's evaluation so that it may move forward as required by the terms of her contract.

What are the suggested next steps?

Discussion and agreement as a Board on the wording of the questionnaires, whether the responses should be anonymous, whether retired Chief Justice Gerry Alexander should be used on a volunteer basis to receive the evaluations and compile the responses, and the timeline for the evaluation process.

Attachments

- Attachment 1 – ED Annual Review – Questionnaire for ED
- Attachment 2 – ED Annual Review – Questionnaire for BOG and ELT
- Attachment 3 – Timeline for ED annual review
- Attachment 4 – ED Contract
- Attachment 5 – Personnel Committee Handbook

ANNUAL EVALUATION QUESTIONNAIRE FOR EXECUTIVE DIRECTOR

Note: Questions contained in this questionnaire are taken directly from the Job Specifications dated 6-19-18, copy attached hereto.

INSTRUCTIONS: For each question, refer to the relevant portion of the attached Job Specifications dated 6-19-18. In answer to each question, provide details where possible and representative examples where details are not possible. Include written documentation if available. This questionnaire is being provided to you in Word format for ease of use in answering.

ITEM 1: Management of WSBA staff and programs within the parameters established by the annual Board adopted budget.

1. *[From Principal Duties & Responsibilities item 1, first bullet point]* Explain how you have recruited, developed, lead and retained competent and committed staff, how you have assessed current staff and ensured that talent is maximized and that resources are allocated in ways to achieve the highest results. *[From Principal Duties & Responsibilities, item 5, second bullet point – no question asked here as the job description states that the ED will write columns and reports about WSBA activities and the legal profession.]*

2. *[From Principal Duties & Responsibilities item 1, second bullet point]* Explain how you have worked with the Board to implement and monitor policies and priorities established by the Board, and how you have worked with the officers and Board to define or redefine the roles and responsibilities of Board members, committee members, and constituents.

3. *[From Principal Duties & Responsibilities, item 1, third bullet point]* Explain how you have directed the activities of staff to ensure the accomplishment of strategic goals established by the Board's Strategic Planning Committee, and how you have assured that all staff contributes effectively to the WSBA mission, guiding principles and strategic goals as well as all Supreme Court rules, orders and case law. *[From Principal Duties & Responsibilities, item 1, fourth bullet point, which relates to the third bullet point so is included in this question]* Explain how you have led strategic planning activities within the WSBA and brought forward issues and ideas to the Board for further development to guide the long-term viability of the organization and the profession.

4. *[From Principal Duties & Responsibilities, item 1, fifth bullet point]* Explain how you have served as steward of WSBA assets: human, material, fiscal, goodwill with members, and good reputation of the WSBA. *[From Principal Duties & Responsibilities, item 1, sixth bullet point,*

which seems to be related to the fifth bullet point] Explain how you have assured coverage and continuity of the activity of the WSBA.

5. *[From Principal Duties & Responsibilities, item 1, seventh bullet point]* Explain how you have been responsible, along with the Board, for ensuring that the WSBA remains financially sound, including ensuring that solid financial systems and rigorous internal controls are in place, that accurate financial reports are proceed, and that the annual budget is prepared and implemented in accordance with Board policies.

6. *[From Principal Duties & Responsibilities, item 1, eighth bullet point]* Explain how you have managed staff-member relationships at all levels of the WSBA in order to make the most efficient use of WSBA resources through direction and delegation to the WSBA Executive Management Team as appropriate. *[From Principal Duties & Responsibilities, item 1, ninth bullet point, which seems to be related to the eighth bullet point]* Explain how you have established and, from time to time, modified an organizational structure to accomplish the goals, programs and policies of the Board including the authority to hire, assign and terminate staff.

7. *[From Principal Duties & Responsibilities, item 1, tenth bullet point]* Explain how you have worked with General Counsel and outside counsel as necessary to assure that the WSBA's legal matters are properly handled and that committees, sections, and divisions comply with WSBA bylaws and policies.

ITEM 2: Management and administration of the regulatory functions of the WSBA.

1. *[From Principal Duties & Responsibilities, item 2, first bullet point]* Explain how you have ensured compliance with and performance of specific duties assigned to you and the WSBA by the Supreme Court's General Rules, the Enforcement of Lawyer Conduct Rules, the Rules of Professional Conduct, and the Admission and Practice Rules. *[From Principal Duties & Responsibilities, item 2, second bullet point, which seems to be related to the first bullet point]* Explain how you have you administered services and functions based on any other rules and orders of the Supreme Court. List the specific rules and orders.

2. *[From Principal Duties & Responsibilities, item 2, third bullet point]* Explain how you have maintained a regular communication with the Supreme Court as needed to ensure a smoothly running regulatory agency under the plenary authority of the Court. State the general method of communications (phone, email, letter etc.), the specific Supreme Court staff and justices with whom you have communicated over the past year, the topics of such communications, and whether you kept the Board apprised of or copied on such communications.

ITEM 3: Serve as Executive Secretary to the Board of Governors and Board Officers

[From Principal Duties & Responsibilities, item 3, first bullet point – no question asked here as the job description states that the ED will serve as Secretary to the Board, and with other Bar officers, prepare the agendas and materials for meetings.]

1. *[From Principal Duties & Responsibilities, item 3, second bullet point]* Explain how you have provided vision and leadership to the Board through discernment of issues and presenting creative solutions for the Board’s consideration. *[From Principal Duties & Responsibilities, item 3, third bullet point, which seems to be related to the second bullet point]* Explain how you have supported the priorities and activities of the officers and the Board.

[From Principal Duties & Responsibilities, item 3, fourth bullet point – no question asked here as the job description states that the ED will develop and maintain a focus on long-term strategic planning, contribute to, promote and support the long-range strategic goals. This seems to be redundant to item 1, fourth bullet point]

[From Principal Duties & Responsibilities, item 3, fifth bullet point – no question asked here as the job description states that the ED will oversee the preparation of minutes and other documentation of the Board.]

2. *[From Principal Duties & Responsibilities, item 3, sixth bullet point]* Explain how you have ensured that all Board policies are followed.

3. *[From Principal Duties & Responsibilities, item 3, seventh bullet point]* Explain how you have coordinated the activities of the officers and governors to assure responsiveness to members and member groups?

ITEM 4: Serve as spokesperson and ambassador for the WSBA to members, the judicial and executive branches, the legislature, ABA, and other outside entities.

1. *[From Principal Duties & Responsibilities, item 4, first bullet point]* Explain how you have maintained a high member service focus and promoted quality in membership services.

2. *[From Principal Duties & Responsibilities, item 4, second bullet point]* Explain how you have maintained high visibility of the Board to the public, members, and other policy leaders, and what you have done to speak, present, and write about the mission and goals of the WSBA. List your presentations and writings and to whom the presentations and writings were circulated.

3. *[From Principal Duties & Responsibilities, item 4, third bullet point]* Explain how you have maintained contact and communicated with members of the WSBA, the judiciary, and the public in ongoing awareness building about the WSBA. *[From Principal Duties & Responsibilities, item 4, fourth bullet point, which seems to be related to the third bullet point]* Explain how you have coordinated and communicated with elected leaders and professional staff of law-related organizations in the state of Washington and maintained liaison with bar associations throughout the U.S.

[From Principal Duties & Responsibilities, item 4, fifth bullet point – no question asked here as the job description states that the ED will, along with the President, serve as spokesperson for the WSBA.]

[From Principal Duties & Responsibilities, item 4, sixth bullet point – no question asked here as the job description states that the ED will write columns and reports about WSBA activities and the legal profession.]

4. *[From Principal Duties & Responsibilities, item 4, seventh bullet point]* List what meetings and functions of law related entities and member affiliate groups you have attended over the past year.

ITEM 5: Perform such other tasks and duties as may be assigned by the Board of Governors pr the Washington State Supreme Court.

1. *[From Principal Duties & Responsibilities, item 5, first bullet point]* Explain if you served on substantive outside committees and task forces during the calendar year 2021, and please list the committees and task forces on which you served.

[From Principal Duties & Responsibilities, item 5, second bullet point – no question asked here as the job description states that the ED will serve on the Washington State Bar Foundation Board.]

FINAL QUESTIONS: The following questions are not taken from the Job Specifications but are included to provide an opportunity for comment by the ED:

1. Please provide any information or comments not addressed above that you would like the Personnel Committee and the Board to know about your service as the Executive Director.

2. Please state any changes you believe should be made to the current Job Specifications to either remove, add or clarify duties.

Thank you for your time in completing this questionnaire. Please send it to the Personnel Committee chair and the President by February 28, 2022.

JOB SPECIFICATIONS

(To be used for recruiting and job evaluation purposes)

Job Title: Executive Director Department: Office of the Exec. Dir.

Reports To (title): Board of Governors Date: 6/19/18

Approved by: BOG Personnel Committee

- I. General Summary:** The Executive Director (ED) is responsible for the administration of the office and the activities of the WSBA under the direction of the Board of Governors (Board). The Executive Director reports directly to the Supreme Court of Washington on all regulatory matters. The Executive Director oversees the operations of an over 22 million dollar budget organization and directs the activities of a staff of approximately 140. The Executive Director has the authority to employ and compensate staff, within the limits of the budget, as may be necessary to carry out the functions and purposes of the Bar and is responsible to carry out the policies and directions of the Board and the Supreme Court of Washington. This position is an "at will" appointment serving at the pleasure of the Board and as defined in the WSBA bylaws and other relevant court rules.

Principal Duties and Responsibilities:

1. Management of WSBA staff and programs within the parameters established by the annual Board adopted budget. 30%
 - Recruit, develop, lead, and retain competent and committed staff; assess current staff and ensure that talent is maximized and that resources are allocated in ways to achieve the highest results.
 - Work with the Board of Governors to implement and monitor policies and priorities established by the Board; work with the officers and Board to define or redefine the roles and responsibilities of Board members, committee members and constituents.
 - Direct the activities of WSBA staff to ensure accomplishment of strategic goals established by the Board's Strategic Planning Committee; assure that all staff contributes effectively to the WSBA mission, Guiding Principles and strategic goals as well as all Supreme Court rules, orders and case law.
 - Lead strategic planning activities within the WSBA and bring forward issues and ideas to the Board for further development to guide the long term viability of the organization and the profession.
 - Serve as steward of WSBA assets: human, material, fiscal, goodwill with members, and good reputation of WSBA.
 - Assure coverage and continuity of the activity of WSBA.
 - Responsible with the Board for ensuring that the WSBA remains financially sound, including ensuring that solid financial systems and rigorous internal controls are in place, accurate financial reports are produced, and the annual budget is prepared and implemented in accordance with Board policies.
 - Manage staff-member relationships at all levels of the WSBA in order to make the most efficient use

of WSBA resources through direction and delegation to the WSBA Executive Management Team as appropriate.

- Establish and, from time to time, modify an organizational structure to accomplish the goals, programs and policies of the Board including the authority to hire, assign, and terminate staff.
- Work with General Counsel and outside counsel as necessary to assure that WSBA's legal matters are properly handled and that committees, sections, and divisions comply with WSBA bylaws and policies.

2. Management and Administration of the regulatory functions of the WSBA 35%

- Ensure compliance with and performance of specific duties assigned to the ED and the WSBA by the Supreme Court's General Rules, the Enforcement of Lawyer Conduct Rules, the Rules of Professional Conduct, and the Admission and Practice Rules.
- Administer services and functions based on any other rules and orders as promulgated by the Supreme Court of the State of Washington.
- Maintain regular communication with the Supreme Court of the State of Washington as needed to ensure a smooth running regulatory agency under the plenary authority of the Court.

3. Serve as Executive Secretary to the Board of Governors and Board Officers. 15%

- Serve as an Officer of the Bar and, with the other Bar Officers, prepare the agendas and materials for meetings and serve as Secretary to the Board.
- Provide vision and leadership to the Board through discernment of issues and presenting creative solutions for the Board's consideration.
- Support the priorities and activities of the officers and Board.
- Develop and maintain a focus on long-term strategic planning; contribute to, promote, and support the long-range strategic goals.
- Oversee the preparation of minutes and other documentation of Board actions.
- Ensure that all Board policies are followed.
- Coordinate activities of the officers and Governors to assure responsiveness to members and member groups.

4. Serve as spokesperson and ambassador for the WSBA to members, the judicial and executive branches, the legislature, ABA, and other outside entities. Activities include: 15%

- Maintain a high member service focus and promote quality in membership services.
- Maintain high visibility of the Board to the public, members, and other policy leaders. As the "face" of WSBA speak, present, and write about the mission and goals of WSBA.
- Maintain contact and communicate with members of the WSBA, the judiciary, and the public in ongoing awareness building about the WSBA.

- Coordinate and communicate with elected leaders and professional staff of law-related organizations in the State of Washington and maintain liaison with bar associations throughout the U.S.
 - Along with the President, serve as spokesperson for the WSBA.
 - Write columns and reports about WSBA activities and the legal profession.
 - Attend meetings and functions of law related entities and member affiliate groups.
5. Perform such other tasks and duties as may be assigned by the Board of Governors or the Washington State Supreme Court. 5%

Activities include:

- Serving on substantive outside committees and task forces.
- Serving on the Washington State Bar Foundation Board.
- Other duties as may be assigned.

II. Background

A. Supervision: The Executive Director position directly supervises the Executive Team and Executive Assistant and, through the Executive Management Team, is responsible for all other WSBA staff members. The position requires little supervision from the Board on administrative matters.

B. Confidentiality: The ED is exposed to all WSBA confidential information and is expected to maintain confidentiality of all WSBA confidential information.

C. Mental Application and Judgment: The ED is expected to independently manage and make decisions about all the personnel, fiscal, and administrative functions of the WSBA. This includes writing columns, articles, speeches, reports, and other activity in the service of the WSBA's mission and the legal profession. The ED's judgment is critical for maintaining the WSBA's financial stability, reputation, member relations, and the strategic positions taken by the organization. The ED must foresee and respond to emerging trends and issues to ensure the Bar is focused on its strategic goals and WSBA's considerable assets are protected.

D. Problem Solving: The ED must constantly balance the competing demands of office management, member contact, the Washington Supreme Court, and Board needs. The ED has authority to interpret or make exception to general policy or practices, initiate programs, organize office structure, create or eliminate positions, and contact court or political leaders. The ED needs to think strategically to assist the Board with ensuring long term viability of the organization. Considerable problem solving skills are required in all these areas.

F. Internal and Public Contacts: The position has daily contact with members, justices and judges,

politicians, and the press. Topics range from WSBA administration and programs, to strategic directions, to disgruntled members and citizens. In addition to all Board functions, the ED regularly attends many major committee meetings, Supreme Court meetings, and many events sponsored by sections, committees, specialty and minority bar associations as well as all Board meetings, the ABA and the Western States Annual Bar Conference.

G. Magnitude and Scope: The ED's decisions affect the financial health of the WSBA and its \$23 million-plus budget.

III. Conditions and Equipment

A. Working Conditions: It generally takes 55-65 hours per week to meet job requirements. Many tasks are time sensitive. Frequent evening and weekend work and travel is required.

B. Equipment Operation: The position must be proficient in using general office equipment and communication devices.

IV. Specifications:

A. Education Required: J.D. or successful completion of Washington's APR 6 law clerk program or other educational requirements necessary to be licensed as an Active lawyer in Washington.

Preferred: _____

B. Experience Required:

- A minimum of 5 years progressively responsible experience in management and administration, with at least 5 years in a chief management role.
- Law-related experience.
- Human resources management and administration experience.

Preferred: Association management or volunteer Board member experience.

C. Abilities/Skills Required:

- Strong ability to speak and write, give presentations and represent the WSBA.
- Demonstrated success in working with and promoting diversity.
- Demonstrated ability to work with multiple, diverse groups recognizing their interests and building respectful communication.
- Experience in developing and implementing programs
- Ability to budget and manage association's finances.

- A proven leader with ability to lead and manage a large staff.
- Outstanding communication skills.
- Ability to think and plan strategically.

Preferred:

- Direct budget responsibility of over \$23 million.
- Experience managing a multi- function organization.
- Personal qualities:
 - Integrity;
 - Resilient;
 - Adaptable;
 - Collegial;
 - Open-minded;
 - Decisive;
 - Organized;
 - Energetic/action-oriented;
 - Analytic/planning focus; and
 - A team builder.

VI. Reasonable Accommodation: Ability with or without accommodation to attend Board meetings around the state, and to make presentations and represent the Board at events and functions. Ability to communicate ideas and issues verbally and in writing.

ATTACHMENT 2

COVER SHEET
TO
EXECUTIVE DIRECTOR ANNUAL PERFORMANCE REVIEW QUESTIONNAIRE
FOR COMPLETION BY GOVERNORS & EXECUTIVE MANAGEMENT TEAM
OF THE WASHINGTON STATE BAR ASSOCIATION

DIRECTIONS:

1. Complete the attached four-page questionnaire.
2. Sign and date this cover page but do not sign the questionnaire or otherwise indicate any identifying information.
3. Scan the cover sheet and the completed questionnaire and email them to Justice Gerry L. Alexander (Ret.) at galexander@bgwp.net Please either call his office at 360-357-2852 to confirm receipt, or include a return receipt with your email submission. It is important that your valuable input be counted.

SIGNATURE: _____

NAME: _____

DATE: _____

POSITION (check one): Governor
 Executive Management Team member

IMPORTANT NOTES:

1. Justice Alexander will be separating the cover sheet from the completed questionnaire so that anonymity of the responses and the identity of those responding is assured. The cover sheet is needed so that he can track that only one response is received per respondent.

2. The questionnaires will not be released to the executive director or to anyone else. The results will be compiled by Justice Alexander to preserve anonymity.

RESPONSES MUST BE RECEIVED BY JUSTICE ALEXANDER NO LATER THAN FEBRUARY 28, 2022 AT 5:00 PM. ANY RESPONSES SUBMITTED AFTER THAT DATE WILL NOT BE CONSIDERED.

Thank you for your time in completing this questionnaire. Please feel free to contact Personnel Committee Chair Carla J. Higginson with any questions, at 360-378-2185 or carla@higginsonbeyer.com However, do not send her your completed questionnaire as it is important to assure the anonymity of this process.

Executive Director Annual Performance Review Questionnaire for completion by Governors & Executive Management Team

This questionnaire is designed to assess the performance of the Executive Director. For the Executive Director's competencies for each of the goals identified, select the most accurate rating for each using the scale below based upon your observation, considering the elements identified for that competency area. If you have not observed performance for a particular competency, please mark "Not Observed." A "Comments" field appears below each section if there is a desire to include additional information.

1 = Did not achieve minimum expectations	2 = Demonstrated progress towards expectations	3 = Achieved Expectations	4 = Exceeded Expectations	5= Demonstrated Exceptional Performance
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How satisfied are you that the Executive Director:

- Worked effectively with the Board, including implementing Board policies, maintaining good communications and creating a professional environment.**
(Providing vision and leadership to the Board through discernment of issues and presenting creative solutions for the Board's consideration; Demonstrates knowledge and respect for the roles, responsibilities, authority, and relationships of the Board; assists, and interacts with the Board to achieve goals and objectives and to help define and solve problems; promotes harmony in Board relations and is open and willing to take on new duties and responsibilities).

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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Comments:

- Demonstrated Leadership in engagement with the Communities served by the WSBA.**
(Serves as an effective spokesperson. Represents the organization well to its key Stakeholder Groups (public, members, Sections, Councils, Committees & Commissions; public officials, other nonprofits, government agencies and other relevant organization); effectively establishes, maintains and cultivates effective working relationships with organizations and individuals in the legal community; has a robust outreach strategy to ensure conduits for member feedback; ensures that communication vehicles are developed and utilized well)

APPROVED BY PERSONNEL
COMMITTEE 01-21-2022

Executive Director Annual Review
Questionnaire for Governors & Exec. Mgmt. Team
Updated January 17, 2022

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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Comments:

3. Demonstrated Effective Leadership of the Executive Management team and staff.

(Led staff in maintaining a climate of excellence, accountability and respect; seeks, evaluates and acts upon opportunities for innovation to change, grow and improve; creates an environment that accepts and respects individual and cultural differences; values, develops, and encourages the unique contributions and addresses the concerns of diverse groups and individuals).

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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Comments:

4. Resolved conflicts between employees, between employees (including executive level staff) and governors, between governors, between officers and governors, and between executive level employees.

a. Employees-employees

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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b. Employees-governors

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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c. Governors-governors

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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APPROVED BY PERSONNEL
 COMMITTEE 01-21-2022
 Executive Director Annual Review
 Questionnaire for Governors & Exec. Mgmt. Team
 Updated January 17, 2022

d. Officers-governors

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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e. Executive level employees-executive level employees

Assessment of Results	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> N/O
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Comments:

5. Managed issues WSBA operations and issues regarding the members related to the Covid-19 pandemic appropriately

Assessment of Results ____ 1 ____ 2 ____ 3 ____ 4 ____ 5 ____ N/O

Comments:

APPROVED BY PERSONNEL
COMMITTEE 01-21-2022

I Executive Director Annual Review
Questionnaire for Governors & Exec. Mgmt. Team
Updated January 17, 2022

TIMELINE FOR
ED ANNUAL REVIEW FOR 2022
(all dates indicated are in the calendar year 2022)

1. January 31st - Send questionnaire to governors & to executive management team; send questionnaire to ED
2. February 28th - Date to return completed questionnaire by ED to Personnel Committee Chair & to President
3. February 28th - Date for governors and executive management team to return completed questionnaires to Justice Garry Alexander (Ret.) to compile results (with name of each responder indicated for use by Justice Alexander so that he can track number of responders and insure that only one response per responder is submitted)
4. March 31st - Date for Justice Alexander to submit anonymous compiled results to Personnel Committee Chair & to President, with original questionnaires to be retained by Justice Alexander until September 30, 2022 and then destroyed
5. By April 30th - ED interview by Personnel Committee
6. By May 20th - Personnel Committee meets to approve report of annual evaluation to Board
7. June Board meeting (or as determined by President) - Board receives and considers report and annual evaluation

ATTACHMENT 4

EMPLOYMENT AGREEMENT
TERRA KRISTINE NEVITT

THIS EMPLOYMENT AGREEMENT (Agreement) is entered into as of the Effective Date, by and between Washington State Bar Association, including any successor organization, (WSBA) and Terra Nevitt (Executive). WSBA and Executive are sometimes referred to individually as a Party and collectively as the Parties. In consideration of the terms of this Agreement, the Parties agree as follows:

1. Purpose. This is a written employment agreement setting the terms and conditions under which Executive will serve as the WSBA Executive Director.
2. Services. Executive will carry out the ordinary duties of the Executive Director (Services) as set forth in the Executive Director Job Specifications dated June 21, 2018, which is attached to and incorporated in this Agreement. Either party may request review of the Job Specifications from time to time. Any change shall only be by mutual agreement. Executive's position is full time, and she shall not undertake any outside legal employment or employment with duties substantially similar to those in this agreement, unless approved by the WSBA President and Chair of the Personnel Committee. The Executive's performance shall be reviewed with her annually by the WSBA Personnel Committee, with the result being reported, for discussion, to the WSBA Board of Governors at its next regular meeting.
3. Compensation and Benefits. WSBA will pay Executive a base salary of \$220,320.00 per year. Executive receives annual cost of living (COLA) adjustments utilizing the Bureau of Labor Statistics Consumer Price Index (CPI-U) for Seattle-Tacoma-Bellevue, WA. The COLA shall be based on the annual average measured from October 1 through September 30 each year. The first COLA adjustment shall occur in October 2021. Executive shall not receive bonuses or any compensation other than as stated in this Agreement. In addition, WSBA shall provide Executive with all the fringe benefits generally available to employees of the WSBA, as those benefits may change from time to time. Such uniform employee benefits presently include health insurance, vacation and sick leave. Executive will also be eligible for reimbursement for reasonable and necessary business expenses, including travel, consistent with the WSBA's fiscal policies.
4. Term and Termination.
 - 4.1 Term. The term of this Agreement will begin on January 14, 2021 (Effective Date) and shall continue until terminated by either party pursuant to the terms of this agreement. No individual shall serve as Executive for more than ten years, except that the Board of Governors may, in its discretion, extend the contract past this period by a 66% super majority vote for terms of two year increments. Terra Nevitt will reach the ten-year period on August 31, 2030. Upon the natural termination of this agreement on August 31, 2030, there shall be no severance payment.
 - 4.2 Termination. This Agreement may be terminated by either party, at any time, upon thirty (30) days prior written notice. Subject to such notice requirement, the Executive may be terminated at any time by the Board of Governors, with or without cause, by a majority vote of the entire

Board of Governors. Alternatively, such termination may be immediate upon tender to Executive of thirty (30) days base salary.

4.3 Effect of Termination. Upon termination, Executive shall be entitled to receive all accrued salary and benefits to the termination date.

5. Severance.

5.1 Termination by Board without Cause or by the Executive with Good Reason. When the Agreement is terminated by the Board of Governors without Cause or by the Executive with Good Reason the Executive is entitled to a lump sum severance payment, calculated in the amount of the then current base salary for a period of six months and an additional lump sum amount equal to the estimated cost to Executive of COBRA premiums for the six-month period, less required taxes and withholding, to assist Executive with addressing future healthcare needs, provided that Executive delivers a written full release of any and all claims against WSBA, its Governors, Officers and employees, in a form acceptable to WSBA, and such release becomes legally effective and not subject to revocation within sixty (60) days following the Executive's termination date. Such release shall exclude any accrued salary or benefits to the date of termination. This severance shall be paid on the first regularly scheduled payroll date occurring after the Executive's release becomes legally effective and no longer subject to revocation; provided, however, that if the maximum period during which the Executive can consider and revoke the release begins in one calendar year and ends in the subsequent calendar year, payment shall not be made until the first regularly scheduled payroll date occurring after the later of (i) the date on which the Executive's release becomes legally effective and no longer subject to revocation, and (ii) December 31 of the calendar year containing the Executive's termination date.

5.1.1 Good Reason Defined. For purposes of this Agreement, Good Reason exists in the event of (a) a substantial and material diminution of Executive's level of authority and responsibility; (b) relocation of the WSBA Office from its current location to a location more than a twenty (20) mile radius from her current residence address shown in the WSBA personnel records as of the effective date of this agreement; (c) a material breach of this Agreement by the Employer; provided the Executive gives the Employer thirty days' written notice of the intent to exercise this right to terminate and a reasonable opportunity to cure the Good Reason to Terminate; (d) a Board directive to disregard or violate the rules or orders of the Supreme Court of Washington; or (e) upon the death or disability of Executive. Disability shall mean Executive's inability to perform actively and at full capacity the duties hereunder for a period of ninety (90) consecutive calendar days or one hundred twenty (120) non-consecutive calendar days occurring within any twelve-month period during the term, unless Executive is granted a leave of absence by the Board of Governors in its sole discretion and on terms that it determines. Termination on death or disability shall be deemed effective at the month end in which death occurs or in which the definition of disability is completed.

5.1.2 Cause Defined. For purposes of this Agreement, Cause means a significant business reason for termination arising out of the willful conduct of the Executive and shall

include, without limitation, the occurrence of one or more of the following events: (a) violation of a state or federal criminal law involving commission of a felony or any crime against WSBA; (b) deception, fraud, theft, misrepresentation, misuse of WSBA's money or property or other material acts of dishonesty by Executive; (c) material violation of the Washington Rules of Professional Conduct; (d) conduct that materially compromises Executive's ability to discharge her duties credibly or is materially adverse to the reputation of WSBA; (e) material violation of Section 8.6 of this Agreement or any written policy or code of conduct established by WSBA; and (f) failure or refusal to carry out the lawful requirements of the Job Specifications described in Section 2 above, or any reasonable directions of the Board of Governors. If "Cause" is based upon failure to meet the requirements of the Job Specifications then in effect, WSBA shall first provide Executive with written notice describing such failure, and provide Executive at least thirty (30) days ("cure period") to correct such failure, prior to terminating Executive for Cause. If Executive has met such requirements cited in the notice by the end of such cure period, the prior failure to meet such requirements shall no longer be grounds for termination with Cause.

5.2 Termination by Board with Cause or by Executive without Good Reason. When the Agreement is terminated by the Executive without Good Reason or by the Board of Governors with Cause, the Executive is not entitled to any severance payment and the termination may be immediate, without notice or the payment of thirty (30) days of base salary.

6. Applicable Law. This Agreement will be governed by and construed under the laws of the State of Washington without reference to its conflicts of law principles. Venue for any action shall be in the county in which the WSBA headquarters is then located.
7. Dispute Resolution. In the event a dispute arises from or relates to this Agreement and the Parties are unable to settle the dispute between them, prior to the initiation of any litigation the dispute will be referred to a mutually agreeable mediator, within twenty (20) days of a written request for mediation submitted by either Party. The Parties will share the costs of mediation equally. This section shall not prevent or delay a decision by the Board of Governors to terminate employment.
8. General.
 - 8.1 Entire Agreement/Modification. This document contains the entire agreement of the Parties regarding the subject matter described in this Agreement, and all other promises, representations, understandings, arrangements and prior agreements are merged into and superseded by this Agreement.
 - 8.2 Notices. All notices or other communications must be in writing and delivered to the addresses below the signatures to this Agreement. Such addresses may be changed by notice to the other Party in accordance with this Section.

- 8.3 Assignment/Subcontracting. This agreement is personal in nature and may not be assigned by either party. This Agreement inures to the benefit of the Parties and their permitted successors and assignees.
- 8.4 Survival. The terms, conditions and warranties contained in this Agreement will survive the completion of the performance, and the expiration or termination, of the Agreement.
- 8.5 Severability. Each provision of this Agreement shall be considered severable and if, for any reason, any provision hereof is determined to be invalid, such invalidity shall not impair the operation or effect of the remaining provisions hereof which are valid.
- 8.6 Confidentiality. Executive agrees to maintain the confidentiality of all confidential information of WSBA to which Executive gains access in the course of employment, subject to WSBA's policies governing public disclosure and its obligations under applicable statutes and court rules. Confidential information is information of a confidential nature not generally available to the public.
- 8.7 Amendments and Waiver. Any change or amendment to this agreement must be in writing and signed by both parties to be effective. Any waiver of any provision hereunder must also be in writing and signed by both parties to be effective. No delay or failure by either Party to this Agreement in exercising, protecting or enforcing any of its rights, interests or remedies shall constitute a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to any term of this Agreement.
- 8.8 Code Section 409A. The Parties intend that this Agreement (and all payments and other benefits provided under this Agreement) be exempt from the requirements of Code Section 409A, to the extent applicable thereto, to the maximum extent possible, whether pursuant to the short-term deferral exception, or otherwise. To the extent Code Section 409A is applicable to such payments and benefits, the parties intend that this Agreement (and such payments and benefits) comply with the deferral, payout and other limitations and restrictions imposed under Code Section 409A. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall be interpreted, operated and administered in a manner consistent with such intentions. Without limiting the generality of the foregoing, each payment made under this Agreement shall be treated as a separate payment and the right to a series of installment payments under this Agreement shall be treated as a right to a series of separate payments. WSBA shall have no liability to Executive or to any other person if any of the payments or benefits provided in this Agreement are not exempt from or compliant with Code Section 409A.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

WASHINGTON STATE BAR ASSOCIATION

Date: 1/19/21

K

Washington State Bar Association By
Kyle Sciuchetti, President

Notice Address:

c/o: Office of the General Counsel
1325 Fourth Avenue, Suite 600
Seattle, WA 98104

Date: January 19, 2021

Terra K. Nevitt

Terra K. Nevitt, Executive Director

Notice Address:



JOB SPECIFICATIONS

(To be used for recruiting and job evaluation purposes)

Job Title: Executive Director Department: Office of the Exec. Dir.

Reports To (title): Board of Governors Date: 6/19/18

Approved by: BOG Personnel Committee

I. General Summary: The Executive Director (ED) is responsible for the administration of the office and the activities of the WSBA under the direction of the Board of Governors (Board). The Executive Director reports directly to the Supreme Court of Washington on all regulatory matters. The Executive Director oversees the operations of an over 22 million dollar budget organization and directs the activities of a staff of approximately 140. The Executive Director has the authority to employ and compensate staff, within the limits of the budget, as may be necessary to carry out the functions and purposes of the Bar and is responsible to carry out the policies and directions of the Board and the Supreme Court of Washington. This position is an “at will” appointment serving at the pleasure of the Board and as defined in the WSBA bylaws and other relevant court rules.

Principal Duties and Responsibilities:

1. Management of WSBA staff and programs within the parameters established by the annual Board adopted budget. 30%
 - Recruit, develop, lead, and retain competent and committed staff; assess current staff and ensure that talent is maximized and that resources are allocated in ways to achieve the highest results.
 - Work with the Board of Governors to implement and monitor policies and priorities established by the Board; work with the officers and Board to define or redefine the roles and responsibilities of Board members, committee members and constituents.
 - Direct the activities of WSBA staff to ensure accomplishment of strategic goals established by the Board’s Strategic Planning Committee; assure that all staff contributes effectively to the WSBA mission, Guiding Principles and strategic goals as well as all Supreme Court rules, orders and case law.
 - Lead strategic planning activities within the WSBA and bring forward issues and ideas to the Board for further development to guide the long term viability of the organization and the profession.
 - Serve as steward of WSBA assets: human, material, fiscal, goodwill with members, and good reputation of WSBA.
 - Assure coverage and continuity of the activity of WSBA.
 - Responsible with the Board for ensuring that the WSBA remains financially sound, including ensuring that solid financial systems and rigorous internal controls are in place, accurate financial reports are produced, and the annual budget is prepared and implemented in accordance with Board policies.
 - Manage staff-member relationships at all levels of the WSBA in order to make the most efficient use

of WSBA resources through direction and delegation to the WSBA Executive Management Team as appropriate.

- Establish and, from time to time, modify an organizational structure to accomplish the goals, programs and policies of the Board including the authority to hire, assign, and terminate staff.
- Work with General Counsel and outside counsel as necessary to assure that WSBA's legal matters are properly handled and that committees, sections, and divisions comply with WSBA bylaws and policies.

2. Management and Administration of the regulatory functions of the WSBA 35%

- Ensure compliance with and performance of specific duties assigned to the ED and the WSBA by the Supreme Court's General Rules, the Enforcement of Lawyer Conduct Rules, the Rules of Professional Conduct, and the Admission and Practice Rules.
- Administer services and functions based on any other rules and orders as promulgated by the Supreme Court of the State of Washington.
- Maintain regular communication with the Supreme Court of the State of Washington as needed to ensure a smooth running regulatory agency under the plenary authority of the Court.

3. Serve as Executive Secretary to the Board of Governors and Board Officers. 15%

- Serve as an Officer of the Bar and, with the other Bar Officers, prepare the agendas and materials for meetings and serve as Secretary to the Board.
- Provide vision and leadership to the Board through discernment of issues and presenting creative solutions for the Board's consideration.
- Support the priorities and activities of the officers and Board.
- Develop and maintain a focus on long-term strategic planning; contribute to, promote, and support the long-range strategic goals.
- Oversee the preparation of minutes and other documentation of Board actions.
- Ensure that all Board policies are followed.
- Coordinate activities of the officers and Governors to assure responsiveness to members and member groups.

4. Serve as spokesperson and ambassador for the WSBA to members, the judicial and executive branches, the legislature, ABA, and other outside entities. Activities include: 15%

- Maintain a high member service focus and promote quality in membership services.
- Maintain high visibility of the Board to the public, members, and other policy leaders. As the "face" of WSBA speak, present, and write about the mission and goals of WSBA.
- Maintain contact and communicate with members of the WSBA, the judiciary, and the public in ongoing awareness building about the WSBA.

- Coordinate and communicate with elected leaders and professional staff of law-related organizations in the State of Washington and maintain liaison with bar associations throughout the U.S.
 - Along with the President, serve as spokesperson for the WSBA.
 - Write columns and reports about WSBA activities and the legal profession.
 - Attend meetings and functions of law related entities and member affiliate groups.
5. Perform such other tasks and duties as may be assigned by the Board of Governors or the Washington State Supreme Court. 5%

Activities include:

- Serving on substantive outside committees and task forces.
- Serving on the Washington State Bar Foundation Board.
- Other duties as may be assigned.

II. Background

A. Supervision: The Executive Director position directly supervises the Executive Team and Executive Assistant and, through the Executive Management Team, is responsible for all other WSBA staff members. The position requires little supervision from the Board on administrative matters.

B. Confidentiality: The ED is exposed to all WSBA confidential information and is expected to maintain confidentiality of all WSBA confidential information.

C. Mental Application and Judgment: The ED is expected to independently manage and make decisions about all the personnel, fiscal, and administrative functions of the WSBA. This includes writing columns, articles, speeches, reports, and other activity in the service of the WSBA's mission and the legal profession. The ED's judgment is critical for maintaining the WSBA's financial stability, reputation, member relations, and the strategic positions taken by the organization. The ED must foresee and respond to emerging trends and issues to ensure the Bar is focused on its strategic goals and WSBA's considerable assets are protected.

D. Problem Solving: The ED must constantly balance the competing demands of office management, member contact, the Washington Supreme Court, and Board needs. The ED has authority to interpret or make exception to general policy or practices, initiate programs, organize office structure, create or eliminate positions, and contact court or political leaders. The ED needs to think strategically to assist the Board with ensuring long term viability of the organization. Considerable problem solving skills are required in all these areas.

F. Internal and Public Contacts: The position has daily contact with members, justices and judges,

politicians, and the press. Topics range from WSBA administration and programs, to strategic directions, to disgruntled members and citizens. In addition to all Board functions, the ED regularly attends many major committee meetings, Supreme Court meetings, and many events sponsored by sections, committees, specialty and minority bar associations as well as all Board meetings, the ABA and the Western States Annual Bar Conference.

G. Magnitude and Scope: The ED's decisions affect the financial health of the WSBA and its \$22 million-plus budget.

III. Conditions and Equipment

A. Working Conditions: It generally takes 55-65 hours per week to meet job requirements. Many tasks are time sensitive. Frequent evening and weekend work and travel is required.

B. Equipment Operation: The position must be proficient in using general office equipment and communication devices.

IV. Specifications:

A. Education Required: J.D. or successful completion of Washington's APR 6 law clerk program or other educational requirements necessary to be licensed as an Active lawyer in Washington.

Preferred: _____

B. Experience Required:

- A minimum of 5 years progressively responsible experience in management and administration, with at least 5 years in a chief management role.
- Law-related experience.
- Human resources management and administration experience.

Preferred: Association management or volunteer Board member experience.

C. Abilities/Skills Required:

- Strong ability to speak and write, give presentations and represent the WSBA.
- Demonstrated success in working with and promoting diversity.
- Demonstrated ability to work with multiple, diverse groups recognizing their interests and building respectful communication.
- Experience in developing and implementing programs
- Ability to budget and manage association's finances.

- A proven leader with ability to lead and manage a large staff.
- Outstanding communication skills.
- Ability to think and plan strategically.

Preferred:

- Direct budget responsibility of over \$23 million.
- Experience managing a multi- function organization.
- Personal qualities:
 - Integrity;
 - Resilient;
 - Adaptable;
 - Collegial;
 - Open-minded;
 - Decisive;
 - Organized;
 - Energetic/action-oriented;
 - Analytic/planning focus; and
 - A team builder.

VI. Reasonable Accommodation: Ability with or without accommodation to attend Board meetings around the state, and to make presentations and represent the Board at events and functions. Ability to communicate ideas and issues verbally and in writing.

**WASHINGTON STATE
BAR ASSOCIATION**

**PERSONNEL COMMITTEE
HANDBOOK**

FY22

October 1, 2021 – September 30, 2022

WSBA (Seattle, WA)

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PERSONNEL COMMITTEE CHARTER

Composition and Appointment

The BOG Personnel Committee is composed of the Board of Governor officers and at least one governor from each year. The committee is appointed by the president and chaired by a senior member who has served on the committee.

Task

The Personnel Committee conducts the annual evaluation of the Executive Director and is the touch point for notice of significant personnel actions in accordance with the protocol adopted by the committee. This committee is also available for staff concerns regarding the Executive Director in a process described in WSBA's Employee Handbook, "Problem Resolution" section. The Personnel Committee may be asked to assure other functions as directed by the Board of Governors.

FY22 BOG PERSONNEL COMMITTEE MEMBERS

Committee Members

Email

Chair: Carla Higginson (3)

carla@higginsonbeyer.com

Hunter Abell (3)

HAbell@williamskastner.com

Dan Clark, President-elect (1)

DanClarkBOG@yahoo.com

Bryn Peterson, Treasurer (3)

bryn.peterson@brynpetersonlaw.com

Brett Purtzer (2)

brett@hesterlawgroup.com

Serena Sayani (1)

ssayaniBOG@gmail.com

Judge Brian Tollefson, President

tollefsonbog@outlook.com

Kyle Sciuchetti, Immediate Past President

Kyle.Sciuchetti@MillerNash.com

Staff Liaison: Glynnis Klinefelter Sio

glynnisk@wsba.org



WSBA

BOARD OF GOVERNORS

WSBA VALUES

(Adopted January 28, 2016)

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information



WSBA

BOARD OF GOVERNORS

GUIDING COMMUNICATION PRINCIPLES

(Adopted January 28, 2016)

In each communication, I will assume the good intent of my fellow colleagues; earnestly and actively listen; encourage the expression of and seek to affirm the value of their differing perspectives, even where I may disagree; share my ideas and thoughts with compassion, clarity, and where appropriate confidentiality; and commit myself to the unwavering recognition, appreciation, and celebration of the humanity, skills, and talents that each of my fellow colleagues bring in the spirit and effort to work for the mission of the WSBA. Therefore, I commit myself to operating with the following norms:

- ◆ I will treat each person with courtesy and respect, valuing each individual.
- ◆ I will strive to be nonjudgmental, open-minded, and receptive to the ideas of others.
- ◆ I will assume the good intent of others.
- ◆ I will speak in ways that encourage others to speak.
- ◆ I will respect others' time, workload, and priorities.
- ◆ I will aspire to be honest and open in all communications.
- ◆ I will aim for clarity; be complete, yet concise.
- ◆ I will practice "active" listening and ask questions if I don't understand.
- ◆ I will use the appropriate communication method (face-to-face, email, phone, voicemail) for the message and situation.
- ◆ When dealing with material of a sensitive or confidential nature, I will seek and confirm that there is mutual agreement to the ground rules of confidentiality at the outset of the communication.
- ◆ I will avoid triangulation and go directly to the person with whom I need to communicate. (If there is a problem, I will go to the source for resolution rather than discussing it with or complaining to others.)
- ◆ I will focus on reaching understanding and finding solutions to problems.
- ◆ I will be mindful of information that affects, or might be of interest or value to, others, and pass it along; err on the side of over-communication.
- ◆ I will maintain a sense of perspective and respectful humor.

WASHINGTON STATE BAR ASSOCIATION

WSBA COMPENSATION PHILOSOPHY

Adopted by the Budget & Audit Committee on February 17, 2005

Adopted by the Personnel Committee on February 17, 2005

Presented to the Board of Governors on February 18, 2005

Revised by the Board of Governors on July 24, 2020

We are committed to a compensation philosophy that supports our mission to promote justice and to serve the WSBA members and the public. Our compensation philosophy supports the core value that WSBA staff is our most essential resource. Our aim has been to shape our compensation system in a way that meets the following criteria:

1. *Competitive with Seattle/Puget Sound compensation markets*

Our aim remains to pay competitively with other similar organizations. We strive to be as thorough in our review of market survey data as we practically can

2. *Observe principles of fairness and internal equity*

These are core values at WSBA. One of our most precious resources in our team-oriented spirit and our compensation system should reflect this. The gap between lowest paid and highest paid staff is less at WSBA than at many other similar-sized organizations.

3. *Affordable and sustainable*

The plan we develop obviously must fit within our available financial resources. Moreover, we need to ensure that our compensation program is sustainable over the long haul – through good and bad economic times alike.

4. *Promote recruitment and retention*

Our compensation system needs to be competitive both at the entry level and at the senior staff level. This means that the system needs to allow for movement through the salary range.

5. *Understandable and practical to administer*

There are inherent complexities in any compensation system, but to the extent possible, we seek to keep the methodology straightforward so that the system itself doesn't become a burden.

6. *Accountability and transparency*

To ensure accountability to the foregoing principles and criteria to employees, the WSBA members, and the public, information about salaries and benefits should be provided on the WSBA website. The goals of accountability and transparency shall be balanced against the privacy interests of WSBA employees.

WSBA TIMELINE FOR EXECUTIVE DIRECTOR'S ANNUAL PERFORMANCE EVALUATION

Task	Responsible Person	Deadline
External evaluation Consultant meets with the Committee to finalize ED goals and evaluation/bonus metrics for the year.	Human Resources Director / Consultant	November / December
Board of Governors reviews ED goals and ratifies bonus structure proposal.	Personnel Committee Chair / Human Resources Director	January
Working with the Consultant and ED, committee finalizes list of survey feedback participants. Annually, the Board of Governors, Executive Management Team and Executive Assistant (ED's direct reports) are solicited to provide feedback through the survey (Note: in alternate years broader feedback may be sought through interviews of external stakeholders.)	Human Resources Director / Consultant	May
Personnel Committee develops salary recommendation based on market information. Recommendation forwarded to the CFO and Treasurer for inclusion in the budget draft.	Human Resources Director/Personnel Committee	June
Complete self-evaluation based on specific objectives set in previous year's evaluation including progress on goals	Executive Director	June / July
Distribute ED evaluation survey to agreed upon list of evaluators with two-week deadline for response.	Consultant	June
Analyze survey data, including ED's self-evaluation. HR Director provides additional data on goal metrics to Consultant as needed.	Consultant / Human Resources Director (no outside attendees)	June / July
Consultant provides initial draft of survey results to Personnel Committee and gathers input for the evaluation preparation meeting with the ED	Human Resources Director/ Consultant / Personnel Committee (ED does not attend and no outside attendees)	July / August

Task	Responsible Person	Deadline
Consultant meets with ED to provide initial results of survey feedback and gather input in preparation for the evaluation meeting	Consultant and ED (no outside attendees)	July / August
Consultant meets with the sub-committee composed of the committee chair, president, president elect, HR Director and ED to deliver the evaluation and facilitate performance discussion.	Consultant (no outside attendees)	August
Personnel Committee finalizes decision on any bonus award based on goal accomplishment and bonus structure metric (identify percent of base)	Human Resources Director / Personnel Committee (ED does not attend and no outside attendees)	August
The Committee chair and ED produce a written report to the Board summarizing the process and results of the evaluation, any areas of on-going performance emphasis, goal accomplishments and final bonus amount based on the bonus structure metric.	ED and Chair of Personnel Committee	September with BOG
Confirm salary adjustment with WSBA Human Resources Director for October 15 payroll.	Chair of Personnel Committee and Human Resources Director	October 1

Revised 12/15

WSBA EXECUTIVE DIRECTOR COMPETENCY AREAS

COMPETENCY	DEFINITION
BOARD RELATIONS	Maximizes the value for the organization attained from each Board member; gets the most out of Board members and Board relationships. Makes all Board members feel valued, respected and productively deployed. Successfully leverages Board member functional knowledge to the organization's benefit. Successfully leverages Board member industry or community status and brand; capitalizes on Board member external relationships to the benefit of the organization and its brand. Is able to bring disparate groups together to achieve strategic goals. Adheres to clear lines of responsibility and accountability. Knows the Board's style, operations, concerns and aspirations. A skilled communicator responsive to stakeholders. Sees to the successful and timely orientation of new Board members and taps their value as soon as practicable. Contributes to the Board member development in pursuit of attaining their maximum value to the organization
ORGANIZATIONAL AND INTERPERSONAL COMMUNICATION	Clearly conveys and receives information and ideas through a variety of media with individuals or groups in a manner that engages the listener, helps them understand and retain the message, and invites response and feedback. Proactively keeps others informed as appropriate. Demonstrates good written, oral, and listening skills. Responds timely and effectively to those seeking interaction. Crafts messages with appropriate discretion, judgment and due consideration of the consumer. Puts others at ease. Warm and gracious. Is perceptive to and can act on informal information. Projects a transparent and approachable presence.
EFFECTIVE JUDGEMENT	Applies a combination of knowledge, experience, wisdom, analysis and critical thinking to one's professional activities and alternatives. Makes sound decisions in a timely manner, sometimes with incomplete information and under tight deadlines. Most solutions prove to be sound over time. Sought out for advice and counsel.
FINANCIAL ACUMEN	Knowledgeable about current and future financial policies, practices and trends that affect his/her organization. Tracks financial progress and uses data to inform decisions. Has strong grasp of annual budgeting process and capital planning and applies these skills to day-to-day oversight.
INNOVATION/ CHANGE	Uses creativity and imagination to develop new insights into situations and applies new solutions to problems. Comes up with new and unique ideas for the organization. Facilitates the implementation and acceptance of change within the workplace. Encourages others to seek opportunities for different and innovative approaches to address problems and opportunities.

<p style="text-align: center;">INSPIRATIONAL LEADERSHIP</p>	<p>Keeps the organization's mission, vision, and values at the forefront of employee decision-making and actions. Ensures alignment of organization operating practices with the organization's strategic plan, vision, mission and values. Communicates a vision and inspires motivation. Engages with others in team process to solve problems. Works to find a win/win resolution of differences. Modifies leadership style to meet situational requirements. Helps team stay focused on major goals while managing within a context of multiple directives. Empowers reports to achieve.</p>
<p style="text-align: center;">OPERATIONAL EXCELLENCE</p>	<p>Is dedicated to providing the highest quality products and services that meet the needs of internal and external customers and stakeholders. Is committed to continuous improvement through empowerment and management by applying facts, data and strong operational knowledge. Is open to suggestions for operational improvement. Creates a learning environment to further effective processes and leads operating subordinate team members in a way that empowers them to apply a systems and process approach to the organization's operation.</p>
<p style="text-align: center;">STRATEGIC PERSPECTIVE</p>	<p>Understands how an organization must change in light of internal and external trends and influences. Keeps the big, long range picture in mind while balancing short-term priorities. Builds a shared long-range organizational vision with others. Committed to course of action to achieve long-range goals and influences others to translate vision into action. Builds strategic alliances with internal and external partners.</p>

SECTIONS OF WSBA EMPLOYEE HANDBOOK RELATED TO THE BOARD

CONFLICT RESOLUTION

The WSBA knows the importance of an open and fair method of resolving complaints and answering questions. The WSBA's problem resolution procedure makes three steps available to employees who have a question or concern. If employees fail to use this procedure, or act in a timely manner, the WSBA may be unable to consider such problems or complaints.

Although not everyone is comfortable presenting a complaint to his/her employer, employees are encouraged to take advantage of the problem resolution procedure. Under no circumstances will an employee's job status, security, working conditions, or relationships with supervisors be jeopardized because a complaint is made.

Step 1: Employees are encouraged to bring up any questions or concerns they have about terms or conditions of employment. The place to start in getting a question answered or resolving a concern is with the appropriate supervisor and/or department director, who will listen to questions or concerns and provide an answer or response. Every effort should be made by both parties to arrive at a mutually satisfactory solution at this first step.

Step 2: In some cases a question or concern may involve an employee's supervisor, or the employee may be reluctant to discuss a situation with that person. If this is the case, or if the employee is not satisfied with the supervisor's response to Step 1, the employee may contact the Human Resources Director, who will investigate the question or concern, discuss it with the employee, and provide the employee with an answer. An employee carrying forward an issue first presented to his/her supervisor is asked to take the second step, contacting the Human Resources Director, within a reasonable period of time after receiving the supervisor's response.

Step 3: If an employee has taken Step 2 and is still not satisfied with the response, he/she may address a written complaint to the Executive Director within ten working days of receiving the response under Step 2. The Executive Director will investigate, review, and discuss the concern with the employee as soon as possible. This response will be the final decision and resolution of the concern or matter the employee raises. If the employee does not agree with the Executive Director's determination, he/she may place a statement to that effect in his/her personnel file.

The WSBA recognizes that, in situations where employees have serious complaints about the Executive Director, they may have concerns about reporting those issues to the person who is ultimately responsible for the operation of the WSBA. Therefore, employees who have a complaint about the Executive Director may report their complaint to the Human Resources Director, who will refer it to the Chair of the Board of Governors' Personnel Committee. This process is not intended to be an appeal from the Executive Director's personnel decisions, but is an avenue for calling the Board's attention to potentially serious problems with the Executive Director. The Personnel Committee will review the issue and determine what, if any, action is warranted.

Employee Handbook 2019

SECTIONS OF WSBA EMPLOYEE HANDBOOK RELATED TO THE BOARD

WHISTLEBLOWER

All employees have a duty to report any illegal or dishonest conduct they encounter in the workplace in the course of their employment. The WSBA is committed to ensuring a safe process for employees to report these types of actions without fear of retaliation. “Whistleblowers” need to have a mechanism for bringing these issues to the appropriate individual(s) with the organization so a complete and thorough investigation can be conducted.

A whistleblower as defined by this policy is an employee of the Washington State Bar Association who reports an activity that he/she considers to be illegal or dishonest to one or more parties specified in this policy. The whistleblower is not responsible for investigating that activity or for determining fault or corrective measures; the appropriate Board or management officials are charged with these responsibilities.

Examples of illegal or dishonest activities are violations of federal, state or local laws; billing for services not performed or for goods not delivered; misuse or waste of public funds or member fees; intentionally issuing misleading financial or other reporting; or fraudulent or dishonest conduct.

If an employee has knowledge of or a concern of such illegal or dishonest conduct, the employee shall report it to his/her immediate supervisor, the Human Resources Director, the Executive Director, or the Chair of the Board of Governors’ (BOG) Personnel Committee. The employee must exercise sound judgment to avoid baseless allegations and have a good-faith belief that a violation of this policy has occurred.

Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, or to provide accused individuals their legal rights of defense.

The WSBA will not retaliate against a whistleblower who makes a good-faith complaint pursuant to this policy. This includes, but is not limited to, protection from retaliation in the form of adverse employment actions. Any whistleblower who believes he/she is being retaliated against must report retaliation in violation of this policy to the Human Resources Director, the Executive Director, or the Chair of the BOG Personnel Committee immediately. The right of the whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

All reports of illegal or dishonest activity will be investigated promptly according to the procedures adopted by the BOG Personnel Committee. If such conduct is found to have occurred, the employee who is the subject of the report will be subject to discipline up to and including termination. An appropriate response shall be shared with the person who filed the original report.

An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination. Employees with any questions regarding this policy should contact the Human Resources Director.

Employee Handbook 2019

WASHINGTON STATE BAR ASSOCIATION

PROCEDURES FOR NOTIFICATION AND INVESTIGATION OF REPORTS OF ILLEGAL OR DISHONEST ACTIVITY UNDER WSBA'S WHISTLEBLOWER POLICY

Adopted by the BOG Personnel and Budget and Audit Committees effective June 15, 2005

NOTICE

1. Upon receipt of a report of illegal or dishonest activity ("whistleblower report") to a supervisor or the Human Resources Director from any WSBA staff member, the Executive Director shall be notified immediately unless the report involves the Executive Director.
2. If the report involves the Executive Director, the Chair of the Board of Governors' (BOG) Personnel Committee shall be notified immediately by the supervisor or Human Resources Director if not previously reported directly by the whistleblower to the Chair of the BOG Personnel Committee.
3. Upon receipt of a report of illegal or dishonest activity to the BOG Personnel Committee from any WSBA staff member, the Committee shall determine whether and how to notify the Executive Director.

INVESTIGATION

1. Within 5 days of receiving a whistleblower report from any sources, The Executive Director is responsible to develop a plan for a full investigation. In the event the Executive Director is the subject of the whistleblower report the chair of the BOG Personnel Committee is responsible to develop a plan for a full investigation.

The plan for full investigation shall be approved by the BOG Personnel Committee and will include:

- a. A summary of the allegation(s)
 - b. Information needed to respond to the report.
 - c. A preliminary list of persons to be interviewed.
 - d. Whether outside auditors or investigators appear to be needed.
 - e. The role of the Executive Director and/or other staff.
 - f. The role of the BOG Personnel Committee.
 - g. The role of the Board of Governors.
 - h. Timeline for the investigation.
2. The Executive Director (or the Chair of the BOG Personnel Committee) is responsible to insure compliance with the investigation plan and shall keep the BOG Personnel Committee apprised of all progress and any significant findings.
 3. The BOG Personnel Committee may, depending on the nature of the report, recommend to the BOG that they assign a Governor to work with the Executive Director (or Chair of the BOG Personnel Committee) on the investigation.

CLOSURE

1. The investigators shall develop a report with recommendation that includes a written summary of the allegations and facts.
2. The investigation report shall be directed to the relevant persons as designated in the investigation plan.
3. The Executive Director shall develop a response and/or action plan to address any recommendations as well as remedial action and discipline as appropriate.
4. The original report, investigation report, and Executive Director's response shall be shared with the Board of Governors in Executive Session.
5. An appropriate response shall be shared with the person who filed the original report.
6. A formal record of the report and all follow-up action shall be maintained in a sealed envelope showing only the date and nature of the report for six years.

CONFLICT RESOLUTION PROTOCOL FOR NOTIFICATION OF SIGNIFICANT PERSONNEL ACTION



WSBA

BOARD OF GOVERNORS

CONFLICT RESOLUTION – PRACTICES & POLICY (Adopted January 28, 2016)

Guided by the goal to preserve, protect, and foster positive and effective working relationships between the Board of Governors and the WSBA Executive Team and Staff, the following principles and guidelines shall be used to guide the resolution of conflict between board members or between board and staff members:

- 1) A Board Member shall always be mindful that their position carries with it certain powers, influence, and authority that must be exercised fairly, wisely, respectfully, and with restraint. Accordingly, a Board Member when interacting with all members of WSBA staff, shall not misuse or abuse their authority or position by placing unreasonable or inappropriate demands upon staff members.
- 2) A Board Member shall strive to maintain an atmosphere of mutual respect and trust in all communications and dialogue with staff, using appropriate channels regarding requests for special assistance regarding Board agenda matters, or inquiries from WSBA members in a Board Member's district.
- 3) In the event a problem or conflict arises between Board Members or between a Board Member and Staff Member, the involved parties shall strive to resolve the matter by first attempting to discuss the matter with one another in person, or by phone. If a Board or Staff Member feels uncomfortable attempting to resolve the conflict directly he/she may seek support or assistance from the Executive Director, Human Resources Director, or President. The involved parties shall pursue a one-on-one resolution, always taking the high road, and in a climate of mutual respect, trust, candor and humility while recognizing potential power dynamics that might impact the communication and ability to enter into a discussion directly.
- 4) Should the problem, conflict, or misunderstanding not prove resolvable, the Board Member and/or Staff Member shall apprise the Executive Director and President, with the full knowledge of both parties, and seek to have the matter further addressed and resolved by the ED, President, and any other appropriate participants. The Staff member and Board Member should both be afforded full and equal opportunity to participate and express their views in order to reach agreement and reconciliation.
- 5) All parties involved in seeking and bringing about a resolution should strive to be understanding, respectful, forgiving, and working to improve one's communications in the interest of doing what is in the best interests of the Board, Staff, and the WSBA as a whole.

Note: This policy is intended to supplement not replace the current Problem Resolution Policy in the WSBA Employee Handbook (D-5).

WASHINGTON STATE BAR ASSOCIATION

PROTOCOL FOR NOTIFICATION TO THE BOARD OF GOVERNORS ABOUT SIGNIFICANT PERSONNEL ACTION

Adopted by the WSBA BOG Personnel Committee January 17, 2013

The Washington State Bar Association Personnel Committee is the touch-point for significant WSBA personnel actions. The purpose of the notification to the committee is to keep the Board of Governors informed as well as to afford committee members the opportunity to offer comments or input as may be requested or appropriate. This notification is not intended to inhibit or infringe on the Executive Director's authority as described in the bylaws to "employ and compensate" all WSBA staff.

Notification

Except in exceptional circumstances e-mail is not appropriate to use in personnel situations. Notification to the committee is not part of progressive discipline in individual personnel actions nor intended to circumvent the Problem Resolution provisions in the WSBA Employee Handbook Guidelines.

The Executive Director will alert the President about certain pending personnel actions and consideration will be given to whether the issue rises to the level of a "significant personnel action" warranting the notification of the Personnel Committee Chair. If the action warrants the notification of the Personnel Committee Chair, he/she will decide if the action warrants full notification of the rest of the Personnel Committee. If the Chair so determines, at that time the committee will be briefed on the planned actions. In no case shall this notification inhibit necessary or prudent personnel actions.

The notification described above is intended only to keep the Board of Governors informed of developing situations and allow them the opportunity for timely input as requested by the Executive Director.

"Significant Personnel Actions"

The Board of Governors has interest in the following types of personnel actions:

1. Director/Chief-level involving serious performance concerns, terminations, and hiring process.
2. Employee personnel actions which represent significant potential liability to the WSBA.
3. Personnel actions that may affect the WSBA budget beyond allocations.

In a case where an employee or former employee threatens litigation, the Executive Director, in consultation with the General Counsel, Human Resources Director, President and Chair of the BOG Personnel Committee, makes the determination about whether the issue should be discussed with the full BOG for the purpose of consultation on settlement strategy. Issues with the potential for a significant fiscal impact on the organization may warrant discussion with the BOG.

CLARIFICATION OF THE RELATIONSHIP BETWEEN THE BOARD OF GOVERNORS, BOARD OF GOVERNORS PERSONNEL COMMITTEE, EXECUTIVE DIRECTOR, AND WSBA STAFF

The relationship is defined by WSBA bylaw Article IV. Governance, Section B 5.

The Executive Director is the principal administrative officer of the Bar. The Executive Director is responsible for the day-to-day operations of the Bar including, without limitation: (1) hiring, managing, and terminating Bar personnel, (2) negotiating and executing contracts, ... (10) reporting to the Board of Governors regarding Bar operations,... (12) performing such other duties as the Board of Governors

Principles:

1. The Board of Governors is the hiring authority of the Executive Director including the setting of salary, hiring, annual evaluations, and any performance factors.
2. The Executive Director is the exclusive hiring authority for all the WSBA personnel including:
 - Screening and hiring
 - Setting salaries equitably among staff
 - Annual evaluations
 - Managing performance factors
 - Determining and balancing workload
 - Making assignments of staff to tasks
 - Termination
3. Although specific staff may be detailed to special projects, semi-independent boards, and committees, they remain WSBA personnel subject to the authority of the Executive Director.
4. The WSBA Employee Handbook defines policies and practices that apply to all the WSBA personnel.

Best Practices:

Best practices exist within the above noted formal framework.

1. Governors will often have contact with staff but should not make hiring, salary, workload, or leave time commitments nor should they alter the assignments and workloads of staff.
2. The Executive Director may solicit governor, board, and committee chair input on assignments and performance reviews of staff but this information is advisory to the Executive Director.
3. Governors should never become directly involved in WSBA staff hiring, discipline, or termination matters.
4. The Executive Director will keep the Personnel Committee informed about significant personnel actions as per the policy developed by the Personnel Committee.

WASHINGTON STATE BAR ASSOCIATION

WSBA BOARD OF GOVERNORS NO RETALIATION POLICY

Adopted by the Board of Governors January 18, 2019

Purpose

The Washington State Bar Association (“WSBA”) is firmly committed to maintaining a safe environment that encourages its employees and members of the Board of Governors (“BOG”) and other volunteers to speak up about sexual discrimination or other harassment without fear of retaliation. To that end, and to prevent victimization and other retaliatory behavior towards those who report such conduct to appropriate individuals, the WSBA adopts a No Retaliation Policy. This Policy is important for many reasons, including:

1. When reports of concerns of discriminatory or harassing conduct, or retaliatory action are made, the WSBA must consider them and take appropriate action. Retaliating against a BOG member or other WSBA volunteer, or WSBA employee who brought attention to inappropriate behavior harms the WSBA’s trustworthiness and reliability. Retaliation harms the public interest by deterring others from reporting complaints.
2. Any kind of retaliatory action, whether intentional or unintentional, may expose the WSBA to a serious legal risk.

Scope

This Policy applies to all WSBA employees and prospective, current, or former BOG members and other WSBA volunteers (BOG members and other WSBA volunteers hereinafter collectively referred to as “volunteers”). WSBA Employees are subject to provisions under the employee handbook policy on “Standards of Conduct and Discipline” and “Sexual and Other Harassment Policy” as determined by the Executive Director.

Policy

The WSBA prohibits any form of retaliation against or intimidation of WSBA employees or volunteers who report good-faith concerns of discriminatory, harassing, illegal or dishonest conduct or who participate in investigations or other proceedings related to such a report, even if the WSBA ultimately concludes that the report cannot be substantiated or that no violation of law, regulation or WSBA policy has occurred.

Retaliation Definition

Retaliation includes any kind of negative action against a current or former volunteer or employee who has reported actual or potential violations of equal opportunity laws or regulations (protected activity). These adverse actions create a hostile, threatening or uncomfortable environment for a person who reported alleged inappropriate conduct or participated in an investigation. Examples of retaliatory actions can occur outside of an employment relationship and may include, but are not limited to:

- Disparaging the person to others or in the media.
- Taking actions not directly related to employment or volunteer role/status or by causing the individual harm.
- Termination or illegal retraction of compensation and benefits.

- Exclusion from events or meetings.
- Any other action that might deter reasonable individuals from engaging in protected activity.

Activity protected by this Policy includes but is not limited to:

- Complaints about workplace harassment or discrimination;
- Notice of intent to file a lawsuit or charge, even if the filing is not ultimately made;
- Participation in a pending investigation of misconduct or violations; and
- Resisting sexual advances or intervening to protect others.

The WSBA will not interfere with the rights of employees or volunteers to speak out about or disclose conduct violating this policy. When possible, the WSBA encourages open communication in accordance with our “Guiding Communication Principles” and “Conflict Resolution Practices Policy.”

Reporting Complaints

Volunteers may file complaints with the President of the WSBA, the Chair of the BOG Personnel Committee or the Executive Director. WSBA employees may file complaints internally to their immediate supervisor, the Director of Human Resources or the Executive Director. Reports from volunteers or employees of misconduct or suspected violations will be investigated thoroughly and those who report or participate in the investigation must be protected from retaliation.

Appropriate action will be taken against a volunteer who is found to have engaged in prohibited harassing or retaliatory conduct, up to and including removal from the volunteer position as determined in accordance with the WSBA Bylaws and/or Washington Supreme Court rules.

Filing False Reports

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate action.

All WSBA employees and volunteers are required to cooperate with investigations undertaken in response to a complaint under this policy. In particular, among other things, WSBA employees and volunteers are required to make themselves available to investigators immediately upon request, be forthcoming and truthful with investigators, and provide complete and accurate information. Failing to cooperate with an investigation may also be grounds for removal from a volunteer position. WSBA Employees are subject to the policies and procedures in the employee handbook.

OTHER RESOURCES

[WSBA Governors Manual](#)

[WSBA Bylaws](#)

[Board of Governors Approved Policies](#)

[WSBA Employee Handbook](#)

[Executive Director Contract and Job Description](#)



TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Gov. Brent Williams-Ruth
DATE: March 1, 2022
RE: Revisiting the WSBA Roles and Responsibilities Document

DISCUSSION: Discuss potential changes to the WSBA Roles and Responsibilities Document approved by the Board of Governors in November 2021.

Background

In 2020, WSBA engaged Praxis HR to conduct a comprehensive employee climate study, which among other findings, highlighted that many employees held a negative view of the Board of Governors as a unit. Below, is the first of four recommendations that Praxis HR set forth for the Board in order to meaningfully address the findings of the climate study.

RECOMMENDATION 1

BOG commits to clarify its governance operating model.

A governance operating model allows the BOG to fulfill its governance role by organizing the governance structure and the mechanisms by which governance is implemented. It should:

- Organize operational processes such that the BOG receives the information it requires to effect good governance and management and the business units can conduct their activities in ways that serve strategic ends
- Clarify the roles, responsibilities, reporting lines, and communications to bridge the gap between the governance model and operational realities
- Help people to answer questions such as, "Why are we doing this?" "Is this okay?" "Whose call is this?" and "Who do we need to tell about this?" and to know when to ask such questions
- Sustain governance by creating a feedback loop in which the BOG and EMT can identify and respond to new operational needs

Following this recommendation, in August 2021, the Personnel Committee presented the Board with two documents that sought to delineate the roles and responsibilities of the Board of Governors and the Executive Director. This document was considered by the Board again in September 2021 and was ultimately approved by the Board in November 2021. The following language was added to the documents as part of the action the Board took in November, "The intent of this document is to clarify and delineate the duties of the Board and its Officers. Any issue that is not expressly delineated shall be determined by mutual agreement of the parties at issue. If agreement cannot be reached on any specific duty then it shall come to the next Board of Governors Meeting for discussion and action."

Proposed Changes

In the months following approval of the policy, confusion and conflict over roles and responsibilities has continued. As a result, I requested that the policy be brought back to the Board for additional discussion and potential amendment.

Specifically, I propose amending the document to add clarity to the preparation of meeting minutes, meeting materials, and meeting scheduling. A redline copy of the proposed changes is attached.

Attachments

- Redline of Proposed Changes to the WSBA Roles and Responsibilities Document
- November 2021 Meeting Materials
- September 2021 Meeting Materials

Board and Officer Roles and Responsibilities

The roles of the WSBA Board of Governors and Officers are set forth in the WSBA Bylaws, Art. IV Governance. (Details about their) Descriptions of specific roles and responsibilities are also (captured) elucidated in various other written WSBA policies and documents, including the Fiscal Policies & Procedures.

The intent of this document is to clarify and delineate the duties of the Board and its Officers. Any issue that is not expressly delineated shall be determined by mutual agreement of the parties at issue. If agreement cannot be reached on any specific duty then it shall come to the next Board of Governors Meeting for discussion and action.

Board of Governors

The Board of Governors is the governing body of the WSBA. Its primary function is to set the policies of the WSBA and to evaluate how well the Executive Director carries them out and accomplishes the mission. WSBA is subject to the plenary authority of the Washington Supreme Court and the Board of Governors authority over WSBA is restricted in some regulatory matters by court rule, order, case law, or statute. The Board exercises its authority through majority vote, except in some cases where a two-thirds majority is required per applicable bylaw.

Specific responsibilities include:

- Electing the President-Elect and Treasurer.
- Selecting, supporting, setting the compensation for, and evaluating the performance of the Executive Director.
- Approving the annual budget, monitoring WSBA's financial health, establishing reserves, and ensuring that the WSBA has adequate resources to achieve its strategic goals and fulfill its mission.
- Recommending license fees to the Supreme Court and approving other significant fees such as the Keller Deduction and MCLE fees.
- Approving unbudgeted expenditures and reallocation of budgeted expenditures that are outside of the Executive Director's authority.
- Approving the expenditure of reserve funds, consistent with reserve policies.
- Approving gifts from the Client Protection Fund.
- Selecting an independent auditor and reviewing of the annual audit report.
- Approving a facilities strategy, including approval of decisions to lease or purchase real estate.
- Developing strategic goals. Establishing, supporting, and evaluating progress toward strategic goals.
- Establishing and supporting significant organizational policies, including but not limited to the WSBA Bylaws, Fiscal Policies, and Compensation Plan.
- Establishing, supporting, and evaluating the work of WSBA entities that are not directly supervised by the Supreme Court or otherwise excluded by court rule or order.
- Establishing, supporting, and supervising WSBA volunteers not appointed by the Supreme Court.
- Filling vacancies on the Board of Governors.
- Ensuring WSBA entities, volunteers, and members of the Board of Governors comply with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA.
- Approving litigation decisions that involve a significant issue of policy.

- Hearing appeals of certain regulatory matters as provided by court rule or order.

Members of the Board of Governors, Individually

Members of the Board individually carry out the work of the Board of Governors by attending Board meetings, serving on Board committees, panels, or councils, by liaising to other WSBA and external entities, and by engaging with WSBA members. Although members are elected by specific constituencies, as governors they have a duty to act in the best interests of all members of the Bar and the public.

Individually, specific responsibilities of each Governor include:

- Attending all meetings of the Board of Governors and staying informed about Board matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.
- Attending all Board committee meetings to which the member is appointed to and staying informed about committee matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.
- Engaging with WSBA members and the communities they serve as well as the public as an ambassador of WSBA and providing information about issues that are or will come before the Board and conveying member viewpoints to the Board.
- Actively serving as a liaison and acting as a resource to WSBA and external entities as appointed by the President and conveying viewpoints and information to the Board.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to individually direct the implementation of policies or activities of the WSBA staff including the work of the Executive Director.
- Avoid seeking to direct the speech or actions of another governor or officer.

President

The President is the chief spokesperson of WSBA and presides over meetings of the Board of Governors. The President leads the Board in effectively carrying out its roles and responsibilities by establishing a healthy Board culture and working closely with each Board member to make the best use of their strengths and interests.

Specific responsibilities include:

- Setting the agenda for Board meetings and presiding over meetings to ensure constructive, high-quality debate.
- Chairing the BOG Executive Committee.
- Leading the Board in establishing strategic goals.
- Facilitating communication between the Board and the Executive Director, including ensuring clear communication of the Board's goals and expectations, and notice of anticipated actions with sufficient time to provide sufficient information to support high-quality decision-making.
- Educating the Board about its procedures, strategic goals, responsibilities, and culture.
- Cultivating a culture of direct communication, healthy conflict, respect for all viewpoints, and professionalism.
- Facilitating the resolution of conflict among Board members.
- Acting, in collaboration with the Executive Director, to carry out policies established by the Board of Governors.
- Acting as a liaison between the Board of Governors and the Supreme Court of Washington.

- Presiding over the APEX Awards, 50-Year Lunch and similar events.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.
- Avoid seeking to direct the speech or actions of another governor or officer.

President-Elect

The President-Elect's primary function is to perform the duties of the President at their request or when the President is otherwise unable to do so. The President-Elect may also be assigned other duties by the President.

Specific responsibilities include:

- Setting the meeting BOG meeting schedule for the year they will serve as President.
- Appointing the chairperson for certain WSBA entities for the year they will serve as President.
- Appointing Governors to BOG committees, including appointing the chairs (people), for the year they will serve as President.
- Assigning Governors liaison responsibilities with WSBA and external entities for the year they will serve as President.
- Setting the agenda for the BOG's annual retreat.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.
- Avoid seeking to direct the speech or actions of another governor or officer.

Treasurer

The Treasurer's primary function is to ensure that the Board and officers are informed about the finances of the Bar. The Treasurer will perform the duties of the President if the President-Elect is unable to do so. The Treasurer may also be assigned other duties by the President.

Specific responsibilities include:

- Chairing the BOG Budget and Audit committee, including setting the agenda and presiding over committee meetings to ensure constructive, high-quality debate.
- Presenting the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors.
- Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.
- Deciding appeals of the Executive Director's decisions with regard to rejecting or modifying an expense reimbursement.
- Reviewing WSBA financial reports and reporting to the Board of Governors about WSBA's financial health.
- Reviewing the Executive Director's expenses, payroll, and benefits reports.
- Approving supplement budget requests from sections that exceed 25% of the sections' annual expense budget or \$1,000, whichever is greater.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.
- Avoid seeking to direct the speech or actions of another governor or officer.

Past President

The Past President supports the President and the Board of Governors by providing continuity and is responsible for the training and education of new BOG members and officers. The Past President will perform the duties of the President if the President, President-Elect, and Treasurer are unable to do so. The Past President may also be assigned other duties by the President.

Specific responsibilities include:

- Setting the agenda for the annual New Governor Orientation and Team Building Retreat.
- Planning governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.
- Avoid seeking to direct the speech or actions of another governor or officer.

Executive Director

The Executive Director serves as Secretary of the Board of Governors, is the principal administrative officer of the bar, chief of staff, and is responsible for its day-to-day operations, including acting as a spokesperson. The Executive Director is responsible for executing the strategic goals and policies set forth by the Board of Governors. The Executive Director reports directly to the Supreme Court on all regulatory matters.

Specific responsibilities include:

- Attending Board of Governor meetings and board committee meetings and supporting decision making by participating in the discussion to provide information and recommendations.
- Supporting the Board of Governors to develop policy and strategic goals, by making recommendations, engaging stakeholders, and assessing fiscal, operational, and other impacts.
- As Secretary of the Board, preparing and memorializing official minutes of Board and Executive Committee meetings as required by the Bylaws; preparing and distributing Board and Executive Committee meeting materials; and providing notice of Board and Executive Committee meetings.
- Appointing a staff liaison for all WSBA entities to perform the delegated functions of Secretary: preparing and memorializing official minutes of entity meetings as required by the Bylaws; preparing and distributing entity meeting materials; and providing notice of entity meetings.
- Preparing an annual budget and implementing the approved budget.
- Recommending license and other significant fees and establishing other operational and administrative fees not established by the Supreme Court of Board of Governors.
- Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.
- Approving and reporting to the Board of Governors about certain unbudgeted expenses, including, reallocations of budgeted expenditures where the intent is similar or varies slightly; unbudgeted expenditures that are fully offset by unbudgeted revenue or a reallocation of budgeted expenditures up to 5% of the approved operating budget to address operational, regulatory or programmatic needs; and necessary and prudent expenditures to implement WSBA's Disaster Recovery Plan or to maintain WSBA's operations.
- Ensuring the finances of the WSBA are managed in a manner consistent with generally accepted accounting principles and WSBA policy; directing the preparation and reporting of complete and accurate financial statements; and ensuring an annual audit is performed and that the results are made public.
- Taking action to accomplish WSBA's strategic goals and to carry out approved policies and programs.

- Establishing and modifying an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.
- Supervising WSBA Employees, including ensuring a healthy workplace culture, developing, and enforcing HR policies and procedures, hiring, firing, and approving compensation and job specifications within the limits of the approved budget.
- Facilitating communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.
- Overseeing the elections of the Board of Governors, including officers.
- Overseeing the recruitment, appointment, and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA and reporting issues to the Board of Governors.
- Acting as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to direct the speech or actions of another governor or officer.
- Ensuring the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.
- Reporting to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.
- Taking steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.
- Directing litigation that involves the WSBA, including retention of outside counsel, except when a litigation decision raises a significant issue of policy, or the Executive Director has a conflict of interest.
- Overseeing the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.
- Reporting to the Board of Governors regarding WSBA operations.

Board of Governors

The Board of Governors is the governing body of the WSBA. Its primary function is to set the policies of the WSBA and to evaluate how well the Executive Director carries them out and accomplishes the mission. WSBA is subject to the plenary authority of the Washington Supreme Court and the Board of Governors authority over WSBA is restricted in some regulatory matters by court rule, order, case law, or statute. The Board exercises its authority through majority vote, except in some cases where a two-thirds majority is required per applicable bylaw. Specific responsibilities include:

Roles and responsibilities of the Board of Governors	Reference
1. Electing the President-Elect and Treasurer.	Bylaws, IV.A and IV.B.6.a. (President-Elect); Bylaws, IV.B.7.a.4. (elect Treasurer upon removal or resignation); VI.D.2. (Treasurer election).
2. Selecting, supporting, setting the compensation for, and evaluating the performance of the Executive Director.	Bylaws, IV.A.2.; Fiscal Policies and Proc 10/16/19, p.13
3. Approving the annual budget, monitoring WSBA’s financial health, establishing reserves, and ensuring that the WSBA has adequate resources to achieve its strategic goals and fulfill its mission.	Bylaws, IV.A.; Fiscal Policies and Proc 10/16/19, p.13
4. Recommending license fees to the Supreme Court and approving other significant fees such as the Keller Deduction and MCLE fees.	Bylaws, III.I.1.a.1.(license fees); XV.A. (referencing Keller Deduction Policy); Fiscal Policies and Proc 10/16/19, p.11 (certain MCLE fees); Fiscal Policies and Proc 10/16/19, p.13 (Keller deduction)
5. Approving unbudgeted expenditures and reallocation of budgeted expenditures that are outside of the Executive Director’s authority.	Bylaws, V.A. and B. (Appropriations and Expenses); Fiscal Policies and Proc 10/16/19, p.13
6. Approving the expenditure of reserve funds, consistent with reserve policies.	Fiscal Policies and Proc 10/16/19, p.13
7. Approving gifts from the Client Protection Fund.	Fiscal Policies and Proc 10/16/19, pp.11-12 (BOG approves gifts over 25K per applicant)
8. Selecting an independent auditor and reviewing of the annual audit report.	Fiscal Policies and Proc 10/16/19, pp.12-13 (BOG considers recommendation of Budget and Audit Committee; reviews auditor reports)
9. Approving a facilities strategy, including approval of decisions to lease or purchase real estate.	Fiscal Policies and Proc 10/16/19, p.13 (approves/sets: long-term leases for WSBA office space or equipment)
10. Developing strategic goals. Establishing, supporting, and evaluating progress toward strategic goals.	ED Job Specification

11. Establishing and supporting significant organizational policies, including but not limited to the WSBA Bylaws, Fiscal Policies, and Compensation Plan.	Bylaws IV.A. (BOG determines Bar policies), XVI. (Amendments); Bylaws, Fiscal Policies and Proc 10/16/19, pp.12-13
12. Establishing, supporting, and evaluating the work of WSBA entities that are not directly supervised by the Supreme Court or otherwise excluded by court rule or order. Does the Board do this ?	Bylaws IV.A.2.e (Board liaisons to entities); Bylaws, IX.A.2 (entities require active and continuing attention of Board); Bylaws IX.B.3.a (carry out duties as requested by BOG)
13. Establishing, supporting, and supervising WSBA volunteers not appointed by the Supreme Court. Does the Board do this?	Bylaws, IV.A, Bylaws, IX.A.2 (entities require active and continuing attention of Board); Board Policy 1002: Committees and Boards Policy Sept. 2015
14. Filling certain vacancies on the Board of Governors. define when this happens	Bylaws, IV.A.4.
15. Ensuring WSBA entities, volunteers, and members of the Board of Governors comply with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA.	Bylaws, IX.A.2 (entities require active and continuing attention of Board)); Board Policy 1002: Committees and Boards Policy Sept. 2015
16. Approving litigation decisions that involve a significant issue of policy.	See Bylaws, VII.B.7.a.4.
17. Hearing appeals of certain regulatory matters as provided by court rule or order.	Cite Relevant Court Rules
Delineation of Duties	Reference
18. Establish new programs and determine when to sunset programs.	Bylaws IV.A, GR 12.2(b) (WSBA may maintain various programs)
19. Establish committees, councils, task forces, and work groups to carry out the work of WSBA. Sunset such entities.	Bylaws, IX.B.1 (Committees are created and authorized by the BOG); IX.A.3. (Committee termination by BOG); IX.B.2 (BOG task forces, workgroups, etc.); IX.C. (Councils)
20. Sunset sections.	Bylaws, XI.L. (Termination Sections)
21. Approves changes to WSBA Bylaws, subject to Court review.	Bylaws, XVI. (Amendments)
22. Revises, adopts, and sunsets significant organizational policies – not operational policies.	Fiscal Policies and Proc 10/16/19, p.6 (BOG approves or sets all significant fiscal policies);
23. Establishes volunteer reimbursement policies.	Fiscal Policies and Proc 10/16/19, pp.6-7
24. Provides support and guidance to WSBA entities carrying out the work of WSBA by reviewing annual reports and engaging in dialogue.	Bylaws, IX.C.5 (Councils)

25. Approve amicus requests, upon recommendation of Exec Cmte.	Board Policy 1001: Amicus Policy 9/2017
26. Approve Budget, upon recommendation of the Budget & Audit Cmte.	Bylaws, IV.A.; Fiscal Policies and Proc 10/16/19, p.12
27. Approve unbudgeted expenses.	Bylaws, V.A. and B. (Appropriations and Expenses); Fiscal Policies and Proc 10/16/19, p.13
28. Affirms President-Elect's chair appointments to WSBA entities.	Bylaws, IX.B.1.c. (committees); IX.B.2.b. (other bar entities)
29. Removes WSBA volunteers.	Bylaws, IV.B.7. (BOG may remove with 75% vote: President, President-Elect, Immediate Past President, and Treasurer)
30. Appoints former governors to investigate allegations against a president, president-elect, or governor that implicate fitness to serve and decides what action to take after receiving a report from the appointed group.	Board Policy 301: Complaints About Governors, President, or the President-Elect
31. Establish the Compensation Philosophy for WSBA employees, to be executed by the ED.	Fiscal Policies and Proc 10/16/19, pp.12, 14
32. Advise the ED on litigation and settlement strategy in cases that threaten a significant fiscal impact and/or implicate a matter of organizational of policy.	See Bylaws, VII.B.7.a.4.
33. Can refer legislation to WSBA entities for consideration.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
34. Approves comment on federal legislation/court rules by WSBA entities.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
35. Can direct entities to cease public comment.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
36. Establish the license fee, subject to Court's review for reasonableness.	Fiscal Policies and Proc 10/16/19, p.13
37. Sets law clerk program fees	Fiscal Policies and Proc 10/16/19, p.13
38. Approves MCLE fees	Fiscal Policies and Proc 10/16/19, pp.11-12 (certain MCLE fees)
39. Hears appeals of denial of late fees.	Guidelines for Appeals Relating to Annual License and Reinstatement Fees (Approved by the Board of Governors on July 23, 2010)
40. Hears appeals from Law Clerk Board decisions.	APR 6(d)(4), APR 6 LAW CLERK BOARD REGULATIONS 2-5
41. Sets MCLE requirements for status changes through WSBA Bylaws.	Bylaws, III.B.2.b, III.B.3.h, III.D.1.a.1.b, III.D.1.a.2, III.D.1.b.1.b, III.K.4.d, III.N.1.c.a.

42. Sets admission requirements for status changes through WBSA Bylaws.	APR 2(a)(4)(A); Bylaws III.D-H
43. Sets admissions policy including defining “approved law school”.	APR 2(a); ADMISSIONS POLICIES OF THE WASHINGTON STATE BAR ASSOCIATION (Adopted July 1, 2012. Amended July 28, 2017, amendments effective September 1, 2017. Amended November 14, 2020, amendments effective December 1, 2020)
44. Approves changes to Section Bylaws.	Bylaws, XI.E.
45. Approve the per member charge to sections	Bylaws, XI.D.; Fiscal Policies and Proc 10/16/19, p.63
46. Decide investment policy	Fiscal Policies and Proc 10/16/19, p.12
47. Sets member data and contact information policy	Board Policy 601: Member Data and Contact Information Policy 7/23/2010
48. Approve non budgeted expenses and reallocated funds beyond the ED’s authority.	Fiscal Policies and Proc 10/16/19, p.12
49. Create reserve funds, establish the policies for them, and determine use of them.	Fiscal Policies and Proc 10/16/19, p.12
50. Choose outside auditor.	Fiscal Policies and Proc 10/16/19, p.12 (BOG considers recommendation of Budget and Audit Committee)
51. Elect President-Elect and Treasurer	Bylaws, IV.A and IV.B.6.a. (President-Elect); Bylaws, IV.B.7.a.4. (elect Treasurer upon removal or resignation); VI.D.2. (Treasurer election)
52. Select, support, set compensation for, and annually evaluate performance of ED.	Bylaws, IV.A.2.; Fiscal Policies and Proc 10/16/19, p.12
53. Approve certain Client Protection Fund gifts.	Fiscal Policies and Proc 10/16/19, p.12
54. Approves litigation decisions that have significant budget or policy impact.	See Bylaws, VII.B.7.a.4.
55. Approves capital projects for facility improvements.	See Fiscal Policies and Proc 10/16/19, p.12
56. Approves long term leases for WSBA office space or equipment	Fiscal Policies and Proc 10/16/19, p.12
57. Act in the best interest of the Bar and the public.	Bylaws, IV.A.2.c.
58. May direct retention of independent counsel.	Bylaws, IV.E.4.
59. Approves or sets significant fiscal policies (includes Budget and Audit Committee Charter, Fiscal Responsibilities Matrix, budget policies and process, selection of independent auditors, investment policy, resolution	Fiscal Policies and Proc 10/16/19, pp.6-7; 19 (banking relationships)

authorizing banking relationships, unrestricted and restricted fund balance policy, general expense reimbursement policy dollar limits for meals and lodging, purchase of alcohol at bar functions, expense policies for the WSBA Officers and Board of Governors, and Executive Director expense policies).	
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Members of the Board of Governors, Individually

Members of the Board individually carry out the work of the Board of Governors by attending Board meetings, serving on Board committees, panels, or councils, by liaising to other WSBA and external entities, and by engaging with WSBA members. Although members are elected by specific constituencies, as governors they have a duty to act in the best interests of all members of the Bar and the public. Individually, specific responsibilities of each Governor include:

Roles and responsibilities of the BOG Members	Reference
1. Attending all meetings of the Board of Governors and staying informed about Board matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(f); List of Governor responsibilities (Revised June 2016)
2. Attending all Board committee meetings to which the member is appointed to and staying informed about committee matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(e); List of Governor responsibilities (Revised June 2016)
3. Engaging with WSBA members and the communities they serve as well as the public as an ambassador of WSBA and providing information about issues that are or will come before the Board and conveying member viewpoints to the Board.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d); List of Governor responsibilities (Revised June 2016)
4. Actively serving as a liaison and acting as a resource to WSBA and external entities as appointed by the President and conveying viewpoints and information to the Board.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(e); List of Governor responsibilities (Revised June 2016)
5. Avoid speaking publicly in opposition to positions taken by the Board.	WSBA Bylaws, amended April 29, 2021 IV(D)(1)
6. Avoiding seeking to individually direct the implementation of policies or activities of the WSBA staff including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
Delineation of Duties	Reference
7. Chair a committee to recruit at least two candidates to succeed the governor. Report on this work at the January meeting.	WSBA Bylaws, amended April 29, 2021 VI(D)(3),(c); List of Governor responsibilities (Revised June 2016)
8. Appoint volunteers to WSBA entities, upon recommendation of nomination teams.	List of Governor responsibilities (Revised June 2016)
9. Nominate applicants for WSBA committees or Boards when there is not a continuing member from the Governor's district (latter requirement doesn't apply to at-large).	WSBA Bylaws IX.B.1.b

10. Notify President and ED of policy and program proposals with sufficient time for analysis to occur, taking into account the scope and novelty of the proposal.	WSBA Bylaws, amended April 29, 2021 VIII(A)(1)
11. Attend all Board meetings.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(f); List of Governor responsibilities (Revised June 2016)
12. Engage with WSBA members as WSBA ambassador, provide information about issues that are or will come before the Board, and convey the members' viewpoints and information to the Board.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d)
13. Primarily obligated to ensure that the Bar fulfills the mandate set forth in General Rule 12.2, carries out the mission of the Bar, and operates in accordance with the Bar's Guiding Principles.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(c)
14. Bring to the BOG the perspective, values and circumstances of the Governor's district to be applied in the best interest of all members, the public, and the Board	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d)
15. Bring information to the members that promotes appreciate of actions and issues affecting the membership as a whole, the public, and the organization.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d)
16. Avoid speaking publicly in opposition to positions taken by the Board.	WSBA Bylaws, amended April 29, 2021 IV(D)(1)
17. Avoid seeking to individually direct policies or activities of WSBA, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)

President

The President is the chief spokesperson of WSBA and presides over meetings of the Board of Governors. The President leads the Board in effectively carrying out its roles and responsibilities by establishing a healthy Board culture and working closely with each Board member to make the best use of their strengths and interests. Specific responsibilities include:

Roles and responsibilities of the President	Reference
1. Setting the agenda for Board meetings and presiding over meetings (them) to ensure constructive, high-quality debate.	Bylaws, IV.B.1., VII.C.4.
2. Chairing the BOG Executive Committee.	See Bylaws, VI.D, Charter of the BOG Executive Committee
3. Leading the Board in establishing strategic goals.	See Bylaws, IV.B.1.
4. Facilitating communication between the Board and the Executive Director, including ensuring clear communication of the Board's goals and expectations, and notice of anticipated actions with sufficient time to provide sufficient information to support high-quality decision-making.	See Bylaws, IV.B.1.
5. Educating the Board about (its) procedures, strategic goals, responsibilities, and culture.	See Bylaws, IV.B.1.

6. Cultivating a culture of direct communication, healthy conflict, respect for all viewpoints, and professionalism.	See Bylaws, IV.B.1.
7. Facilitating the resolution of conflict among Board members.	See Bylaws, IV.B.1.
8. Acting, in collaboration with the Executive Director, to carry out policies established by the Board of Governors.	See Bylaws, IV.E.1.
9. Acting as a liaison between the Board of Governors and the Supreme Court of Washington.	Bylaws, IV.E.1.
10. Presiding over the APEX Awards, 50-Year Lunch and similar events.	Bylaws, IV.E.1.
11. Avoid speaking publicly in opposition to positions taken by the Board.	See Bylaws, IV.E.1.
12. Avoid seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	See Bylaws, IV.B.5; E
Delineation of Duties	Reference
13. Decides when and where the BOG meetings are held.	Bylaws, VII.C.1.
14. Acts generally as a non-voting member of the Board. Votes only when vote affects the result.	Bylaws, IV.B.1.
15. (Decide what goes on) Sets the agenda for BOG meetings, subject to Board ability to take action on any issue raised and seconded by motion.	Bylaws, IV.B.1. (presides; sets agenda), VII.C.4. (agenda and order of business)
16. Calls special and emergency meetings.	Bylaws, VII.C.2.a., VII.C.3.a.
17. Presides over BOG meetings, including ruling on points of order, deciding the order of speakers, when to take public comment, and any limits on public comment.	Bylaws, IV.B.1. (presides; sets agenda), VII.C.4. (agenda and order of business)
18. Excuses absences from Board of Governors meetings.	Bylaws, II.E.3.
19. Takes action to execute the policies established by the BOG.	Bylaws, IV.B.1.
20. May direct retention of independent counsel.	Bylaws, IV.E.4.
21. Decides when the Executive Committee meetings are held.	Bylaws, VII.D.3. (Any member of Exec Co may call Exec Co meeting)
22. Decide what goes on the agenda for Executive Committee meetings.	Bylaws, VII.C.4. ("For every BOG meeting, the President will establish the agenda")
23. Presides over Executive Committee meetings.	See Bylaws, VII.D.2.
24. Speaks (for the) on behalf of the organization (such as) to various entities including but not limited to the media, legislature, Supreme Court, and the members.	Bylaws, IV.E.1.
25. Writes a column in Bar News	See Bylaws, IV.E.1.
26. Provides an annual report to the membership.	Bylaws, IV.B.1.
27. Represents the organization at legal community events and on external committees such as the Board of Judicial Appeals.	See Bylaws, IV.E.1.
28. Represents the organization at internal events such as Section Leader Meetings and Chairs Orientations.	See Bylaws, IV.E.1.

29. Supports the Executive Director to ensure the Board is in compliance with the WSBA Bylaws and other policies governing the organization	See Bylaws, IV.B.1.
30. Communicates Board action to the Court, to other WSBA entities, and to other external stakeholders.	See Bylaws, IV.E.1.
31. Presides over ceremonial events such as local hero awards, APEX awards, professionalism in practice awards, and the 50 Year Lunch.	See Bylaws, IV.E.1.
32. Supports and drives an effective, inclusive, and professional culture on the Board of Governors.	See Bylaws, IV.B.1.
33. Advises the Executive Director on various matters at the ED's request.	See Bylaws, IV.B.1.
34. Signs Board resolutions.	See Bylaws, IV.E.1.
35. Facilitate conflict resolution among Board members and between Board members and staff members, when support is sought.	See Bylaws, IV.B.1.; CONFLICT RESOLUTION – PRACTICES & POLICY (adopted January 28, 2016) Section 3.
36. Works with the ED to resolve conflicts among Board members or among board and staff that don't prove resolvable through facilitated dialogue.	See Bylaws, IV.B.1.; CONFLICT RESOLUTION – PRACTICES & POLICY (adopted January 28, 2016) Section 3.
37. Participates (along with HR Director and Ombudsperson) to make a threshold determination about whether the facts in a complaint against a Board member, if true, would constitute harassment or discrimination. Upon receipt of a report substantiating discriminatory or harassing conduct by a member of the Board, decide by majority vote with the HR Director and Ombudsperson on corrective action.	See Bylaws, IV.B.1.; CONFLICT RESOLUTION – PRACTICES & POLICY (adopted January 28, 2016) Section 3, 4.; WSBA Board of Governors Anti-Harassment Policy and Procedure (Adopted by the Board of Governors January 2018; modified December 2019)
38. Co-signs amicus briefs approved by WSBA, alongside author.	See Bylaws, IV.E.1.
39. Acts as spokesperson for rule changes proposed to the Court by WSBA.	See Bylaws, IV.E.1.
40. Receives notification of significant personnel actions.	See Bylaws, IV.B.1.; Personnel Committee Handbook 2019-2020
41. May direct entities to cease public comment.	See Bylaws, IV.B.1.
42. Sets the seminar fee schedule, which acts as a ceiling.	See Bylaws, IV.B.1.
43. Signs new admittee welcome letter with ED.	See Bylaws, IV.E.1.
44. Signs law clerk program certificates with Law Clerk Board Chair.	See Bylaws, IV.E.1.
45. Appoints election board for BOG member elections.	See Bylaws, VI.C.2.g.
46. Sign pro bono commendation letters with ED.	See Bylaws, IV.E.1.
47. Lobbies for legal aid funding at federal level with Legal Foundation of Washington.	See Bylaws, IV.E.1.
48. Leads the Board in establishing strategic goals.	See Bylaws, IV.B.1.

49. Presents a report to the membership covering the principal activities of the Board during the President's term.	Bylaws, IV.B.1.
50. Avoid speaking publicly in opposition to positions taken by the Board.	See Bylaws, IV.E.1.
51. Avoid individually directing policies or WSBA activities, including the work of the Executive Director.	See Bylaws, IV.B.5; E
52. Receives written request for review of Executive Director dismissal, along with the Supreme Court.	Bylaws, IV.B.7.b.
53. Avoid publicly supporting or opposing in any election, any candidate for public office.	Bylaws, IV.B.2.
54. Avoid taking a side publicly on any issue being submitted to the voters, pending before the legislature or otherwise in the public domain unless authorized and instructed to do so by the BOG on a matter relating to the function or purposes of the Bar.	Bylaws, IV.B.2.

President-Elect

The President-Elect's primary function is to perform the duties of the President at their request or when the President is otherwise unable to do so. The President-Elect may also be assigned other duties by the President. Specific responsibilities include:

Roles and responsibilities of the President-Elect	Reference
1. Setting the meeting BOG meeting schedule for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
2. Appointing the chairperson for certain WSBA entities for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
3. Appointing Governors to BOG committees, including appointing the chairs (people), for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
4. Assigning Governors liaison responsibilities with WSBA and external entities for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
5. Setting the agenda for the BOG's annual retreat.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
6. Avoiding seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
Delineation of Duties	Reference
7. Nominates chairs to WSBA entities for their year as president, subject to Board approval or rejection.	WSBA Bylaws, amended April 29, 2021 IX(B)(1),(c)
8. Appoints members of BOG committees for year as president, with due consideration to Board members' requests.	WSBA Bylaws, amended April 29, 2021 IV (C)
9. Appoints chairs of BOG committees for year as president.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)

10. Appoints BOG members to liaison assignments for year as president.	WSBA Bylaws, amended April 29, 2021 IV(B)(1)
11. Plans annual retreat in July prior to their year as president.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
12. Participates in onboarding and orientation activities for new members of the Board, including informational sessions for those interested in seeking a position on the Board.	WSBA Bylaws, amended April 29, 2021 VI(E)
13. Sets Board meeting schedule for year as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
14. Avoid speaking publicly in opposition to positions taken by the Board.	WSBA Bylaws, amended April 29, 2021 IV(D)(2)
15. Avoid individually directing policies or WSBA activities, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
16. Performs duties of the President at the request of the President, or in the absence, inability, recusal, or refusal of the President to perform the duties.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
17. Not a voting member of the Board unless acting in the President's place at a meeting of the BOG and then only if the vote will affect the result.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)

Treasurer

The Treasurer's primary function is to ensure that the Board and officers are informed about the finances of the Bar. The Treasurer will perform the duties of the President if the President-Elect is unable to do so. The Treasurer may also be assigned other duties by the President. Specific responsibilities include:

Roles and responsibilities of the Treasurer	Reference
1. Chairing the BOG Budget and Audit committee, including setting the agenda and presiding over committee meetings to ensure constructive, high-quality debate.	WSBA Bylaws, amended April 29, 2021 IV(B)(4); Board of Governors Budget and Audit Committee Charter (10.16.19) In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
2. Presenting the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors.	WSBA Bylaws, amended April 29, 2021 V(A)(2)
3. Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.	Fiscal Responsibilities Matrix (10.16.19) In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
4. Deciding appeals of the Executive Director's decisions with regard to rejecting or modifying an expense reimbursement.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and

	Procedures Manual, October 16, 2019
5. Reviewing WSBA financial reports and reporting to the Board of Governors about WSBA's financial health.	Board of Governors Budget and Audit Committee Charter (10.16.19) In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
6. Reviewing the Executive Director's expenses, payroll, and benefits reports.	Washington State Bar Association, Fiscal Policies and Procedures Manual, Chapter 6: Expenses (updated by the Board of Governors on July 23, 2016, V(E) EXPENSE POLICIES: WSBA EXECUTIVE DIRECTOR, October 16, 2019
7. Approving supplement budget requests from sections that exceed 25% of the sections' annual expense budget or \$1,000, whichever is greater.	Fiscal Responsibilities Matrix (10.16.19) and Chapter 10: Sections; In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
8. Avoid seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
Delineation of Duties	Reference
9. Approve section budget requests that exceed the larger of 25% of budgeted amounts or \$1,000.00.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
10. Chair the Budget and Audit Committee, including setting the agenda and presiding over the committee meetings.	WSBA Bylaws, amended April 29, 2021 IV(B)(4). V(A)(1); Board of Governors Budget and Audit Committee Charter (10.16.19)
11. Present the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors	WSBA Bylaws, amended April 29, 2021 V(A)(2)
12. Reviews WSBA financial reports and reports to the Board of Governors about WSBA's financial health	WSBA Bylaws, amended April 29, 2021 IV(B)(4), V(A)
13. Can establish deposit and credit relationships, withdraw funds, and sign checks.	Washington State Bar Association Fiscal Policies and Procedures Manual October 16, 2019, Chapter 1: Key fiscal policies, Board of Governors Budget and Audit Committee Charter; Financial reporting
14. Reviews the Executive Director's expenses, payroll, and benefits reports.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and

	Procedures Manual, October 16, 2019
15. Decides appeals of the Executive Director’s decisions rejecting or modifying expense reimbursements.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
16. Avoids seeking to individually direct the policies of activities of the WSBA, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
17. Performs the duties of the President in the absence, inability, recusal, or refusal of the President and the President-Elect.	WSBA Bylaws, amended April 29, 2021 IV(B)(4)
18. Is a voting member of the Board.	WSBA Bylaws, amended April 29, 2021 IV(B)

Past President

The Past President supports the President and the Board of Governors by providing continuity and is responsible for the training and education of new BOG members and officers. The Past President will perform the duties of the President if the President, President-Elect, and Treasurer are unable to do so. The Past President may also be assigned other duties by the President. Specific responsibilities include:

Roles and responsibilities of the Past President	Reference
1. Setting the agenda for the annual New Governor Orientation and Team Building Retreat.	Bylaws IV.B.3
2. Planning governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.	Bylaws IV.B.3
3. Avoid seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	Bylaw IV.2.b and IV.E.1
Delineation of Duties	Reference
4. Collaborates with ED to plan the annual New Governor Orientation and Team Building Retreat (new).	Bylaws IV.B.3
5. Plans governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.	Bylaws IV.B.3
6. Avoids seeking to individually direct the policies or activities of the WSBA, including the work of the Executive Director.	Bylaw IV.2.b and IV.E.1
7. Performs the duties of the President in the absence, inability, recusal or refusal of the President, President-Elect, and Treasurer.	Bylaws IV.B.3

8. Is not a voting member of the BOG except when acting in the President’s place at a meeting of the BOG and then only if the vote will affect the result	Bylaws IV.B.3
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Executive Director

The Executive Director serves as Secretary of the Board of Governors, is the principal administrative officer of the bar, chief of staff, and is responsible for its day-to-day operations, including acting as a spokesperson. The Executive Director is responsible for executing the strategic goals and policies set forth by the Board of Governors. The Executive Director reports directly to the Supreme Court on all regulatory matters. Specific responsibilities include:

Roles and responsibilities of the Executive Director	Reference
1. Attending Board of Governor meetings and board committee meetings and supporting decision making by participating in the discussion to provide information and recommendations.	Bylaws IV.B.5(9), VII.D.2
2. Supporting the Board of Governors to develop policy and strategic goals, by making recommendations, engaging stakeholders, and assessing fiscal, operational, and other impacts	ED Contract Job Specifications I.3 (bullets 3-5)
3. Preparing an annual budget and implementing the approved budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 6, 14)
4. Recommending license and other significant fees and establishing other operational and administrative fees not established by the Supreme Court of Board of Governors.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 14)
5. Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
6. Approving and reporting to the Board of Governors about certain unbudgeted expenses, including, reallocations of budgeted expenditures where the intent is similar or varies slightly; unbudgeted expenditures that are fully offset by unbudgeted revenue or a reallocation of budgeted expenditures up to 5% of the approved operating budget to address operational, regulatory or programmatic needs; and necessary and prudent expenditures to implement WSBA’s Disaster Recovery Plan or to maintain WSBA’s operations.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
7. Ensuring the finances of the WSBA are managed in a manner consistent with generally accepted accounting principles and WSBA policy; directing the preparation and reporting of complete and accurate financial statements; and ensuring an annual audit is performed and that the results are made public.	Bylaws IV.B.5(5) Bylaws IV.B.5(6)
8. Taking action to accomplish WSBA’s strategic goals and to carry out approved policies and programs.	ED Contract Job Specifications I.1 (bullets 2-3)

9. Establishing and modifying an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.	ED Contract Job Specifications I.1 (bullet 9)
10. Supervising WSBA Employees, including ensuring a healthy workplace culture, developing, and enforcing HR policies and procedures, hiring, firing, and approving compensation and job specifications within the limits of the approved budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
11. Facilitating communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.	Bylaws IV.B.5.1, Employee Handbook A-4; ED Contract II.C
12. Overseeing the elections of the Board of Governors, including officers.	Bylaws VI.C.2, VI.3
13. Overseeing the recruitment, appointment, and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws,	Bylaw IV.B.5, GR 12.3
14. Acting as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters.	Bylaws IV.E.3
15. Avoid speaking publicly in opposition to positions taken by the Board.	Employee Handbook E-2
16. Ensuring the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.	ED Contract Job Specifications I.2 (bullet 1), ELC 2.2(a)(1)
17. Reporting to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.	ED Contract Job Specifications I and I.2 (bullet 3)
18. Taking steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.	ED Contract Job Specifications I.1 (bullet 10)
19. Directing litigation that involves the WSBA (is involved with), including retention of outside counsel, except when a litigation decision raises a significant issue of policy, or the Executive Director has a conflict of interest.	Bylaw IV.B.5
20. Overseeing the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.	Bylaw IV.B.5
21. Reporting to the Board of Governors regarding WSBA operations.	Bylaws IV.B.5(10)
Delineation of Duties	Reference
22. Responsible for day to day operation of WSBA	Bylaws IV.B.5
23. Hiring, managing and terminating WSBA personnel	Bylaws IV.B.5(1)

24. Revises, adopts and sunsets operational policies and procedures.	Bylaw IV.B.5
25. Receives annual reports from Sections and other WSBA entities.	Bylaws IX.B.3(b), IX.C.5, XI.K
26. Directs litigation. Consulting with Board when there is a potential for significant fiscal impact to the organization and/or a matter of organizational policy is impacted.	Bylaw IV.B.5
27. Develops the investigation plan in the event of a whistleblower complaint, subject to approval by the Personnel Committee. Personnel committee creates the plan if the complaint is against the ED.	BOG Policy 1403: Whistleblower reports of illegal or dishonest activity-notification and investigation policy
28. Attends BOG Meetings and BOG Committee meetings, including Executive Sessions.	Bylaws IV.B.5(9), VII.D.2
29. Negotiates and executes contracts for WSBA.	Bylaws IV.B.5(2)
30. Communicates with bar members, the judiciary, elected officials, and the community at large about bar matters.	Bylaws IV.B.5(3)
31. Ensure the bar's books are kept in proper order and are audited annually.	Bylaws IV.B.5(5)
32. Ensure that the annual audited financial statement is made available to all Active members.	Bylaws IV.B.5(6)
33. Collect debts owed to the Bar and assign debts for collection as deemed appropriate.	Bylaws IV.B.5(7)
34. Acquires, manages, and disposes of personal property related to the bar's operations within the approved budget.	Bylaws IV.B.5(8)
35. Reports to the BOG regarding WSBA operations.	Bylaws IV.B.5(10)
36. Ensures minutes are made and kept of all BOG meetings.	Bylaws IV.B.5(11)
37. Serves as an officer of the Bar, as an ex officio, non-voting member of the BOG.	Bylaws IV.B.5
38. Controls the WSBA Seal.	Bylaws II.B
39. Accepts petitions, notices or other documents the Bylaws require to be filed with the Bar or served on the Board of Governors.	Bylaws II.C
40. Receives member change of required information, within 10 days of change.	Bylaws III.C.1; APR 13(b)

<p>41. Keeps records of required member information, including: physical residence address; principal office address, telephone number and email address; resident agent physical street address; date of admittance; type and status of membership; date of transfer(s) from one status to another, if any; date and period of administrative suspension, if any; date and period of disciplinary actions or sanctions, if any; other data required by the Washington Supreme Court or Board of Governors.</p>	<p>Bylaws III.C.2</p>
<p>42. One of three persons who tallies President and President-Elect votes and may accept confidential telephonic vote from Governor who participated in the interview.</p>	<p>Bylaws VI.D.3(h)-(i)</p>
<p>43. Sets the time and place of New Governor Orientation.</p>	<p>Bylaws VI.E</p>
<p>44. Receives Petitions for recall of Governors.</p>	<p>Bylaws VI.F</p>
<p>45. May call a BOG Special or Emergency Meeting.</p>	<p>Bylaws VII.C.2(a)</p>
<p>46. Must receive notice of a BOG Special Meeting</p>	<p>Bylaws VII.C.2(b)</p>
<p>47. May set the location of an emergency meeting.</p>	<p>Bylaws VII.C.3</p>
<p>48. Member of the Board of Governors Executive Committee.</p>	<p>Bylaws VII.D.2</p>
<p>49. Receives Referenda Petitions, prepares ballots and sets deadlines for filing of statements.</p>	<p>Bylaws VII.A.2(e), VII.C</p>
<p>50. Maintains a list of current committees, councils, and taskforces, including their functions.</p>	<p>Bylaws IX.A.3</p>
<p>51. Maintains a list of the current regulatory boards and their functions.</p>	<p>Bylaws X</p>
<p>52. Maintains a list of current sections.</p>	<p>Bylaws XI.A</p>
<p>53. Receives petition and report seeking to establish new sections.</p>	<p>Bylaws XI.B.1</p>
<p>54. Receives annual reports from all Sections.</p>	<p>Bylaws XI.K</p>
<p>55. Receives requests for Keller arbitrations</p>	<p>Bylaws XV.C</p>
<p>56. In the event of a whistleblower complaint, develop a response and/or action plan to address any recommendations as well as remedial action and discipline as appropriate.</p>	<p>BOG Policy 1403: Whistleblower reports of illegal or dishonest activity-notification and investigation policy</p>
<p>57. Conducts and provides analysis to Board on proposals before the Board, including fiscal impact, stakeholder analysis and input, rule compliance, and implementation implications.</p>	<p>ED Contract Job Specifications I.3 (bullet 3)</p>
<p>58. Declares disaster to trigger implementation of Disaster Recovery Plan; updates disaster recovery plan.</p>	<p>Disaster Recovery Plan Section 2</p>

59. Decides Public Records appeals pursuant to GR 12.4.	GR 12.4(h)
60. Decides member exemptions from the requirement to provide a public address.	Bylaws XII.B.5(l)(1)
61. Can refer legislation to WSBA entities for consideration.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy
62. Can direct entities to cease public comment.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
63. Grants hardship exemption for license fees.	Bylaws III.I.5
64. Approves armed forces exemption.	Bylaws III.I.a.7
65. Decides when to waive or modify repayment of discipline costs.	Bylaw IV.B.5(7)
66. Signs recommendations for administrative suspension	Bylaws III.J.3.d
67. Signs new admittee welcome letter with President.	Bylaw IV.E.3
68. Sign pro bono commendation letters with President.	Bylaw IV.E.3
69. Permanent member of the Budget and Audit Facilities Advisory Committee	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 9)
70. Supports Board policy development and strategic goals by making recommendations, engaging stakeholder, and assessing fiscal, operational, legal, and other impacts.	ED Contract Job Specifications I.3 (bullets 3-5)
71. Prepares annual budget and implements the approved budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 6, 14)
72. Serves as ex officio, non-voting member of Budget and Audit Committee (along with Chief Financial Officer)	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 9)
73. Recommends license and other significant fees and establish other operational and administrative fees not established by the Supreme Court or the Board of Governors.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 14)
74. Approves reimbursement requests and service and program fees including (advertising rates, public records copy fees, fees for sale of member contact information,	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)

sales price of CLE and WSBA publications and other WSBA merchandise.	
75. Sets adjustments to employee salaries within adopted compensation plan.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
76. Approves grants to WSBA and in kind contributions of WSBA to the Foundation	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
77. Can establish deposit and credit relationships, withdraw WSBA funds, sign checks, invest funds in accordance with the investment policy, and transfer funds between established accounts.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
78. Approves unbudgeted expenditure that are offset by unbudgeted revenue, or reallocation of budgeted expenditures where there is a change of intent up to \$10,000 per item, or up to \$50,000 collectively during the fiscal year, where the overall bottom line of the annual budget is not affected (including approval of new programs or significant expansions, but not long term commitments or future obligations).	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
79. Approves necessary and prudent expenditures to implement WSBA's Disaster Recovery Plan or to maintain WSBA's operations	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
80. Compiles and review section budgets, with CFO.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 15-16)
81. Engages the approved auditing firm and initiate a competitive bid process prior to the end of the six-year period.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10, 18)
82. Consults with CFO when an immediate change in investment strategy is recommended by WSBA's investment managers.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 2 (p. 22)
83. Approve license fee refunds.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 5 (p. 37)
84. Approve deviations from the fiscal policy due to extenuating circumstances in accordance with the Fiscal Matrix.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.A (p. 44)
85. Approves reimbursement requests from the prior fiscal year-with the CFO.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.D (p. 44)

86. Approves, preliminarily, a request exceeding the Accommodation funds set during the budgeting process, so long as the funds are available within the current fiscal year budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.VII.D (p. 52)
87. Approves all employee overnight stays at BOG meetings.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.E (p. 45)
88. Approves reimbursement for expenses not otherwise described in the policy when reasonable, necessary, appropriately documented and explained.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.I (p. 47)
89. Approves midyear employee cost center allocation changes.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.IX (p. 54)
90. May approve travel advances upon a director's recommendation.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.III.B.4 (p. 48)
91. May approve expenses for certain employee parties and celebrations.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.III.H (p. 50)
92. Approves exceptions to the limits on officer and Governor attendance at bar-related events	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.IV.B (p. 50-51)
93. Approves reimbursements for lodging and meal expenses about WSBA rates with appropriate supporting receipts.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 & 6.I.G-H (p. 10, 46)
94. Approves donations from WSBA committees and boards to entities such as other bar associations, legal organizations, or outside causes.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 7 (p. 55)
95. Supports all grant applications.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 7 (p. 56)
96. Office of the Executive Director oversees administration of the executive functions of the WSBA.	Bylaws IV.B.5, ED Contract Job Specifications II.A; Employee Handbook A-4
97. Can approve overtime for nonexempt employees.	Employee Handbook C-1
98. Full administrative authority to set personnel policies and salaries, to employee and to terminate employment of staff.	Employee Handbook A-4; ED Contract II.C

99. Final decision on all definitions and interpretations involving the Employee Handbook.	Employee Handbook A-4
100. Consults with the HR Director to evaluate and place positions in job grades.	Employee Handbook C-3
101. Authorize revisions to policies and procedures covered in the Employee Handbook.	Employee Handbook vi
102. Enter into written agreements for employment for a specified period of time, or inconsistent with employment at will.	Employee Handbook vi
103. Receives confidential comments about supervisors, directors, or other conditions of work during employee performance evaluations.	Employee Handbook C6
104. Can receive employee complaints of sexual or other harassment, including retaliation.	Employee Handbook D-3
105. Address written employee complaints expressing dissatisfaction with supervisor's resolution of conflict. Executive Director investigations and will review and discuss with employee as soon as possible.	Employee Handbook D-6
106. Receive Whistleblower complaints from employees.	Employee Handbook D-7 and D-8
107. Approves employee resignation withdrawals.	Employee Handbook F-1
108. Approves requests to unlock the elevators during non-business hours.	Employee Handbook G-8
109. Authorize other employees to enter into contracts.	Bylaws IV.B.5(2); Employee Handbook G-8
110. May approve employee vacation schedules.	Employee Handbook I-3, I-7
111. May require employees with over 160 hours of accrued vacation to use the leave on an approved schedule.	Employee Handbook I-7
112. May close the WSBA Offices for severe snow/weather or civil disruptions.	Employee Handbook I-9
113. Approves unpaid leaves of absences for personal reasons.	Employee Handbook I-13
114. Determines licenses that WSBA will reimburse.	Employee Handbook I-17
115. May authorize employees to make statements contrary to the Board of Governors position.	Employee Handbook E-2
116. Decides appeals of the HR Director's decision relating to parking spaces for employees.	Employee Handbook E-5
117. Receives notification from employees who are convicted under any criminal drug statute for a violation occurring in the workplace.	Employee Handbook E-8

118. Takes action to accomplish WSBA's strategic goals and to carry out approved policies and programs.	ED Contract Job Specifications I.1 (bullets 2-3)
119. Establishes and modifies an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.	ED Contract Job Specifications I.1 (bullet 9)
120. Facilitates communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.	Bylaws IV.B.5.1, Employee Handbook A-4; ED Contract II.C
121. Oversees the elections of the Board of Governors, including officers.	Bylaws VI.C.2, VI.3
122. Overseeing the recruitment, appointment and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA and reporting issues to the Board of Governors.	Bylaw IV.B.5, GR 12.3
123. Acts as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters and is not required to obtain prior approval from the BOG before doing so.	Bylaws IV.E.3
124. Avoids speaking publically in opposition to positions taken by the Board.	Employee Handbook E-2
125. Ensures the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.	ED Contract Job Specifications I.2 (bullet 1), ELC 2.2(a)(1)
126. Reports to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.	ED Contract Job Specifications I and I.2 (bullet 3)
127. Takes steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.	ED Contract Job Specifications I.1 (bullet 10)
128. Oversees the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.	Bylaw IV.B.5
129. Engaging consultants to facilitate work of WSBA, consistent with approved budget.	Bylaws IV.B.5(2)
130. Avoids taking sides or public positions on issues being submitted to the voters or pending before the legislature	Bylaws IV.D.2.b

unless authorized by the Board of Governors as authorized in the Bylaws.	
131. Avoids publicly supporting or opposing, in an election, any candidate for public elective office in the State of Washington the prerequisites for which include being an attorney, except where the candidate is immediate family.	Bylaws IV.D.3

Although not exhaustive this document is intended to enumerate many of the permissive and mandatory functions and duties of the Board of Governors and its Officers.

President

- Decides when and where the BOG meetings are held.
- Acts generally as a non-voting member of the Board. Votes only when vote affects the result.
- (Decide what goes on) Sets the agenda for BOG meetings, subject to Board ability to take action on any issue raised and seconded by motion.
- Calls special and emergency meetings.
- Presides over BOG meetings, including ruling on points of order, deciding the order of speakers, when to take public comment, and any limits on public comment.
- Excuses absences from Board of Governors meetings.
- Takes action to execute the policies established by the BOG.
- May direct retention of independent counsel.
- Decides when the Executive Committee meetings are held.
- Decide what goes on the agenda for Executive Committee meetings.
- Presides over Executive Committee meetings.
- Speaks (for the) on behalf of the organization (such as) to various entities including but not limited to the media, legislature, Supreme Court, and the members.
- Writes a column in Bar News
- Provides and an annual report to the membership.
- Represents the organization at legal community events and on external committees such as the Board of Judicial Appeals.
- Represents the organization at internal events such as Section Leader Meetings and Chairs Orientations.
- Supports the Executive Director to ensure the Board is in compliance with the WSBA Bylaws and other policies governing the organization
- Communicates Board action to the Court, to other WSBA entities, and to other external stakeholders.
- Presides over ceremonial events such as local hero awards, APEX awards, professionalism in practice awards, and the 50 Year Lunch.
- Supports and drives an effective, inclusive, and professional culture on the Board of Governors.
- Advises the Executive Director on various matters at the ED's request.
- Signs Board resolutions.
- Facilitate conflict resolution among Board members and between Board members and staff members, when support is sought.
- Works with the ED to resolve conflicts among Board members or among board and staff that don't prove resolvable through facilitated dialogue.
- Participates (along with HR Director and Ombudsperson) to make a threshold determination about whether the facts in a complaint against a Board member, if true, would constitute harassment or discrimination. Upon receipt of a report substantiating discriminatory or

harassing conduct by a member of the Board, decide by majority vote with the HR Director and Ombudsperson on corrective action.

- Co-signs amicus briefs approved by WSBA, alongside author.
- Acts as spokesperson for rule changes proposed to the Court by WSBA.
- Receives notification of significant personnel actions.
- May direct entities to cease public comment.
- Sets the seminar fee schedule, which acts as a ceiling.
- Signs new admittee welcome letter with ED.
- Signs law clerk program certificates with Law Clerk Board Chair.
- Appoints election board for BOG member elections.
- Sign pro bono commendation letters with ED.
- Lobbies for legal aid funding at federal level with Legal Foundation of Washington.
- Leads the Board in establishing strategic goals.
- Presents a report to the membership covering the principal activities of the Board during the President's term.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid individually directing policies or WSBA activities, including the work of the Executive Director.
- Receives written request for review of Executive Director dismissal, along with the Supreme Court.
- Avoid publicly supporting or opposing in any election, any candidate for public office.
- Avoid taking a side publicly on any issue being submitted to the voters, pending before the legislature or otherwise in the public domain unless authorized and instructed to do so by the BOG on a matter relating to the function or purposes of the Bar.

President-Elect

- Nominates chairs to WSBA entities for their year as president, subject to Board approval or rejection.
- Appoints members of BOG committees for year as president, with due consideration to Board members' requests.
- Appoints chairs of BOG committees for year as president.
- Appoints BOG members to liaison assignments for year as president.
- Plans annual retreat in July prior to their year as president.
- Participates in onboarding and orientation activities for new members of the Board, including informational sessions for those interested in seeking a position on the Board.
- Sets Board meeting schedule for year as President.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid individually directing policies or WSBA activities, including the work of the Executive Director.
- Performs duties of the President at the request of the President, or in the absence, inability, recusal, or refusal of the President to perform the duties.
- Not a voting member of the Board unless acting in the President's place at a meeting of the BOG and then only if the vote will affect the result.

Past President

- Collaborates with ED to plan the annual New Governor Orientation and Team Building Retreat (new).
- Plans governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.
- Avoids seeking to individually direct the policies or activities of the WSBA, including the work of the Executive Director.
- Performs the duties of the President in the absence, inability, recusal or refusal of the President, President-Elect, and Treasurer.
- Is not a voting member of the BOG except when acting in the President's place at a meeting of the BOG and then only if the vote will affect the result.

Treasurer

- Approve section budget requests that exceed the larger of 25% of budgeted amounts or \$1,000.00.
- Chair the Budget and Audit Committee, including setting the agenda and presiding over the committee meetings.
- Present the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors
- Reviews WSBA financial reports and reports to the Board of Governors about WSBA's financial health
- Can establish deposit and credit relationships, withdraw funds, and sign checks.
- Reviews the Executive Director's expenses, payroll, and benefits reports.
- Decides appeals of the Executive Director's decisions rejecting or modifying expense reimbursements.
- Avoids seeking to individually direct the policies or activities of the WSBA, including the work of the Executive Director.
- Performs the duties of the President in the absence, inability, recusal, or refusal of the President and the President-Elect.
- Is a voting member of the Board.

Board of Governors

- Establish new programs and determine when to sunset programs.
- Establish committees, councils, task forces, and work groups to carry out the work of WSBA. Sunset such entities.
- Sunset sections.
- Approves changes to WSBA Bylaws, subject to Court review.
- Revises, adopts, and sunsets significant organizational policies – not operational policies.
- Establishes volunteer reimbursement policies.
- Provides support and guidance to WSBA entities carrying out the work of WSBA by reviewing annual reports and engaging in dialogue.
- Approve amicus requests, upon recommendation of Exec Cmte.

- Approve Budget, upon recommendation of the Budget & Audit Cmte.
- Approve unbudgeted expenses.
- Affirms President-Elect's chair appointments to WSBA entities.
- Removes WSBA volunteers.
- Appoints former governors to investigate allegations against a president, president-elect, or governor that implicate fitness to serve and decides what action to take after receiving a report from the appointed group.
- Establish the Compensation Philosophy for WSBA employees, to be executed by the ED.
- Advise the ED on litigation and settlement strategy in cases that threaten a significant fiscal impact and/or implicate a matter of organizational of policy.
- Can refer legislation to WSBA entities for consideration.
- Approves comment on federal legislation/court rules by WSBA entities.
- Can direct entities to cease public comment.
- Establish the license fee, subject to Court's review for reasonableness.
- Sets law clerk program fees
- Approves MCLE fees
- Hears appeals of denial of late fees.
- Hears appeals from Law Clerk Board decisions.
- Sets MCLE requirements for status changes through WSBA Bylaws.
- Sets admission requirements for status changes through WBSA Bylaws.
- Sets admissions policy including defining "approved law school".
- Approves changes to Section Bylaws.
- approve the per member charge to sections
- Decide investment policy
- Sets member data and contact information policy
- Approve non budgeted expenses and reallocated funds beyond the ED's authority.
- Create reserve funds, establish the policies for them, and determine use of them.
- Choose outside auditor.
- Elect President-Elect and Treasurer
- Select, support, set compensation for, and annually evaluate performance of ED.
- Approve certain Client Protection Fund gifts.
- Approves litigation decisions that have significant budget or policy impact.
- Approves capital projects for facility improvements.
- Approves long term leases for WSBA office space or equipment
- Act in the best interest of the Bar and the public.
- May direct retention of independent counsel.
- Approves or sets significant fiscal policies (includes Budget and Audit Committee Charter, Fiscal Responsibilities Matrix, budget policies and process, selection of independent auditors, investment policy, resolution authorizing banking relationships, unrestricted and restricted fund balance policy, general expense reimbursement policy dollar limits for meals and lodging, purchase of alcohol at bar functions, expense policies for the WSBA Officers and Board of Governors, and Executive Director expense policies).

Board Members

- Chair a committee to recruit at least two candidates to succeed the governor. Report on this work at the January meeting.
- Appoint volunteers to WSBA entities, upon recommendation of nomination teams.
- Nominate applicants for WSBA committees or Boards when there is not a continuing member from the Governor's district (latter requirement doesn't apply to at-large).
- Notify President and ED of policy and program proposals with sufficient time for analysis to occur, taking into account the scope and novelty of the proposal.
- Attend all Board meetings
- Engage with WSBA members as WSBA ambassador, provide information about issues that are or will come before the Board, and convey the members' viewpoints and information to the Board.
- Primarily obligated to ensure that the Bar fulfills the mandate set forth in General Rule 12.2, carries out the mission of the Bar, and operates in accordance with the Bar's Guiding Principles.
- Bring to the BOG the perspective, values and circumstances of the Governor's district to be applied in the best interest of all members, the public, and the Board
- Bring information to the members that promotes appreciate of actions and issues affecting the membership as a whole, the public, and the organization.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to individually direct policies or activities of WSBA, including the work of the Executive Director.

Executive Director

- Responsible for day to day operation of WSBA
- Hiring, managing and terminating WSBA personnel
- Revises, adopts and sunsets operational policies and procedures.
- Receives annual reports from Sections and other WSBA entities.
- Directs litigation. Consulting with Board when there is a potential for significant fiscal impact to the organization and/or a matter of organizational policy is impacted.
- Develops the investigation plan in the event of a whistleblower complaint, subject to approval by the Personnel Committee. Personnel committee creates the plan if the complaint is against the ED.
- Attends BOG Meetings and BOG Committee meetings, including Executive Sessions.
- Negotiates and executes contracts for WSBA.
- Communicates with bar members, the judiciary, elected officials, and the community at large about bar matters.
- Ensure the bar's books are kept in proper order and are audited annually.
- Ensure that the annual audited financial statement is made available to all Active members.
- Collect debts owed to the Bar and assign debts for collection as deemed appropriate.
- Acquires, manages, and disposes of personal property related to the bar's operations within the approved budget.
- Reports to the BOG regarding WSBA operations.
- Ensures minutes are made and kept of all BOG meetings.

- Serves as an officer of the Bar, as an ex officio, non-voting. member of the BOG.
- Controls the WSBA Seal.
- Accepts petitions, notices or other documents the Bylaws require to be filed with the Bar or served on the Board of Governors.
- Receives member change of required information, within 10 days of change.
- Keeps records of required member information, including: physical residence address; principal office address, telephone number and email address; resident agent physical street address; date of admittance; type and status of membership; date of transfer(s) from one status to another, if any; date and period of administrative suspension, if any; date and period of disciplinary actions or sanctions, if any; other data required by the Washington Supreme Court or Board of Governors.
- One of three persons who tallies President and President-Elect votes and may accept confidential telephonic vote from Governor who participated in the interview.
- Sets the time and place of New Governor Orientation.
- Receives Petitions for recall of Governors.
- May call a BOG Special or Emergency Meeting.
- Must receive notice of a BOG Special Meeting
- May set the location of an emergency meeting.
- Member of the Board of Governors Executive Committee.
- Receives Referenda Petitions, prepares ballots and sets deadlines for filing of statements.
- Maintains a list of current committees, councils, and taskforces, including their functions.
- Maintains a list of the current regulatory boards and their functions.
- Maintains a list of current sections.
- Receives petition and report seeking to establish new sections.
- Receives annual reports from all Sections.
- Receives requests for Keller arbitrations
- In the event of a whistleblower complaint, develop a response and/or action plan to address any recommendations as well as remedial action and discipline as appropriate.
- Conducts and provides analysis to Board on proposals before the Board, including fiscal impact, stakeholder analysis and input, rule compliance, and implementation implications.
- Declares disaster to trigger implementation of Disaster Recovery Plan; updates disaster recovery plan.
- Decides Public Records appeals pursuant to GR 12.4.
- Decides member exemptions from the requirement to provide a public address.
- Can refer legislation to WSBA entities for consideration.
- Can direct entities to cease public comment.
- Grants hardship exemption for license fees.
- Approves armed forces exemption.
- Decides when to waive or modify repayment of discipline costs.
- Signs recommendations for administrative suspension
- Signs new admittee welcome letter with President.
- Sign pro bono commendation letters with President.
- Permanent member of the Budget and Audit Facilities Advisory Committee

- Supports Board policy development and strategic goals by making recommendations, engaging stakeholder, and assessing fiscal, operational, legal, and other impacts.
- Prepares annual budget and implements the approved budget.
- Serves as ex officio, non-voting member of Budget and Audit Committee (along with Chief Financial Officer)
- Recommends license and other significant fees and establish other operational and administrative fees not established by the Supreme Court or the Board of Governors.
- Approves reimbursement requests and service and program fees including (advertising rates, public records copy fees, fees for sale of member contact information, sales price of CLE and WSBA publications and other WSBA merchandise.
- Sets adjustments to employee salaries within adopted compensation plan.
- Approves grants to WSBA and in kind contributions of WSBA to the Foundation
- Can establish deposit and credit relationships, withdraw WSBA funds, sign checks, invest funds in accordance with the investment policy, and transfer funds between established accounts.
- Approves unbudgeted expenditure that are offset by unbudgeted revenue, or reallocation of budgeted expenditures where there is a change of intent up to \$10,000 per item, or up to \$50,000 collectively during the fiscal year, where the overall bottom line of the annual budget is not affected (including approval of new programs or significant expansions, but not long term commitments or future obligations).
- Approves necessary and prudent expenditures to implement WSBA's Disaster Recovery Plan or to maintain WSBA's operations
- Compiles and review section budgets, with CFO.
- Engages the approved auditing firm and initiate a competitive bid process prior to the end of the six-year period.
- Consults with CFO when an immediate change in investment strategy is recommended by WSBA's investment managers.
- Approve license fee refunds.
- Approve deviations from the fiscal policy due to extenuating circumstances in accordance with the Fiscal Matrix.
- Approves reimbursement requests from the prior fiscal year-with the CFO.
- Approves, preliminarily, a request exceeding the Accommodation funds set during the budgeting process, so long as the funds are available within the current fiscal year budget.
- Approves all employee overnight stays at BOG meetings.
- Approves reimbursement for expenses not otherwise described in the policy when reasonable, necessary, appropriately documented and explained.
- Approves midyear employee cost center allocation changes.
- May approve travel advances upon a director's recommendation.
- May approve expenses for certain employee parties and celebrations.
- Approves exceptions to the limits on officer and Governor attendance at bar-related events
- Approves reimbursements for lodging and meal expenses about WSBA rates with appropriate supporting receipts.
- Approves donations from WSBA committees and boards to entities such as other bar associations, legal organizations, or outside causes.

- Supports all grant applications.
- Office of the Executive Director oversees administration of the executive functions of the WSBA.
- Can approve overtime for nonexempt employees.
- Full administrative authority to set personnel policies and salaries, to employee and to terminate employment of staff.
- Final decision on all definitions and interpretations involving the Employee Handbook.
- Consults with the HR Director to evaluate and place positions in job grades.
- Authorize revisions to policies and procedures covered in the Employee Handbook.
- Enter into written agreements for employment for a specified period of time, or inconsistent with employment at will.
- Receives confidential comments about supervisors, directors, or other conditions of work during employee performance evaluations.
- Can receive employee complaints of sexual or other harassment, including retaliation.
- Address written employee complaints expressing dissatisfaction with supervisor's resolution of conflict. Executive Director investigations and will review and discuss with employee as soon as possible.
- Receive Whistleblower complaints from employees.
- Approves employee resignation withdrawals.
- Approves requests to unlock the elevators during non-business hours.
- Authorize other employees to enter into contracts.
- May approve employee vacation schedules.
- May require employees with over 160 hours of accrued vacation to use the leave on an approved schedule.
- May close the WSBA Offices for severe snow/weather or civil disruptions.
- Approves unpaid leaves of absences for personal reasons.
- Determines licenses that WSBA will reimburse.
- May authorize employees to make statements contrary to the Board of Governors position.
- Decides appeals of the HR Director's decision relating to parking spaces for employees.
- Receives notification from employees who are convicted under any criminal drug statute for a violation occurring in the workplace.
- Takes action to accomplish WSBA's strategic goals and to carry out approved policies and programs.
- Establishes and modifies an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.
- Facilitates communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.
- Oversees the elections of the Board of Governors, including officers.
- Overseeing the recruitment, appointment and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA and reporting issues to the Board of Governors.

- Acts as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters and is not required to obtain prior approval from the BOG before doing so.
- Avoids speaking publicly in opposition to positions taken by the Board.
- Ensures the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.
- Reports to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.
- Takes steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.
- Oversees the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.
- Engaging consultants to facilitate work of WSBA, consistent with approved budget.
- Avoids taking sides or public positions on issues being submitted to the voters or pending before the legislature unless authorized by the Board of Governors as authorized in the Bylaws.
- Avoids publicly supporting or opposing, in an election, any candidate for public elective office in the State of Washington the prerequisites for which include being an attorney, except where the candidate is immediate family.



MEMORANDUM

TO: WSBA Board of Governors
FROM: Terra Nevitt, Executive Director
DATE: October 27, 2021
RE: Personnel Committee Proposal to Clarify WSBA Governance

At its meeting on September 23-25, 2021, the Board of Governors discussed the Personnel Committee's recommendation to clarify the roles and responsibilities of WSBA Staff and the Board of Governors as a response to the Climate and Culture Survey's Recommendation #1. By majority vote, the Board tabled the motion to the November meeting. You can review a recording of the discussion [here](#).

The materials from the September meeting are attached. There are no new materials.

WASHINGTON STATE BAR ASSOCIATION

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Governor Alec Stephens, Chair of the Personnel Committee
DATE: September 15, 2021
RE: Climate and Culture Survey Recommendation # 1

DISCUSSION & ACTION: Have a general discussion about, and possibly take action on, the recommendation to clarify the roles and responsibilities of WSBA Staff and the Board of Governors.

At the August 2021 Board Meeting, in response to the Climate Survey Recommendation # 1 (“BOG commits to clarify its governance operating model”), the Personnel Committee presented the Board with two documents that delineate the roles and responsibilities of the of the Board of Governors and Executive Director.

Summarize the problem and the proposed solution:

The Personnel Committee submits to the BOG to develop a practical document as a restatement that delineates and defines the roles and responsibilities of the BOG, Individual Governors, the Officers, and the Executive Director. This document will be presented to the BOG for revision/approval. Upon approval by the BOG, further work may be done to further define the roles and responsibilities of the Executive Leadership Team and the staff in relation to the BOG, its Officers and individual Governors.

What is the problem we are trying to solve?

WSBA is a unique organization, created by both legislative action and court rule and subject to a multiplicity of bylaws, rules, policies and guidelines as well as a revolving Board of Governors. WSBA also is an organization that relies heavily on staff to fulfill its complex duties towards lawyers and the public across the state of Washington. The work of Staff is the lifeblood of the organization. One clear result of the climate survey was that staff feels that there is a lack of clarity around staff roles as well as the respective roles of the Executive Director, and the Board of Governors including the President and individual governors. Furthermore, it can be said that this issue goes beyond “perception;” lack of clarity on the issue of WSBA’s complex operational structure is to be expected given its unique structure. It is critical for the BOG to be responsive to staff on the issue of role clarification; it will make the organization function in a more positive and productive fashion. When roles and responsibilities are murky, it invites uncertainty and unease within the organization. Staff deserve clearly articulated descriptions of their functions, roles and responsibilities in relation to the BOG. The BOG should commit to provide this for the benefit of the entire organization.

What does success look like and how will we measure it?

The document that was created is in its formative stages; it is expected that the draft submitted to the Board will be subject to debate, dialogue and revisions by the Board. Success would be a final product approved by the Board and presented to all staff.

Discussion item:

Several bullet points in the attached documents state that the Officers and individual Governors should “avoid seeking to individually direct the implementation of policies or activities of the WSBA staff including the work of the Executive Director”. The Personnel Committee requests that the BOG discuss this item in particular.

Background

The BOG received four recommendations as a result of the 2020 Climate and Culture survey. The Board took action on three of the recommendations, leaving recommendation # 1 to be discussed at the September 2021 meeting.

Attachments

Attachment 1 – Roles and Responsibilities

Attachment 2 – Roles and Responsibilities & Delineation of duties - Annotations

Attachment 3 – Philosophy of Governance

Board and Officer Roles and Responsibilities

The roles of the WSBA Board of Governors and Officers are set forth in the WSBA Bylaws, Art. IV Governance. (Details about their) Descriptions of specific roles and responsibilities are also (captured) elucidated in various other written WSBA policies and documents, including the Fiscal Policies & Procedures.

The intent of this document is to clarify and delineate the duties of the Board and its Officers.

Board of Governors

The Board of Governors is the governing body of the WSBA. Its primary function is to set the policies of the WSBA and to evaluate how well the Executive Director carries them out and accomplishes the mission. WSBA is subject to the plenary authority of the Washington Supreme Court and the Board of Governors authority over WSBA is restricted in some regulatory matters by court rule, order, case law, or statute. The Board exercises its authority through majority vote, except in some cases where a two-thirds majority is required per applicable bylaw.

Specific responsibilities include:

- Electing the President-Elect and Treasurer.
- Selecting, supporting, setting the compensation for, and evaluating the performance of the Executive Director.
- Approving the annual budget, monitoring WSBA's financial health, establishing reserves, and ensuring that the WSBA has adequate resources to achieve its strategic goals and fulfill its mission.
- Recommending license fees to the Supreme Court and approving other significant fees such as the Keller Deduction and MCLE fees.
- Approving unbudgeted expenditures and reallocation of budgeted expenditures that are outside of the Executive Director's authority.
- Approving the expenditure of reserve funds, consistent with reserve policies.
- Approving gifts from the Client Protection Fund.
- Selecting an independent auditor and reviewing of the annual audit report.
- Approving a facilities strategy, including approval of decisions to lease or purchase real estate.
- Developing strategic goals. Establishing, supporting, and evaluating progress toward strategic goals.
- Establishing and supporting significant organizational policies, including but not limited to the WSBA Bylaws, Fiscal Policies, and Compensation Plan.
- Establishing, supporting, and evaluating the work of WSBA entities that are not directly supervised by the Supreme Court or otherwise excluded by court rule or order.
- Establishing, supporting, and supervising WSBA volunteers not appointed by the Supreme Court.
- Filling vacancies on the Board of Governors.
- Ensuring WSBA entities, volunteers, and members of the Board of Governors comply with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA.
- Approving litigation decisions that involve a significant issue of policy.

- Hearing appeals of certain regulatory matters as provided by court rule or order.

Members of the Board of Governors, Individually

Members of the Board individually carry out the work of the Board of Governors by attending Board meetings, serving on Board committees, panels, or councils, by liaising to other WSBA and external entities, and by engaging with WSBA members. Although members are elected by specific constituencies, as governors they have a duty to act in the best interests of all members of the Bar and the public.

Individually, specific responsibilities of each Governor include:

- Attending all meetings of the Board of Governors and staying informed about Board matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.
- Attending all Board committee meetings to which the member is appointed to and staying informed about committee matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.
- Engaging with WSBA members and the communities they serve as well as the public as an ambassador of WSBA and providing information about issues that are or will come before the Board and conveying member viewpoints to the Board.
- Actively serving as a liaison and acting as a resource to WSBA and external entities as appointed by the President and conveying viewpoints and information to the Board.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to individually direct the implementation of policies or activities of the WSBA staff including the work of the Executive Director.

President

The President is the chief spokesperson of WSBA and presides over meetings of the Board of Governors. The President leads the Board in effectively carrying out its roles and responsibilities by establishing a healthy Board culture and working closely with each Board member to make the best use of their strengths and interests.

Specific responsibilities include:

- Setting the agenda for Board meetings and presiding over meetings to ensure constructive, high-quality debate.
- Chairing the BOG Executive Committee.
- Leading the Board in establishing strategic goals.
- Facilitating communication between the Board and the Executive Director, including ensuring clear communication of the Board's goals and expectations, and notice of anticipated actions with sufficient time to provide sufficient information to support high-quality decision-making.
- Educating the Board about its procedures, strategic goals, responsibilities, and culture.
- Cultivating a culture of direct communication, healthy conflict, respect for all viewpoints, and professionalism.
- Facilitating the resolution of conflict among Board members.
- Acting, in collaboration with the Executive Director, to carry out policies established by the Board of Governors.
- Acting as a liaison between the Board of Governors and the Supreme Court of Washington.

- Presiding over the APEX Awards, 50-Year Lunch and similar events.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.

President-Elect

The President-Elect's primary function is to perform the duties of the President at their request or when the President is otherwise unable to do so. The President-Elect may also be assigned other duties by the President.

Specific responsibilities include:

- Setting the meeting BOG meeting schedule for the year they will serve as President.
- Appointing the chairperson for certain WSBA entities for the year they will serve as President.
- Appointing Governors to BOG committees, including appointing the chairs (people), for the year they will serve as President.
- Assigning Governors liaison responsibilities with WSBA and external entities for the year they will serve as President.
- Setting the agenda for the BOG's annual retreat.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.

Treasurer

The Treasurer's primary function is to ensure that the Board and officers are informed about the finances of the Bar. The Treasurer will perform the duties of the President if the President-Elect is unable to do so. The Treasurer may also be assigned other duties by the President.

Specific responsibilities include:

- Chairing the BOG Budget and Audit committee, including setting the agenda and presiding over committee meetings to ensure constructive, high-quality debate.
- Presenting the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors.
- Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.
- Deciding appeals of the Executive Director's decisions with regard to rejecting or modifying an expense reimbursement.
- Reviewing WSBA financial reports and reporting to the Board of Governors about WSBA's financial health.
- Reviewing the Executive Director's expenses, payroll, and benefits reports.
- Approving supplement budget requests from sections that exceed 25% of the sections' annual expense budget or \$1,000, whichever is greater.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.

Past President

The Past President supports the President and the Board of Governors by providing continuity and is responsible for the training and education of new BOG members and officers. The Past President will

perform the duties of the President if the President, President-Elect, and Treasurer are unable to do so. The Past President may also be assigned other duties by the President.

Specific responsibilities include:

- Setting the agenda for the annual New Governor Orientation and Team Building Retreat.
- Planning governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.
- Avoid seeking to individually direct the implementation of policies or activities by WSBA staff, including the work of the Executive Director.

Executive Director

The Executive Director serves as Secretary of the Board of Governors, is the principal administrative officer of the bar, chief of staff, and is responsible for its day-to-day operations, including acting as a spokesperson. The Executive Director is responsible for executing the strategic goals and policies set forth by the Board of Governors. The Executive Director reports directly to the Supreme Court on all regulatory matters.

Specific responsibilities include:

- Attending Board of Governor meetings and board committee meetings and supporting decision making by participating in the discussion to provide information and recommendations.
- Supporting the Board of Governors to develop policy and strategic goals, by making recommendations, engaging stakeholders, and assessing fiscal, operational, and other impacts.
- Preparing an annual budget and implementing the approved budget.
- Recommending license and other significant fees and establishing other operational and administrative fees not established by the Supreme Court of Board of Governors.
- Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.
- Approving and reporting to the Board of Governors about certain unbudgeted expenses, including, reallocations of budgeted expenditures where the intent is similar or varies slightly; unbudgeted expenditures that are fully offset by unbudgeted revenue or a reallocation of budgeted expenditures up to 5% of the approved operating budget to address operational, regulatory or programmatic needs; and necessary and prudent expenditures to implement WSBA's Disaster Recovery Plan or to maintain WSBA's operations.
- Ensuring the finances of the WSBA are managed in a manner consistent with generally accepted accounting principles and WSBA policy; directing the preparation and reporting of complete and accurate financial statements; and ensuring an annual audit is performed and that the results are made public.
- Taking action to accomplish WSBA's strategic goals and to carry out approved policies and programs.
- Establishing and modifying an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.
- Supervising WSBA Employees, including ensuring a healthy workplace culture, developing, and enforcing HR policies and procedures, hiring, firing, and approving compensation and job specifications within the limits of the approved budget.
- Facilitating communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.
- Overseeing the elections of the Board of Governors, including officers.

- Overseeing the recruitment, appointment, and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws,

- regulations, court rules, orders, and case law in the course of their work with WSBA and reporting issues to the Board of Governors.
- Acting as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Ensuring the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.
- Reporting to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.
- Taking steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.
- Directing litigation that involves the WSBA, including retention of outside counsel, except when a litigation decision raises a significant issue of policy, or the Executive Director has a conflict of interest.
- Overseeing the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.
- Reporting to the Board of Governors regarding WSBA operations.

Board of Governors

The Board of Governors is the governing body of the WSBA. Its primary function is to set the policies of the WSBA and to evaluate how well the Executive Director carries them out and accomplishes the mission. WSBA is subject to the plenary authority of the Washington Supreme Court and the Board of Governors authority over WSBA is restricted in some regulatory matters by court rule, order, case law, or statute. The Board exercises its authority through majority vote, except in some cases where a two-thirds majority is required per applicable bylaw. Specific responsibilities include:

Roles and responsibilities of the Board of Governors	Reference
1. Electing the President-Elect and Treasurer.	Bylaws, IV.A and IV.B.6.a. (President-Elect); Bylaws, IV.B.7.a.4. (elect Treasurer upon removal or resignation); VI.D.2. (Treasurer election).
2. Selecting, supporting, setting the compensation for, and evaluating the performance of the Executive Director.	Bylaws, IV.A.2.; Fiscal Policies and Proc 10/16/19, p.13
3. Approving the annual budget, monitoring WSBA’s financial health, establishing reserves, and ensuring that the WSBA has adequate resources to achieve its strategic goals and fulfill its mission.	Bylaws, IV.A.; Fiscal Policies and Proc 10/16/19, p.13
4. Recommending license fees to the Supreme Court and approving other significant fees such as the Keller Deduction and MCLE fees.	Bylaws, III.I.1.a.1.(license fees); XV.A. (referencing Keller Deduction Policy); Fiscal Policies and Proc 10/16/19, p.11 (certain MCLE fees); Fiscal Policies and Proc 10/16/19, p.13 (Keller deduction)
5. Approving unbudgeted expenditures and reallocation of budgeted expenditures that are outside of the Executive Director’s authority.	Bylaws, V.A. and B. (Appropriations and Expenses); Fiscal Policies and Proc 10/16/19, p.13
6. Approving the expenditure of reserve funds, consistent with reserve policies.	Fiscal Policies and Proc 10/16/19, p.13
7. Approving gifts from the Client Protection Fund.	Fiscal Policies and Proc 10/16/19, pp.11-12 (BOG approves gifts over 25K per applicant)
8. Selecting an independent auditor and reviewing of the annual audit report.	Fiscal Policies and Proc 10/16/19, pp.12-13 (BOG considers recommendation of Budget and Audit Committee; reviews auditor reports)
9. Approving a facilities strategy, including approval of decisions to lease or purchase real estate.	Fiscal Policies and Proc 10/16/19, p.13 (approves/sets: long-term leases for WSBA office space or equipment)
10. Developing strategic goals. Establishing, supporting, and evaluating progress toward strategic goals.	ED Job Specification

11. Establishing and supporting significant organizational policies, including but not limited to the WSBA Bylaws, Fiscal Policies, and Compensation Plan.	Bylaws IV.A. (BOG determines Bar policies), XVI. (Amendments); Bylaws, Fiscal Policies and Proc 10/16/19, pp.12-13
12. Establishing, supporting, and evaluating the work of WSBA entities that are not directly supervised by the Supreme Court or otherwise excluded by court rule or order. Does the Board do this ?	Bylaws IV.A.2.e (Board liaisons to entities); Bylaws, IX.A.2 (entities require active and continuing attention of Board); Bylaws IX.B.3.a (carry out duties as requested by BOG)
13. Establishing, supporting, and supervising WSBA volunteers not appointed by the Supreme Court. Does the Board do this?	Bylaws, IV.A, Bylaws, IX.A.2 (entities require active and continuing attention of Board); Board Policy 1002: Committees and Boards Policy Sept. 2015
14. Filling certain vacancies on the Board of Governors. define when this happens	Bylaws, IV.A.4.
15. Ensuring WSBA entities, volunteers, and members of the Board of Governors comply with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA.	Bylaws, IX.A.2 (entities require active and continuing attention of Board)); Board Policy 1002: Committees and Boards Policy Sept. 2015
16. Approving litigation decisions that involve a significant issue of policy.	See Bylaws, VII.B.7.a.4.
17. Hearing appeals of certain regulatory matters as provided by court rule or order.	Cite Relevant Court Rules
Delineation of Duties	Reference
18. Establish new programs and determine when to sunset programs.	Bylaws IV.A, GR 12.2(b) (WSBA may maintain various programs)
19. Establish committees, councils, task forces, and work groups to carry out the work of WSBA. Sunset such entities.	Bylaws, IX.B.1 (Committees are created and authorized by the BOG); IX.A.3. (Committee termination by BOG); IX.B.2 (BOG task forces, workgroups, etc.); IX.C. (Councils)
20. Sunset sections.	Bylaws, XI.L. (Termination Sections)
21. Approves changes to WSBA Bylaws, subject to Court review.	Bylaws, XVI. (Amendments)
22. Revises, adopts, and sunsets significant organizational policies – not operational policies.	Fiscal Policies and Proc 10/16/19, p.6 (BOG approves or sets all significant fiscal policies);
23. Establishes volunteer reimbursement policies.	Fiscal Policies and Proc 10/16/19, pp.6-7
24. Provides support and guidance to WSBA entities carrying out the work of WSBA by reviewing annual reports and engaging in dialogue.	Bylaws, IX.C.5 (Councils)

25. Approve amicus requests, upon recommendation of Exec Cmte.	Board Policy 1001: Amicus Policy 9/2017
26. Approve Budget, upon recommendation of the Budget & Audit Cmte.	Bylaws, IV.A.; Fiscal Policies and Proc 10/16/19, p.12
27. Approve unbudgeted expenses.	Bylaws, V.A. and B. (Appropriations and Expenses); Fiscal Policies and Proc 10/16/19, p.13
28. Affirms President-Elect's chair appointments to WSBA entities.	Bylaws, IX.B.1.c. (committees); IX.B.2.b. (other bar entities)
29. Removes WSBA volunteers.	Bylaws, IV.B.7. (BOG may remove with 75% vote: President, President-Elect, Immediate Past President, and Treasurer)
30. Appoints former governors to investigate allegations against a president, president-elect, or governor that implicate fitness to serve and decides what action to take after receiving a report from the appointed group.	Board Policy 301: Complaints About Governors, President, or the President-Elect
31. Establish the Compensation Philosophy for WSBA employees, to be executed by the ED.	Fiscal Policies and Proc 10/16/19, pp.12, 14
32. Advise the ED on litigation and settlement strategy in cases that threaten a significant fiscal impact and/or implicate a matter of organizational of policy.	See Bylaws, VII.B.7.a.4.
33. Can refer legislation to WSBA entities for consideration.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
34. Approves comment on federal legislation/court rules by WSBA entities.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
35. Can direct entities to cease public comment.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
36. Establish the license fee, subject to Court's review for reasonableness.	Fiscal Policies and Proc 10/16/19, p.13
37. Sets law clerk program fees	Fiscal Policies and Proc 10/16/19, p.13
38. Approves MCLE fees	Fiscal Policies and Proc 10/16/19, pp.11-12 (certain MCLE fees)
39. Hears appeals of denial of late fees.	Guidelines for Appeals Relating to Annual License and Reinstatement Fees (Approved by the Board of Governors on July 23, 2010)
40. Hears appeals from Law Clerk Board decisions.	APR 6(d)(4), APR 6 LAW CLERK BOARD REGULATIONS 2-5
41. Sets MCLE requirements for status changes through WSBA Bylaws.	Bylaws, III.B.2.b, III.B.3.h, III.D.1.a.1.b, III.D.1.a.2, III.D.1.b.1.b, III.K.4.d, III.N.1.c.a.

42. Sets admission requirements for status changes through WBSA Bylaws.	APR 2(a)(4)(A); Bylaws III.D-H
43. Sets admissions policy including defining “approved law school”.	APR 2(a); ADMISSIONS POLICIES OF THE WASHINGTON STATE BAR ASSOCIATION (Adopted July 1, 2012. Amended July 28, 2017, amendments effective September 1, 2017. Amended November 14, 2020, amendments effective December 1, 2020)
44. Approves changes to Section Bylaws.	Bylaws, XI.E.
45. Approve the per member charge to sections	Bylaws, XI.D.; Fiscal Policies and Proc 10/16/19, p.63
46. Decide investment policy	Fiscal Policies and Proc 10/16/19, p.12
47. Sets member data and contact information policy	Board Policy 601: Member Data and Contact Information Policy 7/23/2010
48. Approve non budgeted expenses and reallocated funds beyond the ED’s authority.	Fiscal Policies and Proc 10/16/19, p.12
49. Create reserve funds, establish the policies for them, and determine use of them.	Fiscal Policies and Proc 10/16/19, p.12
50. Choose outside auditor.	Fiscal Policies and Proc 10/16/19, p.12 (BOG considers recommendation of Budget and Audit Committee)
51. Elect President-Elect and Treasurer	Bylaws, IV.A and IV.B.6.a. (President-Elect); Bylaws, IV.B.7.a.4. (elect Treasurer upon removal or resignation); VI.D.2. (Treasurer election)
52. Select, support, set compensation for, and annually evaluate performance of ED.	Bylaws, IV.A.2.; Fiscal Policies and Proc 10/16/19, p.12
53. Approve certain Client Protection Fund gifts.	Fiscal Policies and Proc 10/16/19, p.12
54. Approves litigation decisions that have significant budget or policy impact.	See Bylaws, VII.B.7.a.4.
55. Approves capital projects for facility improvements.	See Fiscal Policies and Proc 10/16/19, p.12
56. Approves long term leases for WSBA office space or equipment	Fiscal Policies and Proc 10/16/19, p.12
57. Act in the best interest of the Bar and the public.	Bylaws, IV.A.2.c.
58. May direct retention of independent counsel.	Bylaws, IV.E.4.
59. Approves or sets significant fiscal policies (includes Budget and Audit Committee Charter, Fiscal Responsibilities Matrix, budget policies and process, selection of independent auditors, investment policy, resolution	Fiscal Policies and Proc 10/16/19, pp.6-7; 19 (banking relationships)

authorizing banking relationships, unrestricted and restricted fund balance policy, general expense reimbursement policy dollar limits for meals and lodging, purchase of alcohol at bar functions, expense policies for the WSBA Officers and Board of Governors, and Executive Director expense policies).	
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Members of the Board of Governors, Individually

Members of the Board individually carry out the work of the Board of Governors by attending Board meetings, serving on Board committees, panels, or councils, by liaising to other WSBA and external entities, and by engaging with WSBA members. Although members are elected by specific constituencies, as governors they have a duty to act in the best interests of all members of the Bar and the public. Individually, specific responsibilities of each Governor include:

Roles and responsibilities of the BOG Members	Reference
1. Attending all meetings of the Board of Governors and staying informed about Board matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(f); List of Governor responsibilities (Revised June 2016)
2. Attending all Board committee meetings to which the member is appointed to and staying informed about committee matters by reading relevant materials, seeking additional information as needed, and preparing for discussion.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(e); List of Governor responsibilities (Revised June 2016)
3. Engaging with WSBA members and the communities they serve as well as the public as an ambassador of WSBA and providing information about issues that are or will come before the Board and conveying member viewpoints to the Board.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d); List of Governor responsibilities (Revised June 2016)
4. Actively serving as a liaison and acting as a resource to WSBA and external entities as appointed by the President and conveying viewpoints and information to the Board.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(e); List of Governor responsibilities (Revised June 2016)
5. Avoid speaking publicly in opposition to positions taken by the Board.	WSBA Bylaws, amended April 29, 2021 IV(D)(1)
6. Avoiding seeking to individually direct the implementation of policies or activities of the WSBA staff including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
Delineation of Duties	Reference
7. Chair a committee to recruit at least two candidates to succeed the governor. Report on this work at the January meeting.	WSBA Bylaws, amended April 29, 2021 VI(D)(3),(c); List of Governor responsibilities (Revised June 2016)
8. Appoint volunteers to WSBA entities, upon recommendation of nomination teams.	List of Governor responsibilities (Revised June 2016)
9. Nominate applicants for WSBA committees or Boards when there is not a continuing member from the Governor's district (latter requirement doesn't apply to at-large).	WSBA Bylaws IX.B.1.b

10. Notify President and ED of policy and program proposals with sufficient time for analysis to occur, taking into account the scope and novelty of the proposal.	WSBA Bylaws, amended April 29, 2021 VIII(A)(1)
11. Attend all Board meetings.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(f); List of Governor responsibilities (Revised June 2016)
12. Engage with WSBA members as WSBA ambassador, provide information about issues that are or will come before the Board, and convey the members' viewpoints and information to the Board.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d)
13. Primarily obligated to ensure that the Bar fulfills the mandate set forth in General Rule 12.2, carries out the mission of the Bar, and operates in accordance with the Bar's Guiding Principles.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(c)
14. Bring to the BOG the perspective, values and circumstances of the Governor's district to be applied in the best interest of all members, the public, and the Board	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d)
15. Bring information to the members that promotes appreciate of actions and issues affecting the membership as a whole, the public, and the organization.	WSBA Bylaws, amended April 29, 2021 IV(A)(2)(d)
16. Avoid speaking publicly in opposition to positions taken by the Board.	WSBA Bylaws, amended April 29, 2021 IV(D)(1)
17. Avoid seeking to individually direct policies or activities of WSBA, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)

President

The President is the chief spokesperson of WSBA and presides over meetings of the Board of Governors. The President leads the Board in effectively carrying out its roles and responsibilities by establishing a healthy Board culture and working closely with each Board member to make the best use of their strengths and interests. Specific responsibilities include:

Roles and responsibilities of the President	Reference
1. Setting the agenda for Board meetings and presiding over meetings (them) to ensure constructive, high-quality debate.	Bylaws, IV.B.1., VII.C.4.
2. Chairing the BOG Executive Committee.	See Bylaws, VI.D, Charter of the BOG Executive Committee
3. Leading the Board in establishing strategic goals.	See Bylaws, IV.B.1.
4. Facilitating communication between the Board and the Executive Director, including ensuring clear communication of the Board's goals and expectations, and notice of anticipated actions with sufficient time to provide sufficient information to support high-quality decision-making.	See Bylaws, IV.B.1.
5. Educating the Board about (its) procedures, strategic goals, responsibilities, and culture.	See Bylaws, IV.B.1.

6. Cultivating a culture of direct communication, healthy conflict, respect for all viewpoints, and professionalism.	See Bylaws, IV.B.1.
7. Facilitating the resolution of conflict among Board members.	See Bylaws, IV.B.1.
8. Acting, in collaboration with the Executive Director, to carry out policies established by the Board of Governors.	See Bylaws, IV.E.1.
9. Acting as a liaison between the Board of Governors and the Supreme Court of Washington.	Bylaws, IV.E.1.
10. Presiding over the APEX Awards, 50-Year Lunch and similar events.	Bylaws, IV.E.1.
11. Avoid speaking publicly in opposition to positions taken by the Board.	See Bylaws, IV.E.1.
12. Avoid seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	See Bylaws, IV.B.5; E
Delineation of Duties	Reference
13. Decides when and where the BOG meetings are held.	Bylaws, VII.C.1.
14. Acts generally as a non-voting member of the Board. Votes only when vote affects the result.	Bylaws, IV.B.1.
15. (Decide what goes on) Sets the agenda for BOG meetings, subject to Board ability to take action on any issue raised and seconded by motion.	Bylaws, IV.B.1. (presides; sets agenda), VII.C.4. (agenda and order of business)
16. Calls special and emergency meetings.	Bylaws, VII.C.2.a., VII.C.3.a.
17. Presides over BOG meetings, including ruling on points of order, deciding the order of speakers, when to take public comment, and any limits on public comment.	Bylaws, IV.B.1. (presides; sets agenda), VII.C.4. (agenda and order of business)
18. Excuses absences from Board of Governors meetings.	Bylaws, II.E.3.
19. Takes action to execute the policies established by the BOG.	Bylaws, IV.B.1.
20. May direct retention of independent counsel.	Bylaws, IV.E.4.
21. Decides when the Executive Committee meetings are held.	Bylaws, VII.D.3. (Any member of Exec Co may call Exec Co meeting)
22. Decide what goes on the agenda for Executive Committee meetings.	Bylaws, VII.C.4. ("For every BOG meeting, the President will establish the agenda")
23. Presides over Executive Committee meetings.	See Bylaws, VII.D.2.
24. Speaks (for the) on behalf of the organization (such as) to various entities including but not limited to the media, legislature, Supreme Court, and the members.	Bylaws, IV.E.1.
25. Writes a column in Bar News	See Bylaws, IV.E.1.
26. Provides an annual report to the membership.	Bylaws, IV.B.1.
27. Represents the organization at legal community events and on external committees such as the Board of Judicial Appeals.	See Bylaws, IV.E.1.
28. Represents the organization at internal events such as Section Leader Meetings and Chairs Orientations.	See Bylaws, IV.E.1.

29. Supports the Executive Director to ensure the Board is in compliance with the WSBA Bylaws and other policies governing the organization	See Bylaws, IV.B.1.
30. Communicates Board action to the Court, to other WSBA entities, and to other external stakeholders.	See Bylaws, IV.E.1.
31. Presides over ceremonial events such as local hero awards, APEX awards, professionalism in practice awards, and the 50 Year Lunch.	See Bylaws, IV.E.1.
32. Supports and drives an effective, inclusive, and professional culture on the Board of Governors.	See Bylaws, IV.B.1.
33. Advises the Executive Director on various matters at the ED's request.	See Bylaws, IV.B.1.
34. Signs Board resolutions.	See Bylaws, IV.E.1.
35. Facilitate conflict resolution among Board members and between Board members and staff members, when support is sought.	See Bylaws, IV.B.1.; CONFLICT RESOLUTION – PRACTICES & POLICY (adopted January 28, 2016) Section 3.
36. Works with the ED to resolve conflicts among Board members or among board and staff that don't prove resolvable through facilitated dialogue.	See Bylaws, IV.B.1.; CONFLICT RESOLUTION – PRACTICES & POLICY (adopted January 28, 2016) Section 3.
37. Participates (along with HR Director and Ombudsperson) to make a threshold determination about whether the facts in a complaint against a Board member, if true, would constitute harassment or discrimination. Upon receipt of a report substantiating discriminatory or harassing conduct by a member of the Board, decide by majority vote with the HR Director and Ombudsperson on corrective action.	See Bylaws, IV.B.1.; CONFLICT RESOLUTION – PRACTICES & POLICY (adopted January 28, 2016) Section 3, 4.; WSBA Board of Governors Anti-Harassment Policy and Procedure (Adopted by the Board of Governors January 2018; modified December 2019)
38. Co-signs amicus briefs approved by WSBA, alongside author.	See Bylaws, IV.E.1.
39. Acts as spokesperson for rule changes proposed to the Court by WSBA.	See Bylaws, IV.E.1.
40. Receives notification of significant personnel actions.	See Bylaws, IV.B.1.; Personnel Committee Handbook 2019-2020
41. May direct entities to cease public comment.	See Bylaws, IV.B.1.
42. Sets the seminar fee schedule, which acts as a ceiling.	See Bylaws, IV.B.1.
43. Signs new admittee welcome letter with ED.	See Bylaws, IV.E.1.
44. Signs law clerk program certificates with Law Clerk Board Chair.	See Bylaws, IV.E.1.
45. Appoints election board for BOG member elections.	See Bylaws, VI.C.2.g.
46. Sign pro bono commendation letters with ED.	See Bylaws, IV.E.1.
47. Lobbies for legal aid funding at federal level with Legal Foundation of Washington.	See Bylaws, IV.E.1.
48. Leads the Board in establishing strategic goals.	See Bylaws, IV.B.1.

49. Presents a report to the membership covering the principal activities of the Board during the President's term.	Bylaws, IV.B.1.
50. Avoid speaking publicly in opposition to positions taken by the Board.	See Bylaws, IV.E.1.
51. Avoid individually directing policies or WSBA activities, including the work of the Executive Director.	See Bylaws, IV.B.5; E
52. Receives written request for review of Executive Director dismissal, along with the Supreme Court.	Bylaws, IV.B.7.b.
53. Avoid publicly supporting or opposing in any election, any candidate for public office.	Bylaws, IV.B.2.
54. Avoid taking a side publicly on any issue being submitted to the voters, pending before the legislature or otherwise in the public domain unless authorized and instructed to do so by the BOG on a matter relating to the function or purposes of the Bar.	Bylaws, IV.B.2.

President-Elect

The President-Elect's primary function is to perform the duties of the President at their request or when the President is otherwise unable to do so. The President-Elect may also be assigned other duties by the President. Specific responsibilities include:

Roles and responsibilities of the President-Elect	Reference
1. Setting the meeting BOG meeting schedule for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
2. Appointing the chairperson for certain WSBA entities for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
3. Appointing Governors to BOG committees, including appointing the chairs (people), for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
4. Assigning Governors liaison responsibilities with WSBA and external entities for the year they will serve as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
5. Setting the agenda for the BOG's annual retreat.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
6. Avoiding seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
Delineation of Duties	Reference
7. Nominates chairs to WSBA entities for their year as president, subject to Board approval or rejection.	WSBA Bylaws, amended April 29, 2021 IX(B)(1),(c)
8. Appoints members of BOG committees for year as president, with due consideration to Board members' requests.	WSBA Bylaws, amended April 29, 2021 IV (C)
9. Appoints chairs of BOG committees for year as president.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)

10. Appoints BOG members to liaison assignments for year as president.	WSBA Bylaws, amended April 29, 2021 IV(B)(1)
11. Plans annual retreat in July prior to their year as president.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
12. Participates in onboarding and orientation activities for new members of the Board, including informational sessions for those interested in seeking a position on the Board.	WSBA Bylaws, amended April 29, 2021 VI(E)
13. Sets Board meeting schedule for year as President.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
14. Avoid speaking publicly in opposition to positions taken by the Board.	WSBA Bylaws, amended April 29, 2021 IV(D)(2)
15. Avoid individually directing policies or WSBA activities, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
16. Performs duties of the President at the request of the President, or in the absence, inability, recusal, or refusal of the President to perform the duties.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)
17. Not a voting member of the Board unless acting in the President's place at a meeting of the BOG and then only if the vote will affect the result.	WSBA Bylaws, amended April 29, 2021 IV(B)(2)

Treasurer

The Treasurer's primary function is to ensure that the Board and officers are informed about the finances of the Bar. The Treasurer will perform the duties of the President if the President-Elect is unable to do so. The Treasurer may also be assigned other duties by the President. Specific responsibilities include:

Roles and responsibilities of the Treasurer	Reference
1. Chairing the BOG Budget and Audit committee, including setting the agenda and presiding over committee meetings to ensure constructive, high-quality debate.	WSBA Bylaws, amended April 29, 2021 IV(B)(4); Board of Governors Budget and Audit Committee Charter (10.16.19) In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
2. Presenting the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors.	WSBA Bylaws, amended April 29, 2021 V(A)(2)
3. Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.	Fiscal Responsibilities Matrix (10.16.19) In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
4. Deciding appeals of the Executive Director's decisions with regard to rejecting or modifying an expense reimbursement.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and

	Procedures Manual, October 16, 2019
5. Reviewing WSBA financial reports and reporting to the Board of Governors about WSBA's financial health.	Board of Governors Budget and Audit Committee Charter (10.16.19) In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
6. Reviewing the Executive Director's expenses, payroll, and benefits reports.	Washington State Bar Association, Fiscal Policies and Procedures Manual, Chapter 6: Expenses (updated by the Board of Governors on July 23, 2016, V(E) EXPENSE POLICIES: WSBA EXECUTIVE DIRECTOR, October 16, 2019
7. Approving supplement budget requests from sections that exceed 25% of the sections' annual expense budget or \$1,000, whichever is greater.	Fiscal Responsibilities Matrix (10.16.19) and Chapter 10: Sections; In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
8. Avoid seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
Delineation of Duties	Reference
9. Approve section budget requests that exceed the larger of 25% of budgeted amounts or \$1,000.00.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
10. Chair the Budget and Audit Committee, including setting the agenda and presiding over the committee meetings.	WSBA Bylaws, amended April 29, 2021 IV(B)(4). V(A)(1); Board of Governors Budget and Audit Committee Charter (10.16.19)
11. Present the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors	WSBA Bylaws, amended April 29, 2021 V(A)(2)
12. Reviews WSBA financial reports and reports to the Board of Governors about WSBA's financial health	WSBA Bylaws, amended April 29, 2021 IV(B)(4), V(A)
13. Can establish deposit and credit relationships, withdraw funds, and sign checks.	Washington State Bar Association Fiscal Policies and Procedures Manual October 16, 2019, Chapter 1: Key fiscal policies, Board of Governors Budget and Audit Committee Charter; Financial reporting
14. Reviews the Executive Director's expenses, payroll, and benefits reports.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and

	Procedures Manual, October 16, 2019
15. Decides appeals of the Executive Director’s decisions rejecting or modifying expense reimbursements.	Fiscal Responsibilities Matrix (10.16.19); In: Washington State Bar Association, Fiscal Policies and Procedures Manual, October 16, 2019
16. Avoids seeking to individually direct the policies of activities of the WSBA, including the work of the Executive Director.	WSBA Bylaws, amended April 29, 2021 IV(B)(5), (E)
17. Performs the duties of the President in the absence, inability, recusal, or refusal of the President and the President-Elect.	WSBA Bylaws, amended April 29, 2021 IV(B)(4)
18. Is a voting member of the Board.	WSBA Bylaws, amended April 29, 2021 IV(B)

Past President

The Past President supports the President and the Board of Governors by providing continuity and is responsible for the training and education of new BOG members and officers. The Past President will perform the duties of the President if the President, President-Elect, and Treasurer are unable to do so. The Past President may also be assigned other duties by the President. Specific responsibilities include:

Roles and responsibilities of the Past President	Reference
1. Setting the agenda for the annual New Governor Orientation and Team Building Retreat.	Bylaws IV.B.3
2. Planning governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.	Bylaws IV.B.3
3. Avoid seeking to individually direct the implementation of policies or activities (of the) by WSBA staff, including the work of the Executive Director.	Bylaw IV.2.b and IV.E.1
Delineation of Duties	Reference
4. Collaborates with ED to plan the annual New Governor Orientation and Team Building Retreat (new).	Bylaws IV.B.3
5. Plans governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.	Bylaws IV.B.3
6. Avoids seeking to individually direct the policies or activities of the WSBA, including the work of the Executive Director.	Bylaw IV.2.b and IV.E.1
7. Performs the duties of the President in the absence, inability, recusal or refusal of the President, President-Elect, and Treasurer.	Bylaws IV.B.3

8. Is not a voting member of the BOG except when acting in the President’s place at a meeting of the BOG and then only if the vote will affect the result	Bylaws IV.B.3
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Executive Director

The Executive Director serves as Secretary of the Board of Governors, is the principal administrative officer of the bar, chief of staff, and is responsible for its day-to-day operations, including acting as a spokesperson. The Executive Director is responsible for executing the strategic goals and policies set forth by the Board of Governors. The Executive Director reports directly to the Supreme Court on all regulatory matters. Specific responsibilities include:

Roles and responsibilities of the Executive Director	Reference
1. Attending Board of Governor meetings and board committee meetings and supporting decision making by participating in the discussion to provide information and recommendations.	Bylaws IV.B.5(9), VII.D.2
2. Supporting the Board of Governors to develop policy and strategic goals, by making recommendations, engaging stakeholders, and assessing fiscal, operational, and other impacts	ED Contract Job Specifications I.3 (bullets 3-5)
3. Preparing an annual budget and implementing the approved budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 6, 14)
4. Recommending license and other significant fees and establishing other operational and administrative fees not established by the Supreme Court of Board of Governors.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 14)
5. Establishing deposit and credit relationships, withdrawing WSBA funds, and signing checks.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
6. Approving and reporting to the Board of Governors about certain unbudgeted expenses, including, reallocations of budgeted expenditures where the intent is similar or varies slightly; unbudgeted expenditures that are fully offset by unbudgeted revenue or a reallocation of budgeted expenditures up to 5% of the approved operating budget to address operational, regulatory or programmatic needs; and necessary and prudent expenditures to implement WSBA’s Disaster Recovery Plan or to maintain WSBA’s operations.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
7. Ensuring the finances of the WSBA are managed in a manner consistent with generally accepted accounting principles and WSBA policy; directing the preparation and reporting of complete and accurate financial statements; and ensuring an annual audit is performed and that the results are made public.	Bylaws IV.B.5(5) Bylaws IV.B.5(6)
8. Taking action to accomplish WSBA’s strategic goals and to carry out approved policies and programs.	ED Contract Job Specifications I.1 (bullets 2-3)

9. Establishing and modifying an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.	ED Contract Job Specifications I.1 (bullet 9)
10. Supervising WSBA Employees, including ensuring a healthy workplace culture, developing, and enforcing HR policies and procedures, hiring, firing, and approving compensation and job specifications within the limits of the approved budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
11. Facilitating communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.	Bylaws IV.B.5.1, Employee Handbook A-4; ED Contract II.C
12. Overseeing the elections of the Board of Governors, including officers.	Bylaws VI.C.2, VI.3
13. Overseeing the recruitment, appointment, and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws,	Bylaw IV.B.5, GR 12.3
14. Acting as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters.	Bylaws IV.E.3
15. Avoid speaking publicly in opposition to positions taken by the Board.	Employee Handbook E-2
16. Ensuring the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.	ED Contract Job Specifications I.2 (bullet 1), ELC 2.2(a)(1)
17. Reporting to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.	ED Contract Job Specifications I and I.2 (bullet 3)
18. Taking steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.	ED Contract Job Specifications I.1 (bullet 10)
19. Directing litigation that involves the WSBA (is involved with), including retention of outside counsel, except when a litigation decision raises a significant issue of policy, or the Executive Director has a conflict of interest.	Bylaw IV.B.5
20. Overseeing the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.	Bylaw IV.B.5
21. Reporting to the Board of Governors regarding WSBA operations.	Bylaws IV.B.5(10)
Delineation of Duties	Reference
22. Responsible for day to day operation of WSBA	Bylaws IV.B.5
23. Hiring, managing and terminating WSBA personnel	Bylaws IV.B.5(1)

24. Revises, adopts and sunsets operational policies and procedures.	Bylaw IV.B.5
25. Receives annual reports from Sections and other WSBA entities.	Bylaws IX.B.3(b), IX.C.5, XI.K
26. Directs litigation. Consulting with Board when there is a potential for significant fiscal impact to the organization and/or a matter of organizational policy is impacted.	Bylaw IV.B.5
27. Develops the investigation plan in the event of a whistleblower complaint, subject to approval by the Personnel Committee. Personnel committee creates the plan if the complaint is against the ED.	BOG Policy 1403: Whistleblower reports of illegal or dishonest activity-notification and investigation policy
28. Attends BOG Meetings and BOG Committee meetings, including Executive Sessions.	Bylaws IV.B.5(9), VII.D.2
29. Negotiates and executes contracts for WSBA.	Bylaws IV.B.5(2)
30. Communicates with bar members, the judiciary, elected officials, and the community at large about bar matters.	Bylaws IV.B.5(3)
31. Ensure the bar's books are kept in proper order and are audited annually.	Bylaws IV.B.5(5)
32. Ensure that the annual audited financial statement is made available to all Active members.	Bylaws IV.B.5(6)
33. Collect debts owed to the Bar and assign debts for collection as deemed appropriate.	Bylaws IV.B.5(7)
34. Acquires, manages, and disposes of personal property related to the bar's operations within the approved budget.	Bylaws IV.B.5(8)
35. Reports to the BOG regarding WSBA operations.	Bylaws IV.B.5(10)
36. Ensures minutes are made and kept of all BOG meetings.	Bylaws IV.B.5(11)
37. Serves as an officer of the Bar, as an ex officio, non-voting member of the BOG.	Bylaws IV.B.5
38. Controls the WSBA Seal.	Bylaws II.B
39. Accepts petitions, notices or other documents the Bylaws require to be filed with the Bar or served on the Board of Governors.	Bylaws II.C
40. Receives member change of required information, within 10 days of change.	Bylaws III.C.1; APR 13(b)

<p>41. Keeps records of required member information, including: physical residence address; principal office address, telephone number and email address; resident agent physical street address; date of admittance; type and status of membership; date of transfer(s) from one status to another, if any; date and period of administrative suspension, if any; date and period of disciplinary actions or sanctions, if any; other data required by the Washington Supreme Court or Board of Governors.</p>	<p>Bylaws III.C.2</p>
<p>42. One of three persons who tallies President and President-Elect votes and may accept confidential telephonic vote from Governor who participated in the interview.</p>	<p>Bylaws VI.D.3(h)-(i)</p>
<p>43. Sets the time and place of New Governor Orientation.</p>	<p>Bylaws VI.E</p>
<p>44. Receives Petitions for recall of Governors.</p>	<p>Bylaws VI.F</p>
<p>45. May call a BOG Special or Emergency Meeting.</p>	<p>Bylaws VII.C.2(a)</p>
<p>46. Must receive notice of a BOG Special Meeting</p>	<p>Bylaws VII.C.2(b)</p>
<p>47. May set the location of an emergency meeting.</p>	<p>Bylaws VII.C.3</p>
<p>48. Member of the Board of Governors Executive Committee.</p>	<p>Bylaws VII.D.2</p>
<p>49. Receives Referenda Petitions, prepares ballots and sets deadlines for filing of statements.</p>	<p>Bylaws VII.A.2(e), VII.C</p>
<p>50. Maintains a list of current committees, councils, and taskforces, including their functions.</p>	<p>Bylaws IX.A.3</p>
<p>51. Maintains a list of the current regulatory boards and their functions.</p>	<p>Bylaws X</p>
<p>52. Maintains a list of current sections.</p>	<p>Bylaws XI.A</p>
<p>53. Receives petition and report seeking to establish new sections.</p>	<p>Bylaws XI.B.1</p>
<p>54. Receives annual reports from all Sections.</p>	<p>Bylaws XI.K</p>
<p>55. Receives requests for Keller arbitrations</p>	<p>Bylaws XV.C</p>
<p>56. In the event of a whistleblower complaint, develop a response and/or action plan to address any recommendations as well as remedial action and discipline as appropriate.</p>	<p>BOG Policy 1403: Whistleblower reports of illegal or dishonest activity-notification and investigation policy</p>
<p>57. Conducts and provides analysis to Board on proposals before the Board, including fiscal impact, stakeholder analysis and input, rule compliance, and implementation implications.</p>	<p>ED Contract Job Specifications I.3 (bullet 3)</p>
<p>58. Declares disaster to trigger implementation of Disaster Recovery Plan; updates disaster recovery plan.</p>	<p>Disaster Recovery Plan Section 2</p>

59. Decides Public Records appeals pursuant to GR 12.4.	GR 12.4(h)
60. Decides member exemptions from the requirement to provide a public address.	Bylaws XII.B.5(l)(1)
61. Can refer legislation to WSBA entities for consideration.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy
62. Can direct entities to cease public comment.	BOG Policy 1501: WSBA Legislation and Court Rule Comment Policy (paragraph 6)
63. Grants hardship exemption for license fees.	Bylaws III.I.5
64. Approves armed forces exemption.	Bylaws III.I.a.7
65. Decides when to waive or modify repayment of discipline costs.	Bylaw IV.B.5(7)
66. Signs recommendations for administrative suspension	Bylaws III.J.3.d
67. Signs new admittee welcome letter with President.	Bylaw IV.E.3
68. Sign pro bono commendation letters with President.	Bylaw IV.E.3
69. Permanent member of the Budget and Audit Facilities Advisory Committee	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 9)
70. Supports Board policy development and strategic goals by making recommendations, engaging stakeholder, and assessing fiscal, operational, legal, and other impacts.	ED Contract Job Specifications I.3 (bullets 3-5)
71. Prepares annual budget and implements the approved budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 6, 14)
72. Serves as ex officio, non-voting member of Budget and Audit Committee (along with Chief Financial Officer)	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 9)
73. Recommends license and other significant fees and establish other operational and administrative fees not established by the Supreme Court or the Board of Governors.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 14)
74. Approves reimbursement requests and service and program fees including (advertising rates, public records copy fees, fees for sale of member contact information,	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)

sales price of CLE and WSBA publications and other WSBA merchandise.	
75. Sets adjustments to employee salaries within adopted compensation plan.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
76. Approves grants to WSBA and in kind contributions of WSBA to the Foundation	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
77. Can establish deposit and credit relationships, withdraw WSBA funds, sign checks, invest funds in accordance with the investment policy, and transfer funds between established accounts.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
78. Approves unbudgeted expenditure that are offset by unbudgeted revenue, or reallocation of budgeted expenditures where there is a change of intent up to \$10,000 per item, or up to \$50,000 collectively during the fiscal year, where the overall bottom line of the annual budget is not affected (including approval of new programs or significant expansions, but not long term commitments or future obligations).	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
79. Approves necessary and prudent expenditures to implement WSBA's Disaster Recovery Plan or to maintain WSBA's operations	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10)
80. Compiles and review section budgets, with CFO.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 15-16)
81. Engages the approved auditing firm and initiate a competitive bid process prior to the end of the six-year period.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 (p. 10, 18)
82. Consults with CFO when an immediate change in investment strategy is recommended by WSBA's investment managers.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 2 (p. 22)
83. Approve license fee refunds.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 5 (p. 37)
84. Approve deviations from the fiscal policy due to extenuating circumstances in accordance with the Fiscal Matrix.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.A (p. 44)
85. Approves reimbursement requests from the prior fiscal year-with the CFO.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.D (p. 44)

86. Approves, preliminarily, a request exceeding the Accommodation funds set during the budgeting process, so long as the funds are available within the current fiscal year budget.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.VII.D (p. 52)
87. Approves all employee overnight stays at BOG meetings.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.E (p. 45)
88. Approves reimbursement for expenses not otherwise described in the policy when reasonable, necessary, appropriately documented and explained.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.I.I (p. 47)
89. Approves midyear employee cost center allocation changes.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.IX (p. 54)
90. May approve travel advances upon a director's recommendation.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.III.B.4 (p. 48)
91. May approve expenses for certain employee parties and celebrations.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.III.H (p. 50)
92. Approves exceptions to the limits on officer and Governor attendance at bar-related events	BOG Policy 1201: WSBA Fiscal Policies and Procedures 6.IV.B (p. 50-51)
93. Approves reimbursements for lodging and meal expenses about WSBA rates with appropriate supporting receipts.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 1 & 6.I.G-H (p. 10, 46)
94. Approves donations from WSBA committees and boards to entities such as other bar associations, legal organizations, or outside causes.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 7 (p. 55)
95. Supports all grant applications.	BOG Policy 1201: WSBA Fiscal Policies and Procedures 7 (p. 56)
96. Office of the Executive Director oversees administration of the executive functions of the WSBA.	Bylaws IV.B.5, ED Contract Job Specifications II.A; Employee Handbook A-4
97. Can approve overtime for nonexempt employees.	Employee Handbook C-1
98. Full administrative authority to set personnel policies and salaries, to employee and to terminate employment of staff.	Employee Handbook A-4; ED Contract II.C

99. Final decision on all definitions and interpretations involving the Employee Handbook.	Employee Handbook A-4
100. Consults with the HR Director to evaluate and place positions in job grades.	Employee Handbook C-3
101. Authorize revisions to policies and procedures covered in the Employee Handbook.	Employee Handbook vi
102. Enter into written agreements for employment for a specified period of time, or inconsistent with employment at will.	Employee Handbook vi
103. Receives confidential comments about supervisors, directors, or other conditions of work during employee performance evaluations.	Employee Handbook C6
104. Can receive employee complaints of sexual or other harassment, including retaliation.	Employee Handbook D-3
105. Address written employee complaints expressing dissatisfaction with supervisor's resolution of conflict. Executive Director investigations and will review and discuss with employee as soon as possible.	Employee Handbook D-6
106. Receive Whistleblower complaints from employees.	Employee Handbook D-7 and D-8
107. Approves employee resignation withdrawals.	Employee Handbook F-1
108. Approves requests to unlock the elevators during non-business hours.	Employee Handbook G-8
109. Authorize other employees to enter into contracts.	Bylaws IV.B.5(2); Employee Handbook G-8
110. May approve employee vacation schedules.	Employee Handbook I-3, I-7
111. May require employees with over 160 hours of accrued vacation to use the leave on an approved schedule.	Employee Handbook I-7
112. May close the WSBA Offices for severe snow/weather or civil disruptions.	Employee Handbook I-9
113. Approves unpaid leaves of absences for personal reasons.	Employee Handbook I-13
114. Determines licenses that WSBA will reimburse.	Employee Handbook I-17
115. May authorize employees to make statements contrary to the Board of Governors position.	Employee Handbook E-2
116. Decides appeals of the HR Director's decision relating to parking spaces for employees.	Employee Handbook E-5
117. Receives notification from employees who are convicted under any criminal drug statute for a violation occurring in the workplace.	Employee Handbook E-8

<p>118. Takes action to accomplish WSBA’s strategic goals and to carry out approved policies and programs.</p>	<p>ED Contract Job Specifications I.1 (bullets 2-3)</p>
<p>119. Establishes and modifies an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.</p>	<p>ED Contract Job Specifications I.1 (bullet 9)</p>
<p>120. Facilitates communication between the Board and WSBA employees, including ensuring clear communication of the Board’s goals and expectations to employees and conveying employee viewpoints to the Board.</p>	<p>Bylaws IV.B.5.1, Employee Handbook A-4; ED Contract II.C</p>
<p>121. Oversees the elections of the Board of Governors, including officers.</p>	<p>Bylaws VI.C.2, VI.3</p>
<p>122. Overseeing the recruitment, appointment and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA and reporting issues to the Board of Governors.</p>	<p>Bylaw IV.B.5, GR 12.3</p>
<p>123. Acts as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters and is not required to obtain prior approval from the BOG before doing so.</p>	<p>Bylaws IV.E.3</p>
<p>124. Avoids speaking publically in opposition to positions taken by the Board.</p>	<p>Employee Handbook E-2</p>
<p>125. Ensures the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.</p>	<p>ED Contract Job Specifications I.2 (bullet 1), ELC 2.2(a)(1)</p>
<p>126. Reports to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.</p>	<p>ED Contract Job Specifications I and I.2 (bullet 3)</p>
<p>127. Takes steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.</p>	<p>ED Contract Job Specifications I.1 (bullet 10)</p>
<p>128. Oversees the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.</p>	<p>Bylaw IV.B.5</p>
<p>129. Engaging consultants to facilitate work of WSBA, consistent with approved budget.</p>	<p>Bylaws IV.B.5(2)</p>
<p>130. Avoids taking sides or public positions on issues being submitted to the voters or pending before the legislature</p>	<p>Bylaws IV.D.2.b</p>

unless authorized by the Board of Governors as authorized in the Bylaws.	
131. Avoids publicly supporting or opposing, in an election, any candidate for public elective office in the State of Washington the prerequisites for which include being an attorney, except where the candidate is immediate family.	Bylaws IV.D.3

Although not exhaustive this document is intended to enumerate many of the permissive and mandatory functions and duties of the Board of Governors and its Officers.

President

- Decides when and where the BOG meetings are held.
- Acts generally as a non-voting member of the Board. Votes only when vote affects the result.
- (Decide what goes on) Sets the agenda for BOG meetings, subject to Board ability to take action on any issue raised and seconded by motion.
- Calls special and emergency meetings.
- Presides over BOG meetings, including ruling on points of order, deciding the order of speakers, when to take public comment, and any limits on public comment.
- Excuses absences from Board of Governors meetings.
- Takes action to execute the policies established by the BOG.
- May direct retention of independent counsel.
- Decides when the Executive Committee meetings are held.
- Decide what goes on the agenda for Executive Committee meetings.
- Presides over Executive Committee meetings.
- Speaks (for the) on behalf of the organization (such as) to various entities including but not limited to the media, legislature, Supreme Court, and the members.
- Writes a column in Bar News
- Provides and an annual report to the membership.
- Represents the organization at legal community events and on external committees such as the Board of Judicial Appeals.
- Represents the organization at internal events such as Section Leader Meetings and Chairs Orientations.
- Supports the Executive Director to ensure the Board is in compliance with the WSBA Bylaws and other policies governing the organization
- Communicates Board action to the Court, to other WSBA entities, and to other external stakeholders.
- Presides over ceremonial events such as local hero awards, APEX awards, professionalism in practice awards, and the 50 Year Lunch.
- Supports and drives an effective, inclusive, and professional culture on the Board of Governors.
- Advises the Executive Director on various matters at the ED's request.
- Signs Board resolutions.
- Facilitate conflict resolution among Board members and between Board members and staff members, when support is sought.
- Works with the ED to resolve conflicts among Board members or among board and staff that don't prove resolvable through facilitated dialogue.
- Participates (along with HR Director and Ombudsperson) to make a threshold determination about whether the facts in a complaint against a Board member, if true, would constitute harassment or discrimination. Upon receipt of a report substantiating discriminatory or

harassing conduct by a member of the Board, decide by majority vote with the HR Director and Ombudsperson on corrective action.

- Co-signs amicus briefs approved by WSBA, alongside author.
- Acts as spokesperson for rule changes proposed to the Court by WSBA.
- Receives notification of significant personnel actions.
- May direct entities to cease public comment.
- Sets the seminar fee schedule, which acts as a ceiling.
- Signs new admittee welcome letter with ED.
- Signs law clerk program certificates with Law Clerk Board Chair.
- Appoints election board for BOG member elections.
- Sign pro bono commendation letters with ED.
- Lobbies for legal aid funding at federal level with Legal Foundation of Washington.
- Leads the Board in establishing strategic goals.
- Presents a report to the membership covering the principal activities of the Board during the President's term.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid individually directing policies or WSBA activities, including the work of the Executive Director.
- Receives written request for review of Executive Director dismissal, along with the Supreme Court.
- Avoid publicly supporting or opposing in any election, any candidate for public office.
- Avoid taking a side publicly on any issue being submitted to the voters, pending before the legislature or otherwise in the public domain unless authorized and instructed to do so by the BOG on a matter relating to the function or purposes of the Bar.

President-Elect

- Nominates chairs to WSBA entities for their year as president, subject to Board approval or rejection.
- Appoints members of BOG committees for year as president, with due consideration to Board members' requests.
- Appoints chairs of BOG committees for year as president.
- Appoints BOG members to liaison assignments for year as president.
- Plans annual retreat in July prior to their year as president.
- Participates in onboarding and orientation activities for new members of the Board, including informational sessions for those interested in seeking a position on the Board.
- Sets Board meeting schedule for year as President.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid individually directing policies or WSBA activities, including the work of the Executive Director.
- Performs duties of the President at the request of the President, or in the absence, inability, recusal, or refusal of the President to perform the duties.
- Not a voting member of the Board unless acting in the President's place at a meeting of the BOG and then only if the vote will affect the result.

Past President

- Collaborates with ED to plan the annual New Governor Orientation and Team Building Retreat (new).
- Plans governance, diversity, equity, and inclusion, anti-harassment, and other appropriate training for the Board of Governors throughout the year.
- Avoids seeking to individually direct the policies or activities of the WSBA, including the work of the Executive Director.
- Performs the duties of the President in the absence, inability, recusal or refusal of the President, President-Elect, and Treasurer.
- Is not a voting member of the BOG except when acting in the President's place at a meeting of the BOG and then only if the vote will affect the result.

Treasurer

- Approve section budget requests that exceed the larger of 25% of budgeted amounts or \$1,000.00.
- Chair the Budget and Audit Committee, including setting the agenda and presiding over the committee meetings.
- Present the final proposed budget and other recommendations of the Budget and Audit Committee to the Board of Governors
- Reviews WSBA financial reports and reports to the Board of Governors about WSBA's financial health
- Can establish deposit and credit relationships, withdraw funds, and sign checks.
- Reviews the Executive Director's expenses, payroll, and benefits reports.
- Decides appeals of the Executive Director's decisions rejecting or modifying expense reimbursements.
- Avoids seeking to individually direct the policies or activities of the WSBA, including the work of the Executive Director.
- Performs the duties of the President in the absence, inability, recusal, or refusal of the President and the President-Elect.
- Is a voting member of the Board.

Board of Governors

- Establish new programs and determine when to sunset programs.
- Establish committees, councils, task forces, and work groups to carry out the work of WSBA. Sunset such entities.
- Sunset sections.
- Approves changes to WSBA Bylaws, subject to Court review.
- Revises, adopts, and sunsets significant organizational policies – not operational policies.
- Establishes volunteer reimbursement policies.
- Provides support and guidance to WSBA entities carrying out the work of WSBA by reviewing annual reports and engaging in dialogue.
- Approve amicus requests, upon recommendation of Exec Cmte.

- Approve Budget, upon recommendation of the Budget & Audit Cmte.
- Approve unbudgeted expenses.
- Affirms President-Elect's chair appointments to WSBA entities.
- Removes WSBA volunteers.
- Appoints former governors to investigate allegations against a president, president-elect, or governor that implicate fitness to serve and decides what action to take after receiving a report from the appointed group.
- Establish the Compensation Philosophy for WSBA employees, to be executed by the ED.
- Advise the ED on litigation and settlement strategy in cases that threaten a significant fiscal impact and/or implicate a matter of organizational of policy.
- Can refer legislation to WSBA entities for consideration.
- Approves comment on federal legislation/court rules by WSBA entities.
- Can direct entities to cease public comment.
- Establish the license fee, subject to Court's review for reasonableness.
- Sets law clerk program fees
- Approves MCLE fees
- Hears appeals of denial of late fees.
- Hears appeals from Law Clerk Board decisions.
- Sets MCLE requirements for status changes through WSBA Bylaws.
- Sets admission requirements for status changes through WBSA Bylaws.
- Sets admissions policy including defining "approved law school".
- Approves changes to Section Bylaws.
- approve the per member charge to sections
- Decide investment policy
- Sets member data and contact information policy
- Approve non budgeted expenses and reallocated funds beyond the ED's authority.
- Create reserve funds, establish the policies for them, and determine use of them.
- Choose outside auditor.
- Elect President-Elect and Treasurer
- Select, support, set compensation for, and annually evaluate performance of ED.
- Approve certain Client Protection Fund gifts.
- Approves litigation decisions that have significant budget or policy impact.
- Approves capital projects for facility improvements.
- Approves long term leases for WSBA office space or equipment
- Act in the best interest of the Bar and the public.
- May direct retention of independent counsel.
- Approves or sets significant fiscal policies (includes Budget and Audit Committee Charter, Fiscal Responsibilities Matrix, budget policies and process, selection of independent auditors, investment policy, resolution authorizing banking relationships, unrestricted and restricted fund balance policy, general expense reimbursement policy dollar limits for meals and lodging, purchase of alcohol at bar functions, expense policies for the WSBA Officers and Board of Governors, and Executive Director expense policies).

Board Members

- Chair a committee to recruit at least two candidates to succeed the governor. Report on this work at the January meeting.
- Appoint volunteers to WSBA entities, upon recommendation of nomination teams.
- Nominate applicants for WSBA committees or Boards when there is not a continuing member from the Governor's district (latter requirement doesn't apply to at-large).
- Notify President and ED of policy and program proposals with sufficient time for analysis to occur, taking into account the scope and novelty of the proposal.
- Attend all Board meetings
- Engage with WSBA members as WSBA ambassador, provide information about issues that are or will come before the Board, and convey the members' viewpoints and information to the Board.
- Primarily obligated to ensure that the Bar fulfills the mandate set forth in General Rule 12.2, carries out the mission of the Bar, and operates in accordance with the Bar's Guiding Principles.
- Bring to the BOG the perspective, values and circumstances of the Governor's district to be applied in the best interest of all members, the public, and the Board
- Bring information to the members that promotes appreciation of actions and issues affecting the membership as a whole, the public, and the organization.
- Avoid speaking publicly in opposition to positions taken by the Board.
- Avoid seeking to individually direct policies or activities of WSBA, including the work of the Executive Director.

Executive Director

- Responsible for day to day operation of WSBA
- Hiring, managing and terminating WSBA personnel
- Revises, adopts and sunsets operational policies and procedures.
- Receives annual reports from Sections and other WSBA entities.
- Directs litigation. Consulting with Board when there is a potential for significant fiscal impact to the organization and/or a matter of organizational policy is impacted.
- Develops the investigation plan in the event of a whistleblower complaint, subject to approval by the Personnel Committee. Personnel committee creates the plan if the complaint is against the ED.
- Attends BOG Meetings and BOG Committee meetings, including Executive Sessions.
- Negotiates and executes contracts for WSBA.
- Communicates with bar members, the judiciary, elected officials, and the community at large about bar matters.
- Ensure the bar's books are kept in proper order and are audited annually.
- Ensure that the annual audited financial statement is made available to all Active members.
- Collect debts owed to the Bar and assign debts for collection as deemed appropriate.
- Acquires, manages, and disposes of personal property related to the bar's operations within the approved budget.
- Reports to the BOG regarding WSBA operations.
- Ensures minutes are made and kept of all BOG meetings.

- Serves as an officer of the Bar, as an ex officio, non-voting. member of the BOG.
- Controls the WSBA Seal.
- Accepts petitions, notices or other documents the Bylaws require to be filed with the Bar or served on the Board of Governors.
- Receives member change of required information, within 10 days of change.
- Keeps records of required member information, including: physical residence address; principal office address, telephone number and email address; resident agent physical street address; date of admittance; type and status of membership; date of transfer(s) from one status to another, if any; date and period of administrative suspension, if any; date and period of disciplinary actions or sanctions, if any; other data required by the Washington Supreme Court or Board of Governors.
- One of three persons who tallies President and President-Elect votes and may accept confidential telephonic vote from Governor who participated in the interview.
- Sets the time and place of New Governor Orientation.
- Receives Petitions for recall of Governors.
- May call a BOG Special or Emergency Meeting.
- Must receive notice of a BOG Special Meeting
- May set the location of an emergency meeting.
- Member of the Board of Governors Executive Committee.
- Receives Referenda Petitions, prepares ballots and sets deadlines for filing of statements.
- Maintains a list of current committees, councils, and taskforces, including their functions.
- Maintains a list of the current regulatory boards and their functions.
- Maintains a list of current sections.
- Receives petition and report seeking to establish new sections.
- Receives annual reports from all Sections.
- Receives requests for Keller arbitrations
- In the event of a whistleblower complaint, develop a response and/or action plan to address any recommendations as well as remedial action and discipline as appropriate.
- Conducts and provides analysis to Board on proposals before the Board, including fiscal impact, stakeholder analysis and input, rule compliance, and implementation implications.
- Declares disaster to trigger implementation of Disaster Recovery Plan; updates disaster recovery plan.
- Decides Public Records appeals pursuant to GR 12.4.
- Decides member exemptions from the requirement to provide a public address.
- Can refer legislation to WSBA entities for consideration.
- Can direct entities to cease public comment.
- Grants hardship exemption for license fees.
- Approves armed forces exemption.
- Decides when to waive or modify repayment of discipline costs.
- Signs recommendations for administrative suspension
- Signs new admittee welcome letter with President.
- Sign pro bono commendation letters with President.
- Permanent member of the Budget and Audit Facilities Advisory Committee

- Supports Board policy development and strategic goals by making recommendations, engaging stakeholder, and assessing fiscal, operational, legal, and other impacts.
- Prepares annual budget and implements the approved budget.
- Serves as ex officio, non-voting member of Budget and Audit Committee (along with Chief Financial Officer)
- Recommends license and other significant fees and establish other operational and administrative fees not established by the Supreme Court or the Board of Governors.
- Approves reimbursement requests and service and program fees including (advertising rates, public records copy fees, fees for sale of member contact information, sales price of CLE and WSBA publications and other WSBA merchandise.
- Sets adjustments to employee salaries within adopted compensation plan.
- Approves grants to WSBA and in kind contributions of WSBA to the Foundation
- Can establish deposit and credit relationships, withdraw WSBA funds, sign checks, invest funds in accordance with the investment policy, and transfer funds between established accounts.
- Approves unbudgeted expenditure that are offset by unbudgeted revenue, or reallocation of budgeted expenditures where there is a change of intent up to \$10,000 per item, or up to \$50,000 collectively during the fiscal year, where the overall bottom line of the annual budget is not affected (including approval of new programs or significant expansions, but not long term commitments or future obligations).
- Approves necessary and prudent expenditures to implement WSBA's Disaster Recovery Plan or to maintain WSBA's operations
- Compiles and review section budgets, with CFO.
- Engages the approved auditing firm and initiate a competitive bid process prior to the end of the six-year period.
- Consults with CFO when an immediate change in investment strategy is recommended by WSBA's investment managers.
- Approve license fee refunds.
- Approve deviations from the fiscal policy due to extenuating circumstances in accordance with the Fiscal Matrix.
- Approves reimbursement requests from the prior fiscal year-with the CFO.
- Approves, preliminarily, a request exceeding the Accommodation funds set during the budgeting process, so long as the funds are available within the current fiscal year budget.
- Approves all employee overnight stays at BOG meetings.
- Approves reimbursement for expenses not otherwise described in the policy when reasonable, necessary, appropriately documented and explained.
- Approves midyear employee cost center allocation changes.
- May approve travel advances upon a director's recommendation.
- May approve expenses for certain employee parties and celebrations.
- Approves exceptions to the limits on officer and Governor attendance at bar-related events
- Approves reimbursements for lodging and meal expenses about WSBA rates with appropriate supporting receipts.
- Approves donations from WSBA committees and boards to entities such as other bar associations, legal organizations, or outside causes.

- Supports all grant applications.
- Office of the Executive Director oversees administration of the executive functions of the WSBA.
- Can approve overtime for nonexempt employees.
- Full administrative authority to set personnel policies and salaries, to employee and to terminate employment of staff.
- Final decision on all definitions and interpretations involving the Employee Handbook.
- Consults with the HR Director to evaluate and place positions in job grades.
- Authorize revisions to policies and procedures covered in the Employee Handbook.
- Enter into written agreements for employment for a specified period of time, or inconsistent with employment at will.
- Receives confidential comments about supervisors, directors, or other conditions of work during employee performance evaluations.
- Can receive employee complaints of sexual or other harassment, including retaliation.
- Address written employee complaints expressing dissatisfaction with supervisor's resolution of conflict. Executive Director investigations and will review and discuss with employee as soon as possible.
- Receive Whistleblower complaints from employees.
- Approves employee resignation withdrawals.
- Approves requests to unlock the elevators during non-business hours.
- Authorize other employees to enter into contracts.
- May approve employee vacation schedules.
- May require employees with over 160 hours of accrued vacation to use the leave on an approved schedule.
- May close the WSBA Offices for severe snow/weather or civil disruptions.
- Approves unpaid leaves of absences for personal reasons.
- Determines licenses that WSBA will reimburse.
- May authorize employees to make statements contrary to the Board of Governors position.
- Decides appeals of the HR Director's decision relating to parking spaces for employees.
- Receives notification from employees who are convicted under any criminal drug statute for a violation occurring in the workplace.
- Takes action to accomplish WSBA's strategic goals and to carry out approved policies and programs.
- Establishes and modifies an organizational structure of staff to accomplish the approved goals, programs, and policies of the WSBA.
- Facilitates communication between the Board and WSBA employees, including ensuring clear communication of the Board's goals and expectations to employees and conveying employee viewpoints to the Board.
- Oversees the elections of the Board of Governors, including officers.
- Overseeing the recruitment, appointment and onboarding process of WSBA volunteers. Monitoring volunteers and entities to ensure compliance with WSBA policy, applicable laws, regulations, court rules, orders, and case law in the course of their work with WSBA and reporting issues to the Board of Governors.

- Acts as an official spokesperson for the WSBA, including communicating with WSBA members, the judiciary, elected officials, and the community at large regarding WSBA matters and is not required to obtain prior approval from the BOG before doing so.
- Avoids speaking publicly in opposition to positions taken by the Board.
- Ensures the proper performance of all regulatory functions as set forth in the WSBA Bylaws, court rules, court orders, and case law, including the development of procedures to ensure the consistent application of those rules and policies.
- Reports to the Supreme Court regarding regulatory matters and on other topics as requested by the Board of Governors, the Chief Justice, or the Supreme Court.
- Takes steps to ensure WSBA and its entities are in compliance with all applicable laws, regulations, court rules, orders, and case law.
- Oversees the operations of the WSBA, including facilities, insurance, contracting, and developing and executing policies related to health and safety.
- Engaging consultants to facilitate work of WSBA, consistent with approved budget.
- Avoids taking sides or public positions on issues being submitted to the voters or pending before the legislature unless authorized by the Board of Governors as authorized in the Bylaws.
- Avoids publicly supporting or opposing, in an election, any candidate for public elective office in the State of Washington the prerequisites for which include being an attorney, except where the candidate is immediate family.

Evaluation Guidelines

1. RELEVANCE:

IS THE COMMITTEE; TASK FORCE; COUNCIL; ETC. DOING THE RIGHT THINGS?

2. COHERENCE:

HOW WELL DOES THE COMMITTEE; TASK FORCE; COUNCIL; ETC. FIT?

3. EFFECTIVENESS:

IS THE COMMITTEE; TASK FORCE; COUNCIL; ETC. ACHIEVING ITS OBJECTIVES?

4. EFFICIENCY:

**HOW WELL ARE RESOURCES OF THE COMMITTEE; TASK FORCE; COUNCIL;
ETC. BEING USED?**

5. IMPACT:

**WHAT DIFFERENCE DOES THE COMMITTEE; TASK FORCE; COUNCIL; ETC.
MAKE?**

6. SUSTAINABILITY:

WILL THE BENEFITS LAST?

WASHINGTON STATE BAR ASSOCIATION

TO: Brian Tollefson, President
CC: WSBA Board of Governors
FROM: Terra Nevitt, Executive Director
DATE: March 2, 2022
RE: Revisit WSBA COVID-19 Vaccination Policy for Volunteers

DISCUSSION and POSSIBLE ACTION: Revisit WSBA's COVID-19 Vaccination Policy for Volunteers considering changes in the local and national response and management of COVID-19.

Summary

On August 21, 2021 the WSBA Board of Governors approved a policy prohibiting WSBA volunteers from engaging in in-person volunteer work for the WSBA unless fully vaccinated against COVID-19. WSBA moved quickly to implement the policy, creating a [web page](#) with instructions to submit proof of vaccination confidentially. To date, 103 WSBA volunteers have received a WSBA vaccine verification.

Since the policy was adopted, the local and national trends and response to COVID-19 have changed. It has been suggested that the Board revisit the current policy considering these shifts.

Considerations

Ø Centers for Disease Control and Prevention (CDC)

As of February 25, the [CDC recommends](#) that the best way to protect oneself from COVID-19 is to get vaccinated and to stay up to date on vaccinations and to wear a mask indoors, in public areas where the COVID-19 community level is high, regardless of vaccination status. The CDC defines "community levels" as described below and has a tool on their [website](#) to identify what level each community is in.

Low	Medium	High
<ul style="list-style-type: none"> Stay up to date with COVID-19 vaccines Get tested if you have symptoms 	<ul style="list-style-type: none"> If you are at high risk for severe illness, talk to your healthcare provider about whether you need to wear a mask and take other precautions Stay up to date with COVID-19 vaccines Get tested if you have symptoms 	<ul style="list-style-type: none"> Wear a mask indoors in public Stay up to date with COVID-19 vaccines Get tested if you have symptoms Additional precautions may be needed for people at high risk for severe illness
<p>People may choose to mask at any time. People with symptoms, a positive test, or exposure to someone with COVID-19 should wear a mask.</p>		

Currently, of Washington's 39 counties, 14 are considered to be "low" (Asotin, Benton, Franklin, Island, King, Kitsap, Klickitat, Lewis, Pacific, Skagit, Skamania, Snohomish, Thurston, Whitman); 16 are designated as "medium" (Adams, Columbia, Clark, Ferry, Garfield, Grays Harbor, Kittitas, Lincoln, Mason, Pend Oreille, San Juan, Spokane, Stevens, Walla Walla, Whatcom, and Yakima); and 9 counties are in "high" status (Chelan, Clallam, Cowlitz, Douglas, Grant, Jefferson, Okanogan, Pierce, and Wahkiakum).

Ø Washington State Department of Health & Governor's Office

Beginning on February 18, 2022, people are no longer required to wear a mask at large, outdoor events. Additionally, Governor Inslee released the following changes to mask requirements:

State Indoor Mask Requirements Starting March 21, 2022

Local governments are still able to enact local mask requirements.
Many individuals will choose to continue to wear masks. Please be kind and compassionate.

Still Required:

- Healthcare and medical facilities, including hospitals, outpatient, dental facilities and pharmacies
- Long-term care settings
- Public transit, taxis, rideshare vehicles and school buses (federal requirement)
- Correctional facilities
- Private businesses and local governments that want to require masks for their employees, customers or residents

***Not Required:**

- Schools, childcare facilities and libraries
- Restaurants and bars
- Houses of worship
- Gyms, recreation centers and indoor athletic facilities
- Grocery stores, businesses and retail establishments

*Private businesses can still require masks if they choose. Please respect the rules of the room.

JAY INSLEE

Note: the date for removing the mask requirement for indoor public spaces has been moved to March 12, 2022.

Ø King County

Beginning March 1, 2022, the vaccine verification policy in King County will no longer be in effect, though business and organizations may choose to implement their own vaccine verification policies. The county urges business to continue to improve ventilation, support vaccination for employees, encourage employees to stay home when sick, and enforce any indoor mask policies.

Beginning March 12, 2022, masks will no longer be required in most indoor public spaces. They will still be required in healthcare and medical facilities, long-term care settings, public transportation, and correctional facilities. Business and organizations may choose to implement their own mask requirements and the county urges respect for people's choices to wear a mask.

Ø Washington State Supreme Court

The State Supreme Court Order No. 25700-B-699 requiring vaccination for employees of the Supreme Court is still in effect.

Attachments

COVID-19 Volunteer Vaccination Mandate Policy, August 21, 2021

Notice of COVID-19 Volunteer Vaccination Policy, August 31, 2021

POLICY

**WSBA VOLUNTEER COVID-19 VACCINATION MANDATE
FOR WSBA IN-PERSON MEETINGS AND EVENTS**

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the COVID-19 outbreak across the United States; and on February 24, 2021, President Biden continued the national emergency; and

WHEREAS, the Supreme Court of Washington has strongly encouraged the Washington State Bar Association to adopt and implement similar vaccination requirements for their Workers as set forth in their order No. 25700-B-669 of August 18, 2021, mandating vaccines for all Supreme Court workers, which includes any “employee, independent contractor, service provider, volunteer, or through any other formal or informal agreement to provide goods or services, whether compensated or uncompensated”; and

WHEREAS, it is the duty of every employer to protect the health and safety of employees by establishing and maintaining a healthy and safe work environment and by requiring all volunteers who appear in-person at our events or on-site at our facilities, to comply with health and safety measures; and

WHEREAS, the WSBA has regulatory functions and provides services, to the members and the public in every county in our state with the use of volunteers, and many of our volunteers have the potential to interact with the members, the staff, or the public on a regular basis, and they all interact with some portion of the community at large to varying degrees before and/or after volunteer hours; and

WHEREAS this board has the authority to set policies that are reasonably necessary for carrying out and fulfilling its duties under GR 12, RCW 2.48, and our Bylaws.

NOW, THEREFORE, the following policy applicable to volunteers is hereby ADOPTED:

1. **Prohibitions.** This policy prohibits any volunteer, including the Board of Governors, from engaging in in-person volunteer work for the WSBA, or as a representative of WSBA, if the volunteer has not been fully vaccinated against COVID-19. A volunteer must either be vaccinated or qualify for an exemption to be eligible to volunteer in-person or on-site.
2. **Exemptions from Vaccine Requirement.**
 - a) Volunteers are not required to get vaccinated against COVID-19 if they are entitled under the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964 (Title VII), the Washington Law Against Discrimination (WLAD), or any other applicable law to a disability-related reasonable accommodation or a sincerely held religious belief accommodation to the requirements of this order.
 - b) To the extent permitted by law, before providing a disability-related reasonable accommodation to the requirements of this order, the WSBA must obtain from the individual requesting the accommodation documentation from an appropriate healthcare or rehabilitation professional authorized to practice in the State of Washington stating that the individual has a disability that necessitates the accommodation and the probable duration of the need for the accommodation.
 - c) To the extent permitted by law, before providing a sincerely held religious belief accommodation to the requirements of this policy, the WSBA must document that the request for an accommodation has been made and the document must include a statement regarding the way in which vaccinations conflict with the religious observance, practice, or belief of the volunteer.
 - d) Reasonable accommodations will be determined by the Executive Director on an individualized

basis and, where a volunteer is exempt from this mandate, accommodations may include but are not limited to requirements to wear a mask, obtain viral testing regularly, socially distance, appear virtually, or work remotely.

- e) Like the Independent Contractors mentioned in §4(c) of the Supreme Court’s Order this policy applies to volunteers only when their services are performed in person or on site, regardless of frequency, and regardless of whether other staff or volunteers are present.

3. Acceptable Proof of Full Vaccination Against COVID-19: Where required above, volunteers

for the WSBA must provide proof of full vaccination against COVID-19. Acceptable proof may include:

- a) CDC COVID-19 Vaccination Record Card or photo of the card;
- b) Documentation of vaccination from a health care provider or electronic health record;
- c) State immunization information system record;
- d) Other forms approved by Human Resources.

Personal attestation is not an acceptable form of verification of COVID-19 vaccination.

This policy will take effect on 8/22/21 and shall remain in effect until further policy change.

Approved by the WSBA Board of Governors on August 21, 2021.



Kyle D. Sciuchetti, WSBA# 26264
WSBA President, 2020-2021

WASHINGTON STATE BAR ASSOCIATION

Board of Governors

Kyle D. Sciuchetti, President

August 31, 2021

To: All WSBA Volunteers

On behalf of the Washington State Bar Association, I am writing to inform all WSBA volunteers that on August 21, the Board of Governors approved the enclosed policy regarding COVID-19 vaccinations. To summarize, the policy prohibits 'any volunteer, including the Board of Governors, from engaging in in-person volunteer work for the WSBA or as a representative of WSBA, if the volunteer has not been fully vaccinated against COVID-19. A volunteer must either be fully vaccinated or qualify for an exemption to be eligible to volunteer in-person or on-site.' Exemptions may be granted due to disability or sincerely held religious belief. This policy is effective immediately and follows the August 18 Supreme Court Order mandating vaccinations for its employees and requesting the WSBA to 'adopt and implement similar vaccination requirements for their Workers...' The Court Order defines 'Worker' as including all volunteers. Executive Director Nevitt has implemented a similar policy for WSBA staff.

As a WSBA President and a volunteer, I humbly request your understanding, cooperation and observance of this policy. It is important we work together, as a community, to keep WSBA and our communities safe. While an individual's decision regarding their health is their own; the WSBA must consider the overall health and safety of WSBA staff, volunteers and the public. It is the Board's role to establish policy that seeks to protect and maintain all functions of the WSBA and ensure that the mission-driven work may continue without impediment.

The main point of contact for overseeing the implementation of this policy will be WSBA Volunteer Engagement Advisor, Paris Eriksen (parise@wsba.org). With the guidance from myself and Executive Director Nevitt, Ms. Eriksen will develop and communicate the procedures this policy requires. These procedures will be shared as soon as possible.

If you have an in-person activity scheduled, please contact your staff liaison and Ms. Eriksen who will work with you individually to confirm your vaccination status.

If you have feedback regarding this policy, please email BoardFeedback@wsba.org or contact a member of the Board of Governors directly.

On behalf of myself and the WSBA Board of Governors, I want to express our sincere gratitude for your continued service and resiliency during these unprecedented times.

Respectfully,

A handwritten signature in black ink, consisting of a stylized 'K' followed by a horizontal line.

Kyle D. Sciuchetti

President of Washington State Bar Association and on behalf of the Board of Governors

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Terra Nevitt, Executive Director
DATE: March 1, 2022
RE: Ongoing concerns about US Postal Service Delays

DISCUSSION: Decide whether and how to address the ongoing concerns raised about USPS delays.

Background

On August 24, 2020, WSBA received the attached letter from a WSBA member asking that WSBA take a stand in opposition to changes that were being made to USPS operations and resulting in unreliable and delayed delivery of mail. The member highlighted the unique impact of these delays on legal processes and specifically cited a concern about the presumption of three-day delivery under CR 5(b)(2)(a). The BOG Executive Committee reviewed the request and – as a result of those conversations – then Pres. Sciuchetti and I forwarded the letter to the Practice of Law Board, the Access to Justice Board, the Civil Rights Law Section, and the Litigation Section. We asked those groups to report back to the Board if they had any recommendations. At that time, no entities came back with a recommendation.

Since that time, Gov. Brent Williams-Ruth has continued to express concern about delays that he had experienced firsthand. This topic was discussed by the BOG Executive Committee on February 4, 2022, where it was suggested that the Board of Governors direct the WSBA Court Rules Committee to take up the issue. Under the WSBA Bylaws, Art IX, the committees are created by the Board and the Board may delegate work of the bar to committees. Committees take up work as requested by the Board or as the committee itself determines to be consistent with its function or charter.

The WSBA Court Rules Committee studies and develops suggested amendments to designated sets of court rules on a regular cycle that is established by the Washington Supreme Court. It also respond to requests for comment from the Court on proposals developed by others and has some limited capacity to take up issues out-of-cycle, which this request would be. Given its work, the Court Rules Committee is well positioned to gather broad stakeholder input and to draft rule amendments.

GR 12.2 Analysis**Attachments**

- August 2020 Member Letter

C L JOHNSON LAW OFFICE, PLLC
7981 168th NE, Suite 220
Redmond, WA 98052

Carol L. Johnson
Attorney at Law

Telephone: 2076-790-3266
Email: cljbothell@hotmail.com

August 24, 2020

Terra Nevitt, Executive Director
Rajeev D. Majumdar, WSBA President
1325 Fourth Ave., Suite 600
Seattle, WA 98101-2539

Re: U. S. Postal Service

Dear Ms. Nevitt and Mr. Majumdar:

I hereby formally request that you bring the following issue before the WSBA Board of Governors:

The recent changes to the U. S. Postal Service operations are having a direct impact on the administration of justice in Washington State and my ability to practice law. As a member of the Washington State Bar, I request that the WSBA take a stand on the recent changes to the U. S. Postal Service.

When the blue mail boxes disappeared throughout Redmond, it was an inconvenience, since my office building does not have outgoing mail service. I now have to drive to the post office to send outgoing business mail.

But now, with the removal of the high speed sorting machines and the elimination of overtime, as well as other recent changes, mail delivery has become unreliable and much less efficient. Due to the COVID-19 pandemic, a personal visit to the recorder's office or the clerk of court is no longer an option.

I mailed a deed to the recorder's office on August 12. Twelve days later, it still does not show up as recorded. My dilemma is this: if the document is lost, do I have my client execute a replacement deed? What if the original then shows up later? Will she incur a fee from the recorder's office when the first check bounces because payment was stopped on it? If the deed is merely delayed, how long can I wait to see if it shows up before my client, an elderly woman in declining health, loses the mental capacity to execute replacement documents?

My clients often choose to use a transfer-on-death deed to avoid formal probate. However the deed *must* be recorded while the client is still living. If my client's death is imminent and if mail delivery is delayed, the deed is void, and a formal probate will be needed which increases costs and delays in the estate administration.

Page Two
August 24, 2020

Further, under CR 5(b) (2) (a), service by mail is presumed complete three days after depositing the paperwork in the outgoing mail. If delivery is delayed, how many people will have their rights terminated by default judgments because they didn't receive notice in time to respond?

The efficiency of the postal service is critical to the functioning of our justice system. The current changes to the operations of the postal service have directly impacted my business and impeded my ability to adequately represent my clients. Therefore GR 12.2 (c) does not apply, and the WSBA is not precluded from acting.

Thank you for your consideration.

Sincerely yours,



Carol L. Johnson, WSBA # 28327



CHARACTER AND FITNESS BOARD (CFB) REPORT

Chair: Michael Morguess

BOG Liaison: Thomas McBride

Staff Liaison: Lisa Amatangel

PRESENTATION TOPICS

- Board Overview
- WSBA Mission and the Work of the CFB
- Year in Review
- Assistance

OVERVIEW

CFB is a Court-created board:

- Authority - APR 23.1(a)
- Composition - APR 23(a)
- Qualifications – APR 23(b)
- Terms of Office – APR 23(i)

AUTHORITY

The CFB shall have the power and authority to:

(1) Conduct hearings concerning matters of character and fitness bearing upon the qualification of applicants referred to the CFB by Bar Counsel and of all petitioners for reinstatement;

. . . .

(4) Recommend the approval or denial of an applicant's application after hearing;

. . . .

COMPOSITION

The CFB shall consist of:

- not less than three community representatives
 - who are not licensed to practice law,
 - appointed by the Supreme Court, and
- not less than one lawyer, LLLT or LPO member
 - from each congressional district,
 - appointed by the BOG.

QUALIFICATIONS

Lawyer, LLT or LPO members must be:

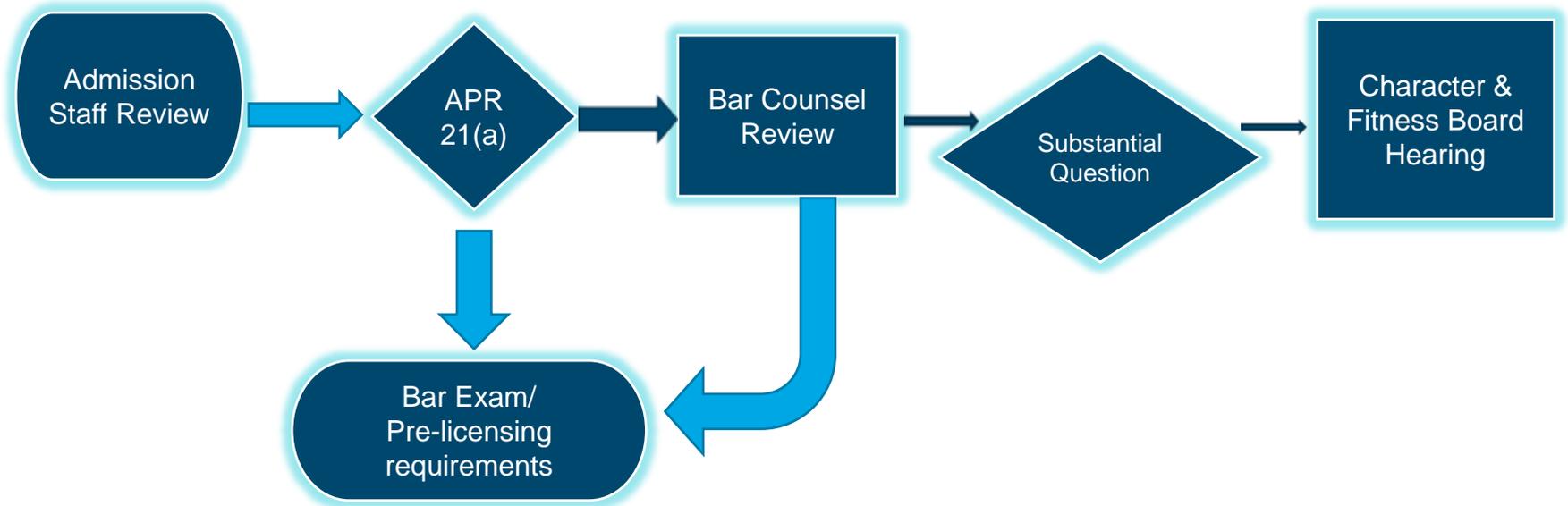
- active lawyers, LLLTs or LPOs of the Bar, and
- active for at least 5 years.

TERMS OF OFFICE

- The term of office for a member of the CFB shall be three years. . . .
- All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later.
- Members may not serve more than two nonconsecutive terms with a minimum of three years between terms (except as otherwise provided in the rules).
- Members shall continue to serve until replaced.

- “to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.”
- WSBA administers the licensing and renewal process for WA licensed legal professionals on behalf of and under rules adopted by the WA Supreme Court.
- Including administering examinations and reviewing applicants’ character and fitness to practice law “in a manner that protects the public and respects the rights of the applicant”.

CHARACTER AND FITNESS REVIEW OF APPLICATIONS FOR LICENSURE



PREREQUISITES FOR LICENSURE

Good moral character:

a record of conduct manifesting the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibilities, adherence to the law, and a respect for the rights of other persons and the judicial process.

Fitness to practice law:

a record of conduct that establishes that the Applicant meets the **essential eligibility requirements** for the practice of law.

ESSENTIAL ELIGIBILITY REQUIREMENTS

1. exercise good judgment ... a high degree of honesty, integrity, and trustworthiness
2. conduct oneself in a manner that engenders respect for the law
3. diligently, reliably, and timely perform legal tasks and fulfill professional obligations
4. competently undertake fundamental legal skills ... such as legal reasoning and analysis
5. communicate comprehensibly . . . with or without the use of aids or devices.

APR 21(a) FACTORS CONSIDERED

- (1) unlawful conduct;
- (2) academic misconduct;
- (3) making false statements or omitting material information in connection with an application for . . . licensure or admission to the practice law;
- (4) misconduct in employment;
- (5) acts involving dishonesty, making false statements, fraud, deceit or misrepresentation;
- (6) abuse of legal process;
- (7) neglect of financial responsibilities;

- (8) disregard of professional obligations;
- (9) violation of a court order;
- (10) conduct demonstrating an inability to meet one or more essential eligibility requirements for the practice of law;
- (11) denial of admission to the bar in this or another jurisdiction on character and fitness grounds;
- (12) disciplinary action by any professional licensing or disciplinary agency of any jurisdiction;
- (13) conduct that physically threatens or harms another person; and
- (14) any other conduct which reflects adversely on moral character or fitness of the Applicant to practice law.

APR 21(b)

- Age at the time of misconduct
- Recency
- Reliability of information concerning the conduct
- Seriousness of the conduct
- Factors or circumstances underlying the conduct
- Cumulative nature of the conduct
- Candor
- Materiality of any omissions or misrepresentations
- **Evidence of rehabilitation**

APR 21(b)(9)

- Compliance with court orders
- Sufficiency of punishment
- Restitution
- Applicant's attitude toward the misconduct, including without limitation acceptance of responsibility and remorse
- Personal assurances, supported by corroborating evidence, of a desire and intent to engage in exemplary conduct in the future
- Constructive activities and accomplishments since the conduct in question
- Applicant's understanding and acceptance of the factors leading to the misconduct and how similar misconduct may be avoided in the future
- Length of time in which the applicant has been in recovery or remission, where applicable....
- Compliance with any recommended or prescribed treatment plans

YEAR IN REVIEW

2020-2021:

- 8 Zoom meetings
- 6 remote hearings
- 4 hearings continued upon request

2021-2022:

- Board training in December
- 9 scheduled hearing dates

ASSISTANCE

- Lawyer Member – District 8 (open now)
- Lawyer Member – District 3 (open 10/1/22)
- Lawyer Member – District 9 (open now)
- Lawyer Member – District 7N (open now)
- 2 Public Members (open 10/1/22)

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: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boardsⁱ), 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.

It is recommended that completion of the annual report 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:	Character and Fitness Board(CFB)
Chair or Co-Chairs:	Knowrasa Patrick, Chair
Staff Liaison: <i>(include name, job title, and department if known)</i>	Renata Garcia, Chief Regulatory Counsel
Board of Governors Liaison:	Bryn Peterson
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The Character and Fitness Board (CFB) derives its authority from the Washington Supreme Court under APR 20 - 25.6, most recently amended in 2016. The CFB conducts hearings upon referral from Regulatory Services Counsel to determine: (1) if applicants to take the Bar Examination or waiving in from another jurisdiction or transferring their UBE score have demonstrated current good moral character and fitness to be admitted or re-admitted to the practice of law, or (2) have met the requirements to be reinstated after disbarment.	
Strategy to Fulfill Purpose:	
Upon referral from Bar counsel after review of application materials and supplemental information, the CFB conducts hearings, prepares written findings, and makes recommendations to the Washington Supreme Court (which makes the final decision on all admission/licensing recommendations). By conducting hearings, Viewing Witnesses, and reviewing voluminous materials, the CFB Assesses the credibility of applicants and witnesses and thus serves as a critical fact-finding body on behalf of the Supreme Court. The CFB meets as frequently as necessary, generally meeting one day a month for	

October 1, 2020 – September 30, 2021 (FY21)

<p>hearings. Hearings are generally scheduled to last one-half to one day, and the CFB may complete up to two hearings in one meeting.</p>	
<p>How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?</p>	
<p>The public is directly impacted by the character and fitness of persons admitted to the practice of law in this state; therefore, attempting to ensure that applicants are of current good moral character and have the fitness to practice law serves a direct public protection function.</p>	
<p>2020-2021 Entity Accomplishments:</p>	
<p>For the fiscal year 2021, the Board met 8 times via Zoom, including twice for implicit bias training. The Board conducted a total of 6 hearings. Four other hearings were continued upon request from the applicants.</p>	
<p>Looking Ahead: 2021-2022 Top Goals & Priorities:</p>	
1	Fill all open positions on the Board and conduct new member training
2	Continue to use electronic tools (Box, templates, etc.) and provide Board members with staff assistance in order to produce written recommendations in a timely fashion while ensuring the confidentiality of the underlying proceedings
3	Continue to conduct hearings as necessary, completing all written findings and recommendations in a timely fashion
4	
5	
<p>Please report how this entity is addressing diversity, equity, and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>	
<p>The CFB’s makeup is governed by Court rule (APR 23(a)). The members of the CFB come from each congressional district, a wide variety of practice areas and settings, and a variety of ethnic, racial, gender, sexual orientation, disability, and other diversity factors, and therefore represent broad geographic, practice, and experiential diversity. The Board also includes community representatives and it can include additional members from each Congressional district (which occurs sometimes in order to include additional members from historically underrepresented backgrounds). The Chair encourages discussion and invites input from all members, and the CFB works cooperatively, even when there are significant disagreements in particular cases; diversity of viewpoints is paramount to the deliberative process.</p>	
<p>Please describe the relationship with WSBA staff and the Board of Governors. <i>For example:</i></p> <ul style="list-style-type: none"> • <i>Quality of WSBA staff support/services</i> • <i>Involvement with Board of Governors, including assigned BOG liaison</i> 	

<ul style="list-style-type: none"> Ideas you have on ways WSBA can continue to strengthen/support your entity. 	
The CFB would appreciate additional assistance with recruitment.	
<p>SECTIONS ONLY: Please quantify your section's 2020-2021 member benefits:</p> <p><i>Forexample:</i></p> <ul style="list-style-type: none"> \$3000 Scholarships, donations, grants awarded; 4 mini-CLEs produced 	Newsletters/publications produced
	Mini-CLEs produced
	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	Receptions/forums hosted or co-hosted
	Recognitions/Awards given
	New Lawyer Outreach events/benefits
	Other (please describe):
Entity Detail & Demographics Report: To Be Completed by WSBA Staff	
Size of Entity:	15
Membership Size: (for Sections Only) <i>(As of September 30, 2021)</i>	
Number of Applicants for FY22 <i>(October 1, 2021 – September 30, 2022)</i>	10
How many current volunteer position vacancies for this entity?	3
FY21 Revenue (\$): For Sections Only: <i>As of September 30, 2021</i>	
FY21 Budgeted Direct Expenses:	\$1,000
FY21 Budgeted Indirect Expenses:	\$74,231
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 or all of the factors below.

Disability	No	85%
	Chose Not to Respond	8%
	Yes	8%
District	1	8%
	10	8%
	2	8%
	3	8%
	4	8%
	5	8%
	6	8%
	7N	15%
	8	15%
Ethnicity	Asian-South Asian	8%
	Black, African American, or African Descent	8%
	White or European Descent	69%
	Multi Racial or Bi Racial	8%
	Chose Not to Respond	8%
Gender	Female	46%
	Male	54%
	Chose Not to Respond	0%
Sexual Orientation	Asexual	8%
	Heterosexual	38%
	No	31%
	Chose Not to Respond	23%

The Yes/No response for the Sexual Orientation category is data from a previous demographic question 'Do you openly identify as a sexual minority to include the following: gay, lesbian, bisexual, transgender?' This question was on the volunteer application when some of the current members submitted their application and therefore, is still included.

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA Entity Three-Year Rotation Meeting with the Board of Governors – Discussion Guide –

WSBA Mission

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

Introduction

It is important that the WSBA Board of Governors [the Board] have a structure to facilitate an ongoing, constructive and evaluative dialogue with each entity whether created to further the mission or by Court Order. Per the WSBA Bylaws, all committees, regulatory boards, and other bar groups are required to submit an annual report. This report will be provided to the full Board. Each report will be reviewed by the WSBA Board of Governors Executive Committee on an annual basis. This process is intended to be the evaluative discussion and is detailed in a separate Review Guide document.

As part of the ongoing and constructive discussions, the WSBA Board of Governors seeks to meet with each entity on a three-year rotating basis. This rotation does not preclude an entity from meeting with the full Board when desired or needed as the case may be. The three-year rotation process is described herein.

Process for WSBA Entities: Three-Year Rotation of Meeting with Board of Governors

The Board of Governors would like to meet with each entity on a three-year rotating basis (with some exceptions). The overall goal of the discussions is to strengthen collaboration and communication, and discuss how the Board can continue to offer support and/or guidance.

For meeting with the Board of Governors, the discussion should focus on three areas, 1) overview of what the entity does and how it furthers the WSBA mission, 2) what the entity is currently working on and 3) how can the Board and/or WSBA provide support or assistance, if needed. The entity should anticipate questions from the full Board of Governors.

Some specific questions to anticipate are as follows:

1. Please share with us [the Board] an overview of the purpose of your entity and please reference any documents that support its purpose, authority, composition, etc. (e.g. Court rule, charter, Bylaw).
2. If applicable, in what ways does your entity further the mission of the WSBA?

FY22

3. What projects and/or initiatives are you currently working on?
4. What are the long-term goals, if any, for this body of work?
5. How can the Board assist in your efforts and/or in addressing any barriers or areas of concern?

Process for Entities Created by Court Rule or Court Order

The same process as described above applies, with the difference that the discussion should focus on three areas, 1) overview of what the entity does and its relationship to the Court, 2) what the entity is currently working on and, 3) how can the Board and/or WSBA provide support or assistance, if needed. The entity should anticipate questions from members of the Board of Governors.

Entity Representatives

The current chair, staff liaison and BOG Liaison are invited to attend the meeting with the full Board. If the current chair is unable to attend, an alternative representative should be designated. The chair may include additional members from the entity to be present and participate in the discussion. Still have the annual report review, with different.

Materials

The most recent annual report for the entity will be provided as materials for the discussion unless otherwise requested. Additional materials are welcome, but not required and should be kept to a reasonable minimum.

The Volunteer Engagement Advisor and staff liaison will communicate any material deadlines to ensure that materials are included in the Board meeting materials.

This procedure applies to the following entities:

- Adjunct Disciplinary Counsel Panel
- Board of Bar Examiners
- Character and Fitness Board
- Client Protection Board
- Committee on Professional Ethics
- Continuing Legal Education Committee
- Council on Public Defense
- Court Rules and Procedures Committee
- Disciplinary Advisory Round Table
- Disciplinary Board
- Diversity Committee
- Editorial Advisory Committee
- Equity and Disparity Work Group
- Judicial Recommendation Committee
- Law Clerk Board
- Legislative Review Committee
- Limited Licensed Legal Technician Board
- Long Range Strategic Planning Council
- Mandatory Continuing Legal Education Board
- Small Town and Rural Committee
- Pro Bono and Public Service Committee
- Washington Young Lawyers Committee

FY22

- Future Committees, Boards or Other Bar Entities as defined by the WSBA Bylaws

Exceptions:

The following entities meet with the full Board of Governors on an annual basis:

- Access to Justice Board (preference)
- Washington State Bar Foundation (required)
- Practice of Law Board (preference)

The following entities are not required to meet with the full Board of Governors and therefore the above procedure does not apply:

- Disciplinary Selection Panel
- Hearing Officer Panel (the Chief Hearing Officer provides an annual report to the Board of Governors)
- Section Executive Committees (required to submit an annual report but not currently included in these procedures at this time)

Contact:

Administration of this process resides within the Office of the Executive Director. For questions or for more information, please contact Paris Eriksen, Volunteer Engagement Advisor, parise@wsba.org.



VOLUNTEER ENGAGEMENT REPORT

January 13, 2022

Paris A. Eriksen, CVA

Volunteer Engagement Advisor

OUTCOMES

- ✓ 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

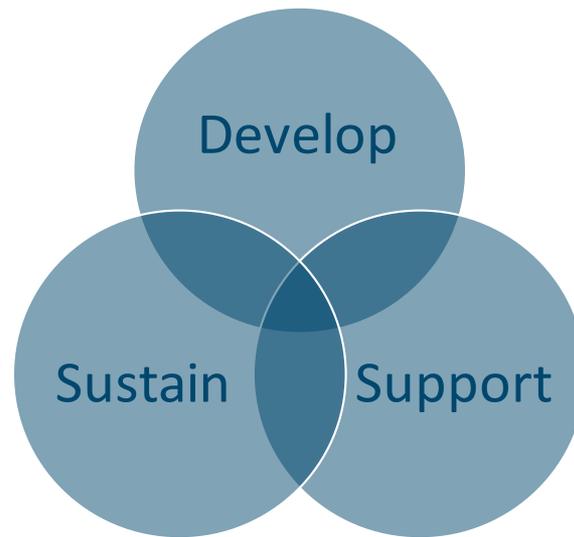


CORE COMPETENCIES

- **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

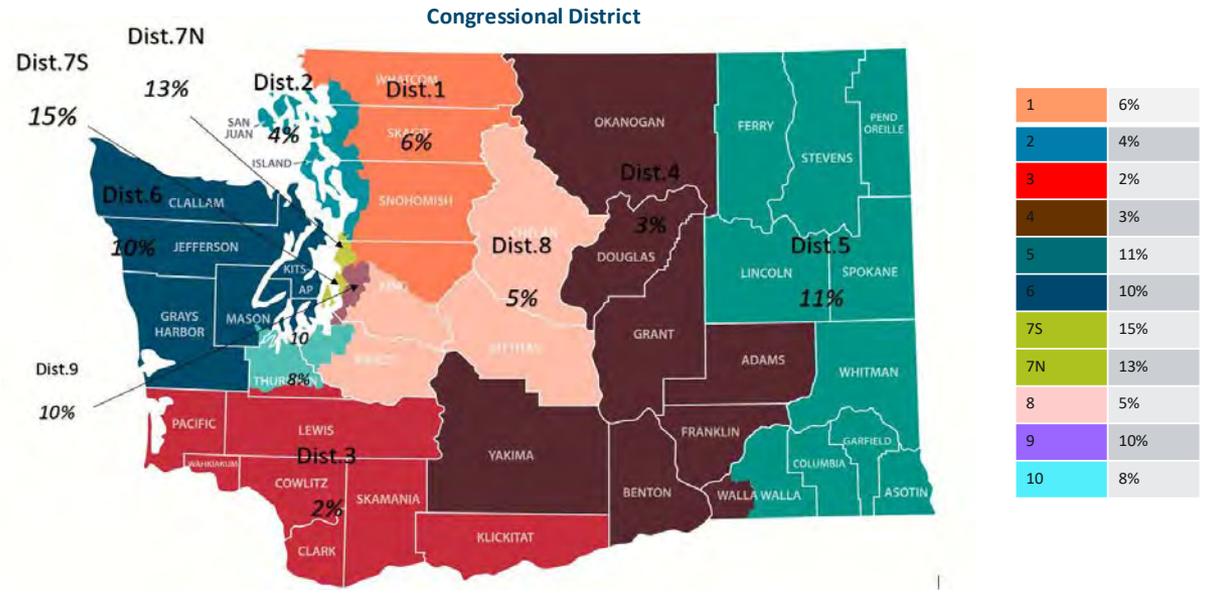


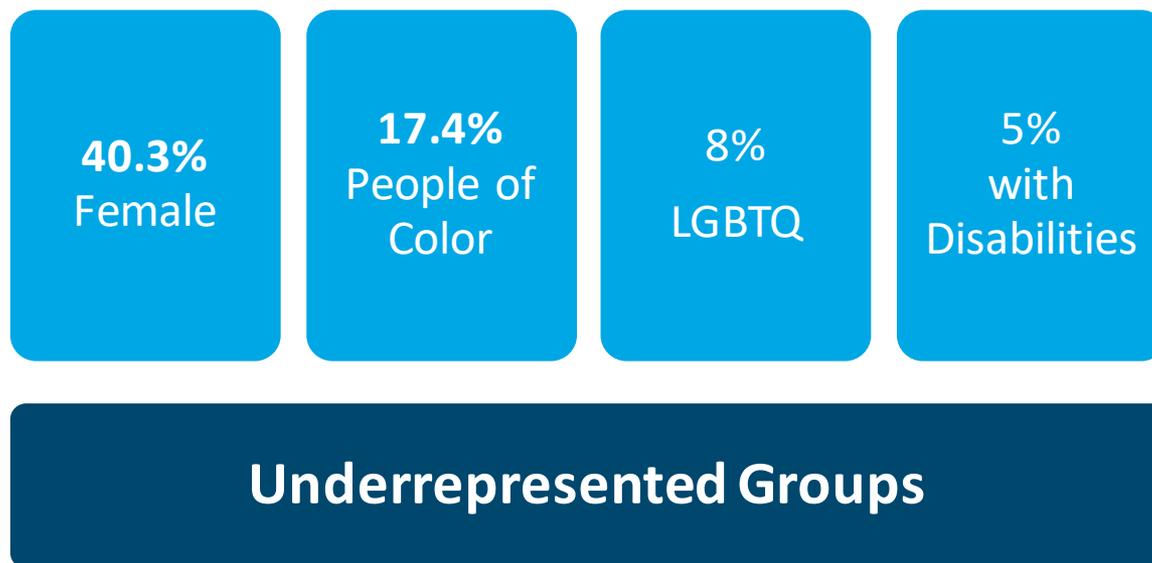
OUR CURRENT VOLUNTEER COMMUNITY

Boards Committ	Usually created by court rule or court order. Appointed by the Court. (10)	Board of Governors	Elected by members.
ees, Councils, Panels,	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 Ad Hoc	Identified and selected by staff and volunteers.	Authors	Identified and selected by staff and volunteers.
Projects, Task Forces, Work Section	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.
Executive Committe	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



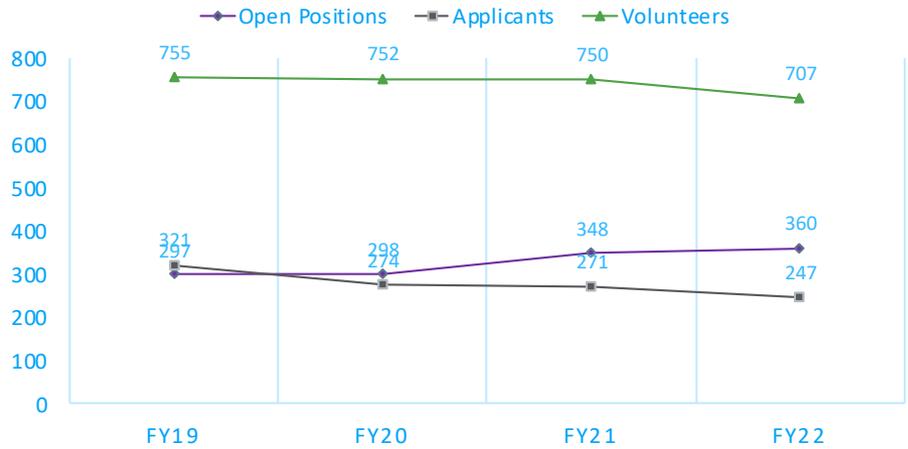




The background of the slide is a solid dark blue color. In the lower right quadrant, there is a faint, circular watermark of the Washington State Seal. The seal features a profile of a man's head facing right, with the words "WASHINGTON STATE" and "1889" visible around the perimeter.

VOLUNTEER COMMUNITY TRENDS

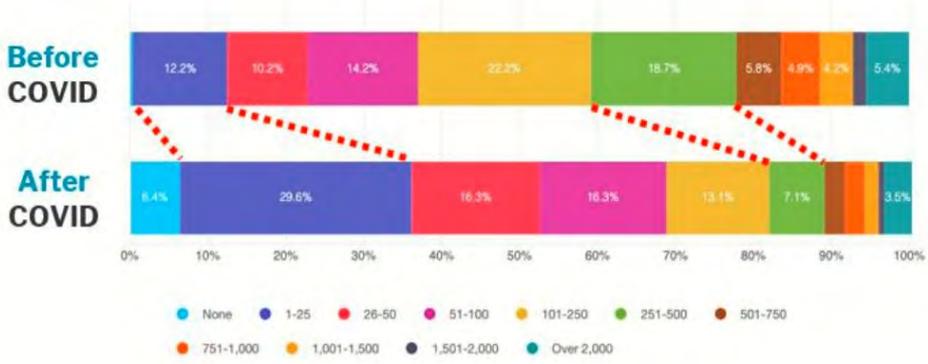
OPEN POSITIONS, APPLICANTS, VOLUNTEERS



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

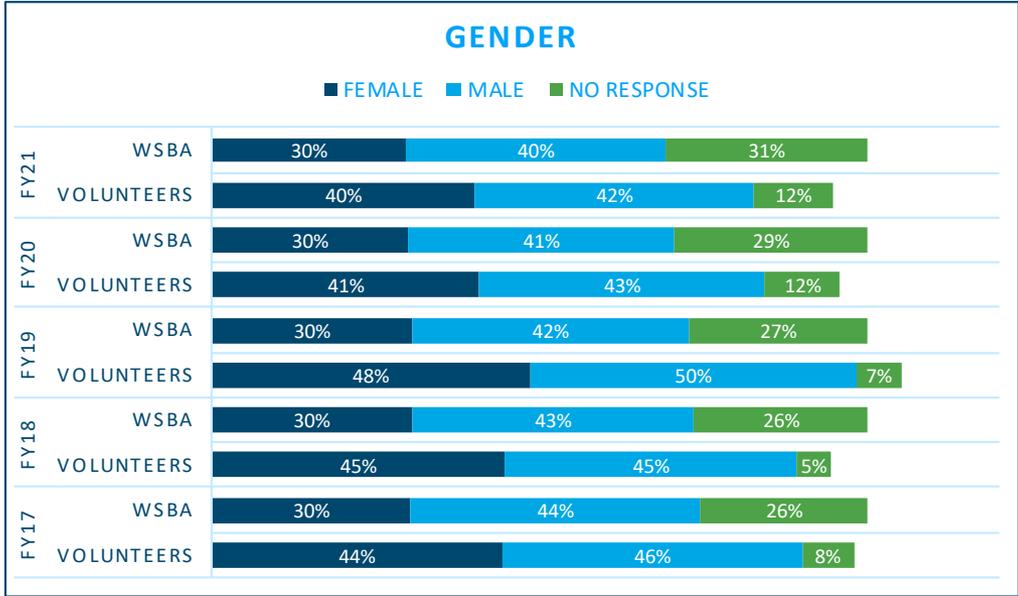
Conversely, *Sterling Volunteers 2021 Industry Insights Nonprofit and Volunteer Perspectives Report* in collaboration with *VolunteerMatch* indicates that ‘volunteerism persevered during the pandemic.’

- 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.’

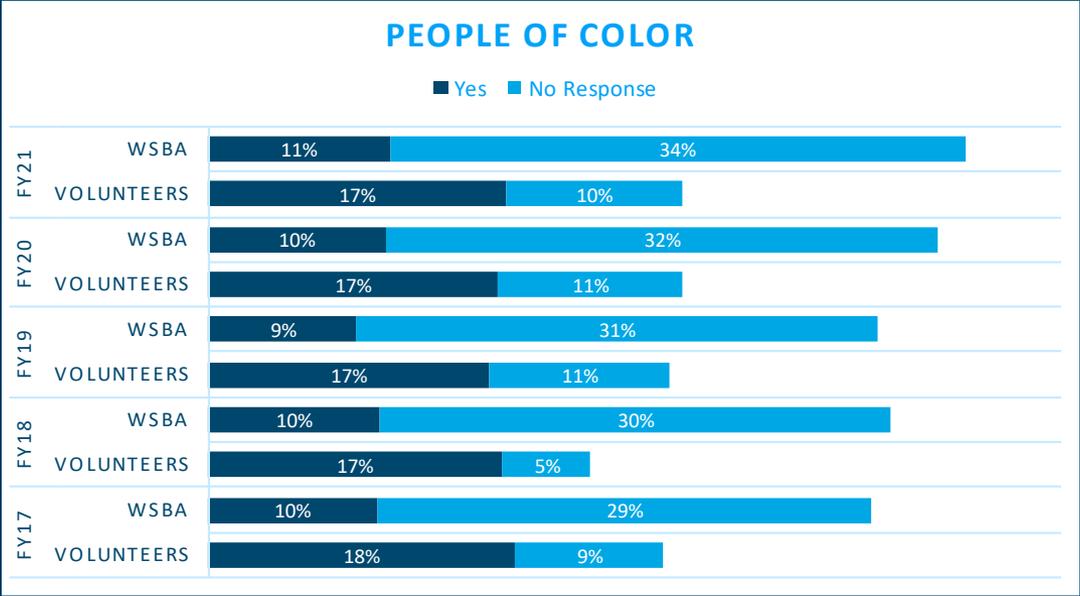


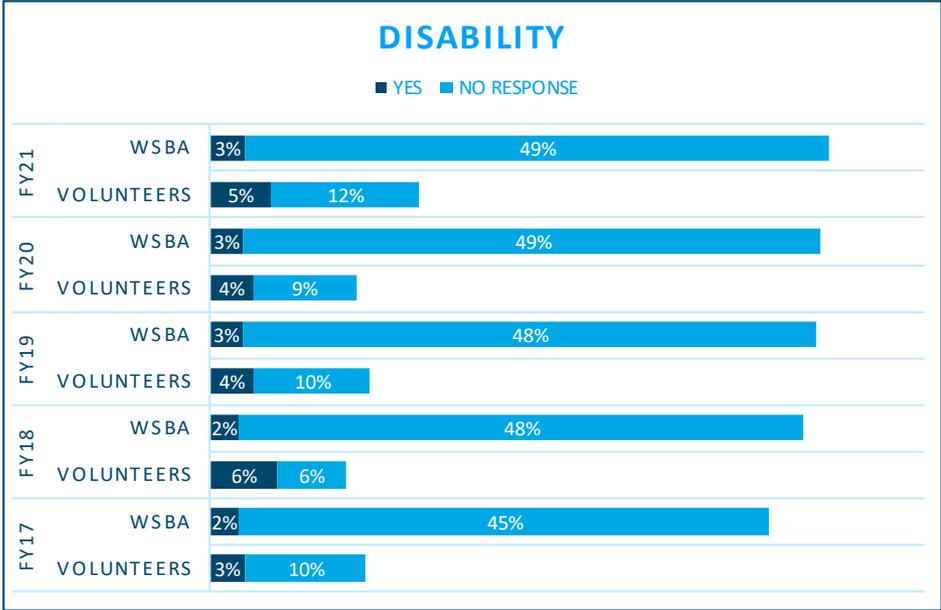
Sterling
Volunteers

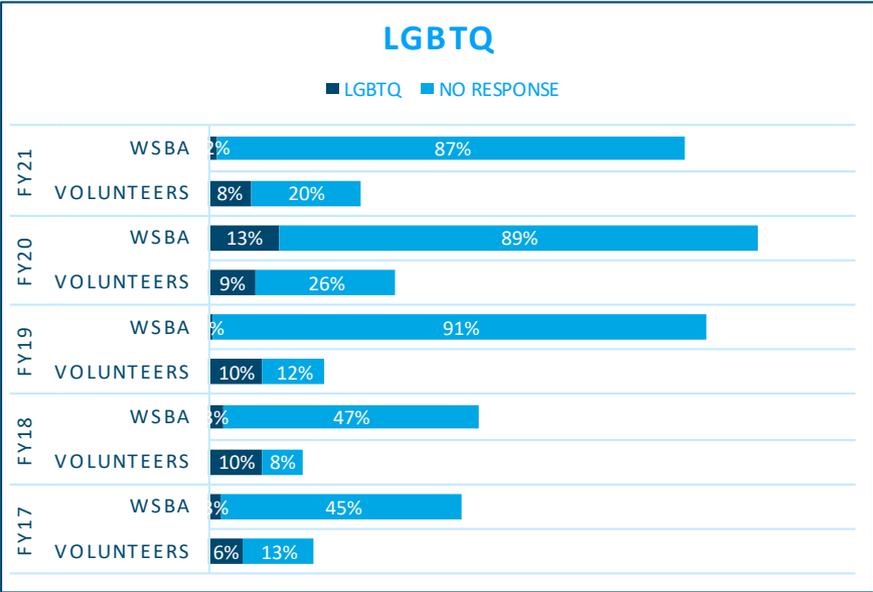




Note: Less than 1% of volunteers and members identified as non-binary, multi-gender, transgender, two-spirit or not listed. Therefore, this group is not included in the chart.





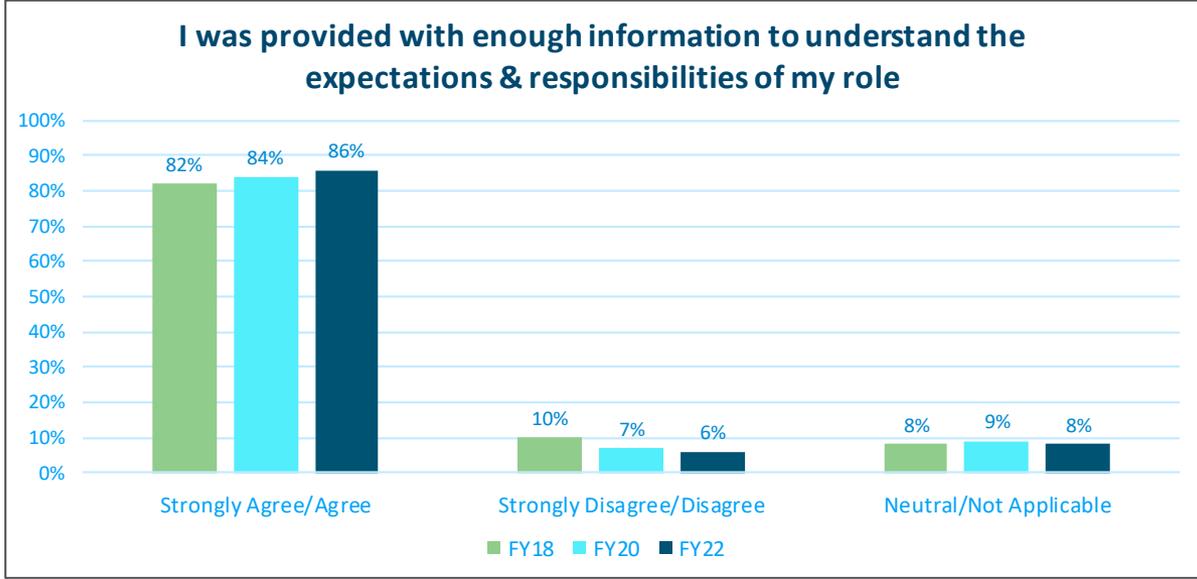


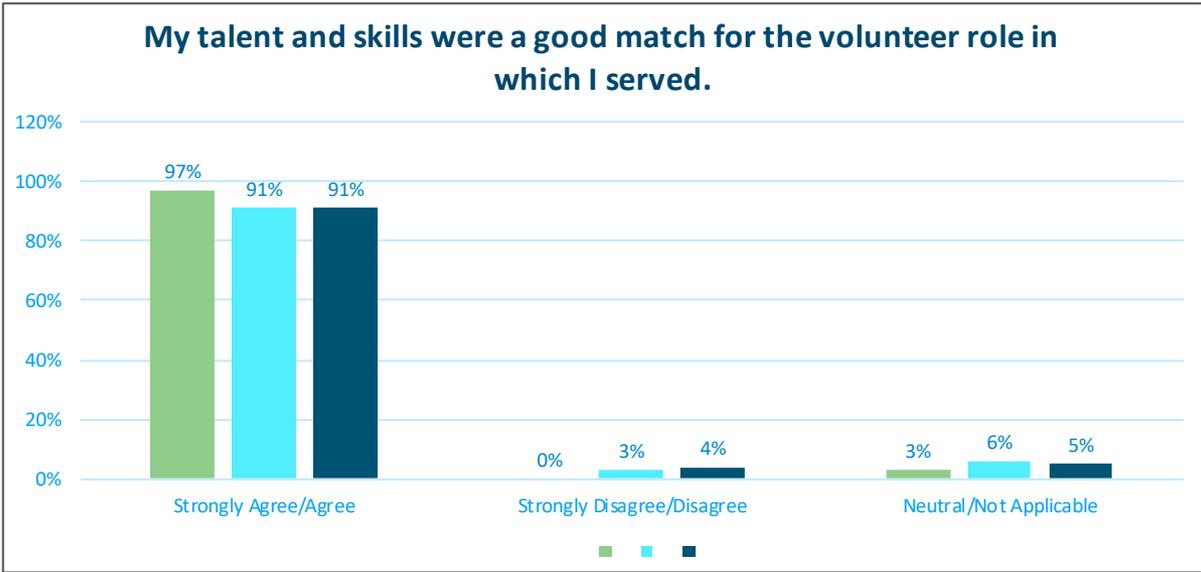
VOLUNTEER SATISFACTION SURVEY TRENDS

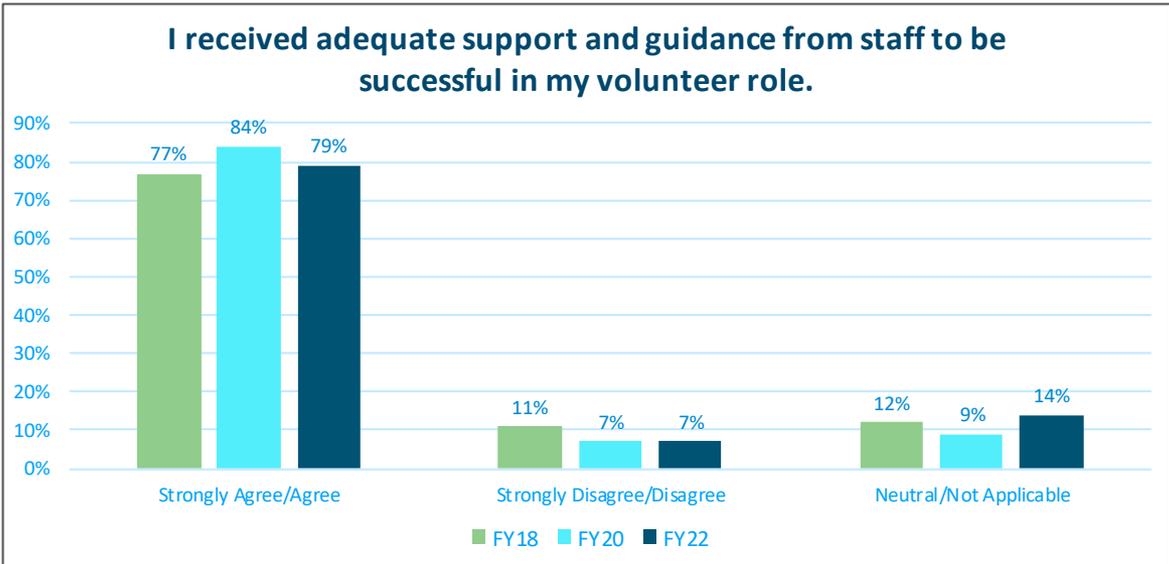
WSBA conducts a volunteer satisfaction survey every other year. The goal of the survey is to track the effectiveness and impact of the relationship between WSBA and its volunteer community. The survey focuses on the core areas of volunteer engagement including recruitment, onboarding, support, recognition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

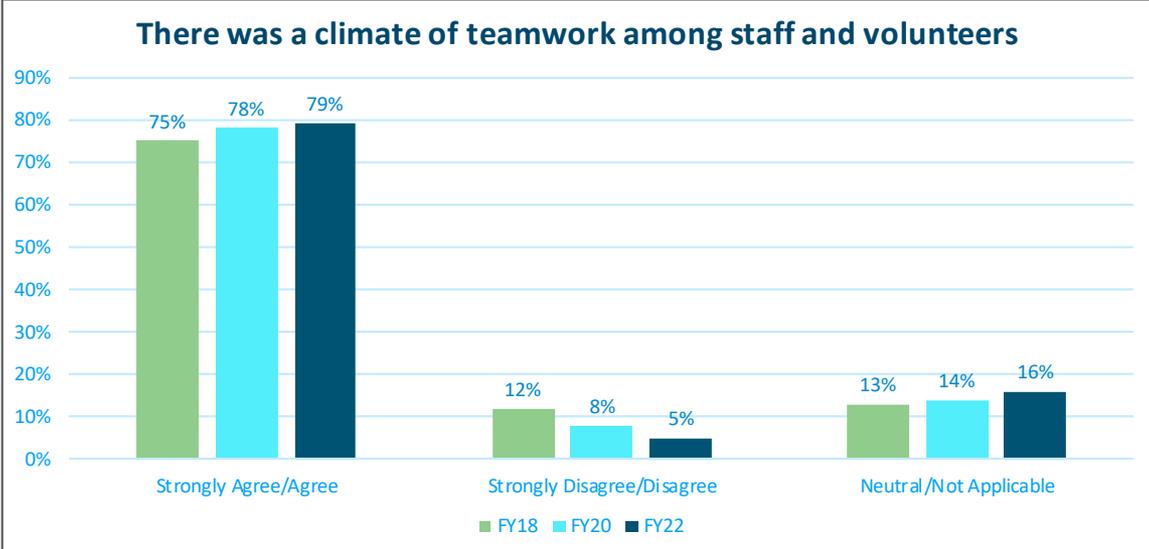
Response Rates:
FY2018: 16%
FY2020: 12%

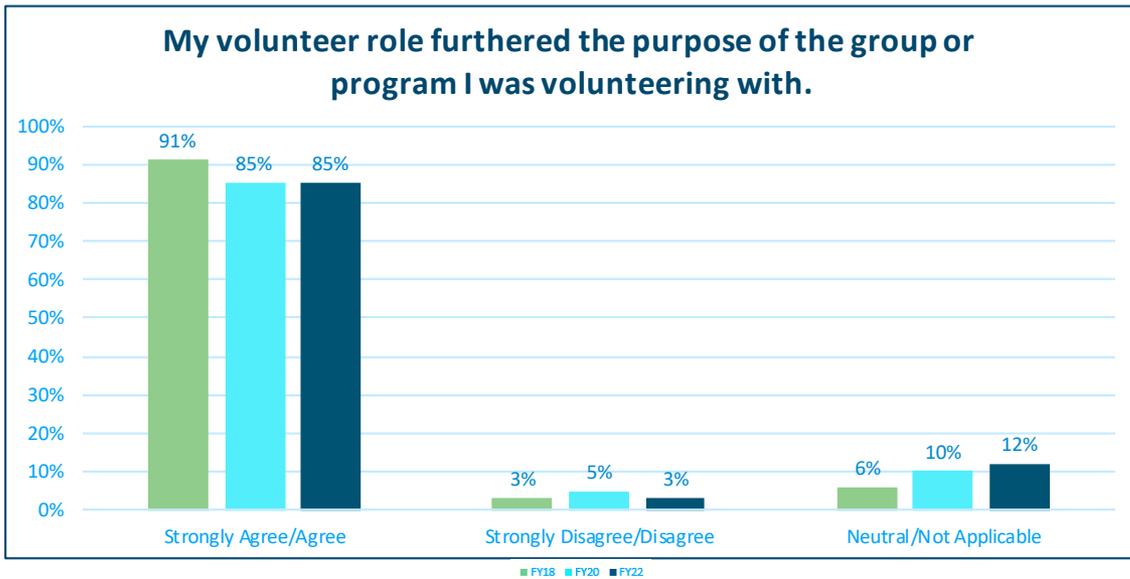


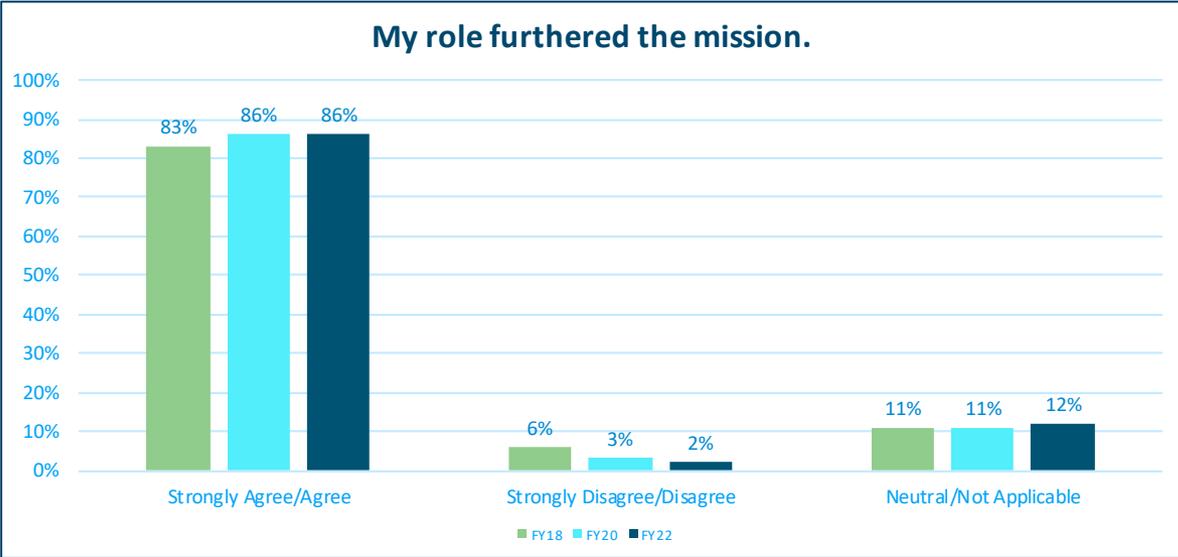


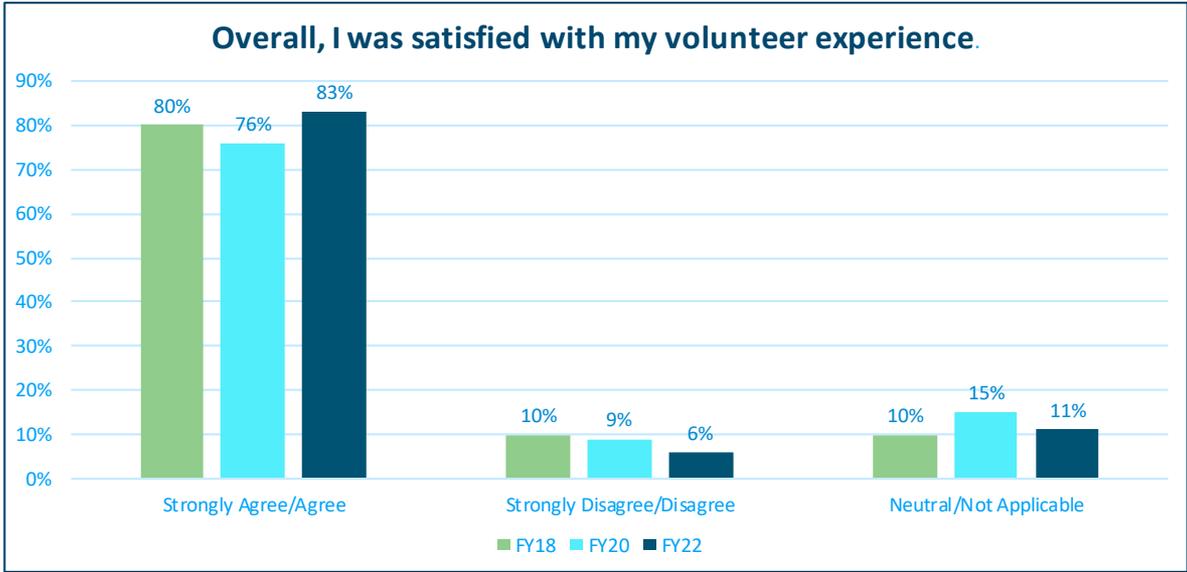


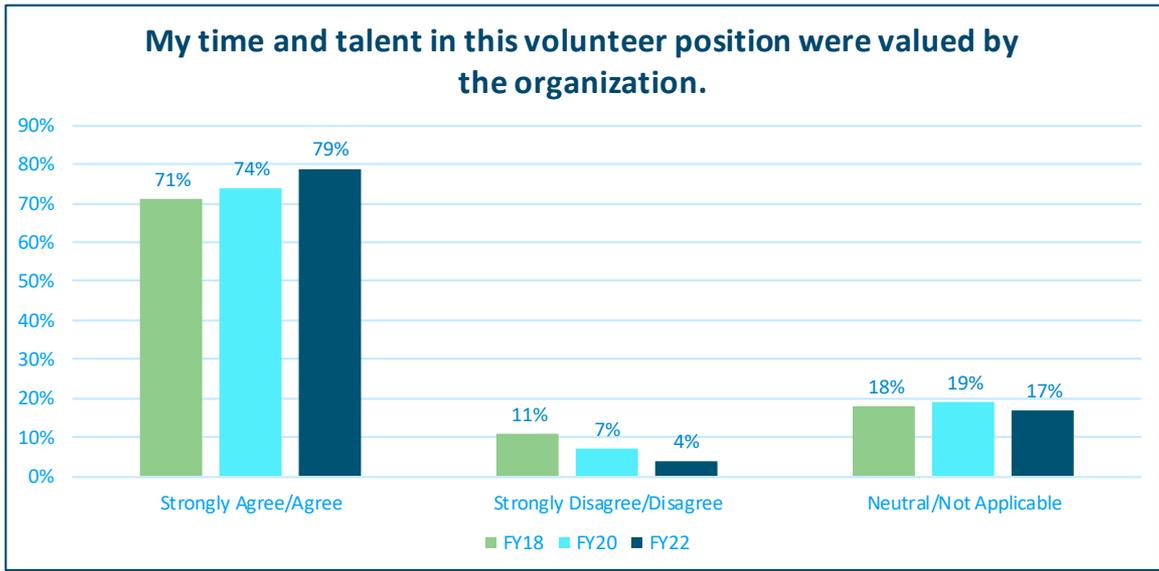


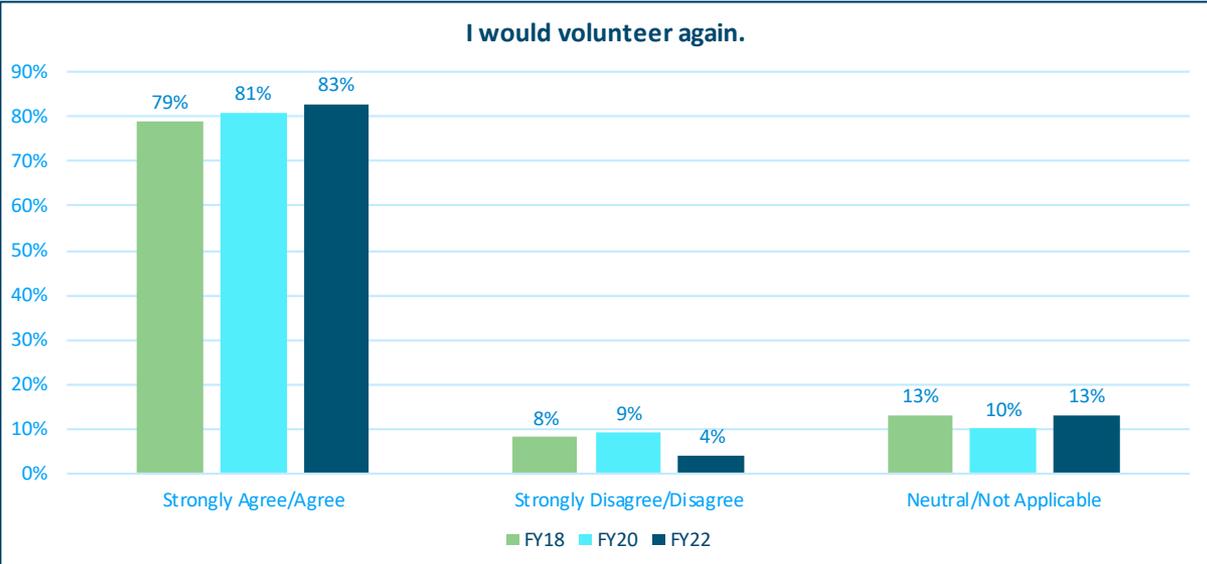












Do you have any additional feedback for how the WSBA could improve onboarding, better support you in your volunteer role, or show appreciation for your contribution? Or do you have any other comments you would like to share with us?

- ‘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



No. 1
Most-Read
Blog Post in
2021!



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 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.*

		YOUR INTERESTS, SKILLS, EXPERIENCES, AND GOALS																	
		Administrative Processes	Civil Legal Aid, Pro Bono, and Public Service	Critical Thinking and Analysis	Discipline System	Delivery of WSBA Events and Programs	Diversity, Equity and Inclusion	Education and Ethics	Effectuate Systemic Change	Event Planning	Group Collaboration and Mentorship	Leadership Development and Mentorship	Centers/Voices of Oppressed Communities	Policy/Rules/Legislation	Public Protection	Recruitment and Peer Recognition	Regulatory Oversight	Research, Writing and Communications	Technology
WSBA Committees <i>(Created and authorized by the Board of Governors)</i>	• 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 Sept. 2020).



SUPPORT

Explore 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



Votes for (Some) Women: A Timeline

Prepared by Laura Edmonston, Deputy Law Librarian

(Updated June 2019)

1700's

1776: During the Continental Congress in Philadelphia, John Adams receives a letter from his wife asking him and the men working on the Declaration of Independence to “remember the ladies.” (“Abigail Adams to John Adams, 31 March 1776,” *Founders Online*, National Archives, accessed April 30, 2019, <https://founders.archives.gov/documents/Adams/04-01-02-0241>.)

Despite the Declaration’s provision stating that “all men are created equal,” voting rights are limited to land-owning white men of the predominant religion after the founding fathers leave the decisions about who gets to vote up to the states. New Jersey, Pennsylvania and Connecticut are the exception, allowing free African American men to vote.

1790: Naturalization is limited to “free white persons of good character” through the passage of the [Naturalization Act](#) (1 Stat. 103).

This same year, the New Jersey Legislature amends their voting law language to read “he or she.” Because married women do not have property rights, only single women are allowed to vote. The law also states that qualified voters must be “free inhabitants of this state, of full age, who are worth fifty pounds, proclamation money, and have resided within the county in which they claim a vote, for twelve months immediately preceding the election...” (1800 N.J. Laws 229, 231.)

1800's

November 24, 1805: In what is considered to be Washington’s first election, Lewis and Clark hold a vote among all members of the expedition when it reaches the place where the Columbia River meets the Pacific. The vote is to decide where to settle for the winter. The votes of Sacagawea and Clark’s “manservant” York, an African American slave, are treated equally to those of everyone else, including Lewis and Clark. It is because of these election results that they stay near Astoria, Oregon for the winter of 1805-1806. (*Sacagawea*, PBS, <https://www.pbs.org/lewisandclark/inside/saca.html>.)

1832: Maria W. Stewart, an African American feminist, abolitionist, author and educator, speaks to a public gathering of black and white men and women about women’s rights and politics. She is the first woman to do so. “Stewart is known for four powerful speeches she delivered in Boston in the early 1830s - a time when no woman, black or white, dared to address an audience from a public platform.” (Maggie MacLean, *Maria Stewart*, The Ohio State University e-history (2013), <https://ehistory.osu.edu/biographies/maria-stewart>.)

1837: Quaker abolitionist Lucretia Mott helps organize the first National Female Anti-Slavery Society convention in New York City. Mott often wore clothing she made herself as a demonstration of wearing something that was not the product of forced labor. (Kate C. Lemay & Martha S. Jones, *The Bold Accomplishments of Women of Color Need to be a Bigger Part of Suffrage History*, SMITHSONIAN MAGAZINE (March 19, 2019), <https://www.smithsonianmag.com/smithsonian-institution/bold-accomplishments-women-color-need-be-bigger-part-suffrage-history-180971756/>.) “Before the Civil War, women in the United States were actively involved in the abolitionist movement to end slavery. It was through their involvement in this issue that women began to confront their own inferior political status.” (LARRY SABATO & HOWARD R. ERNST, ENCYCLOPEDIA OF AMERICAN POLITICAL PARTIES AND ELECTIONS 441 (2006).)

1840: In Article 1, Section 4 of the US Constitution, the founding fathers leave it up to states to determine who has suffrage rights. By this year, most states have eliminated the requirement that someone must be a property owner to vote, securing suffrage for white males over the age of 21.

During this year, Abolitionists Elizabeth Cady Stanton and Lucretia Mott are denied participation as American delegates in the World Anti-Slavery Convention in London.

1848: The first women's rights convention is held in Seneca Falls, NY, organized by Elizabeth Cady Stanton and Lucretia Mott, who "...began drawing parallels between the condition of the enslaved population and their own condition as prisoners within a patriarchal society." (*Parading for Progress*, National Women's History Museum (March 1, 2018), <https://www.womenshistory.org/exhibits/parading-progress>.)

While Frederick Douglass is in attendance, no women of color are present. During the convention, a [Declaration of Sentiments and Resolutions](#) is introduced. Historian Lisa Tetrault states that without Douglass' oratory, the resolution may have failed. (Brent Staples, *Opinion: How the Suffrage Movement Betrayed Black Women*, THE NEW YORK TIMES, July 7, 2018, <https://www.nytimes.com/2018/07/28/opinion/sunday/suffrage-movement-racism-black-women.html>.)

This same year, African-American women win the right to preaching licenses in the African Methodist Episcopal (A.M.E.) Church, paving the way for a decades-long campaign of women lobbying for religious voting rights, office holding and control of funds they raised. This event is a landmark moment in the African American suffrage movement.

This same year, the US signs the Treaty of Guadalupe Hidalgo, ending the Mexican-American war and establishing full rights to Mexican property owners established in ceded areas. However, historians note that the treaty failed to actually protect their property and voting rights. (Researchers, *Treaty of Guadalupe Hidalgo*, LIBRARY OF CONGRESS (Oct. 26, 2017), <https://www.loc.gov/rr/program/bib/ourdocs/guadalupe.html>.)

1851: Stanton and fellow abolitionist Susan B. Anthony are introduced and quickly begin collaborating on the women's suffrage movement. Their life's work includes fighting for both an end to slavery and property ownership for women.

However, Anthony has become a controversial figure in recent years as she is quoted as saying that women deserved the vote more than black men. "[I will] cut off this right arm of mine before I will ever work for or demand the ballot for the negro and not the woman." Stanton too has been criticized for her views on extending voting rights to African Americans. She echoed Anthony's resentment that black men were allowed to vote before women. "[It is] better to be the slave of an educated white man than of a degraded black one." Historian Martha S. Jones stated, "Stanton stands for an impoverished vision of equality that never admitted that black Americans, male and female, were her equals." (Brigit Katz, *Women's Rights Monument in NY.C. Approved Amid Accusations of Whitewashing*, Smithsonian (March 25, 2019), <https://www.smithsonianmag.com/smart-news/nyc-approves-womens-rights-monument-amid-accusations-whitewashing-180971774/>). Historian Lori Ginzberg "argues persuasively that racism and elitism were enduring features of the great suffragist's makeup and philosophy." (Brent Staples, *Opinion: How the Suffrage Movement Betrayed Black Women*, THE NEW YORK TIMES, July 7, 2018, <https://www.nytimes.com/2018/07/28/opinion/sunday/suffrage-movement-racism-black-women.html>.)

Stanton and Anthony's views create a split between the two suffragists and Sojourner Truth, who delivers her famous "Ar'n't I a Woman?" speech during the 1851 Ohio Women's Rights Convention. (The Faith Project, Inc., *Sojourner Truth*, PBS (2003), https://www.pbs.org/thisfarbyfaith/people/sojourner_truth.html)

1853: 102 years before Rosa Parks is asked to move to the back of an Alabama bus, African American Sarah Parker Remond and her two companions refuse to sit in the segregated balcony at the Boston opera. After poor treatment from the officers sent to arrest her, Remond successfully sues for \$500. Remond would continue to be an activist for people of color. (*Sarah Remond Ejected from Boston Theater*, MASSMOMENTS, <https://www.massmoments.org/moment-details/sarah-remond-ejected-from-boston-theater.html>.)

1854: The Washington Territorial Assembly passes its first law – creating rules for elections which include qualifications of voters: “white male inhabitants over the age of twenty-one years.” (*Statutes of the Territory of Washington, Chapter 1 § 1*.) The law is not as specific for voters in school district elections.

During this session, an attempt is made by Representative Arthur Armstrong Denny to get the legislature to grant women the full right to vote and it fails. (Charles K. Wiggins, *John P. Hoyt and Women’s Suffrage*, 43 WASHINGTON STATE BAR NEWS 1, 17-20 (January 1989).)

1855: Connecticut amends their state constitution and becomes the first state to require a literacy test to vote. (Caleb Crain, *The Case Against Democracy*, THE NEW YORKER (Oct. 31, 2016, <https://www.newyorker.com/magazine/2016/11/07/the-case-against-democracy>).

1856: North Carolina becomes the final state to end property ownership as a qualification for voting, resulting in what some historians call universal white male suffrage. (John V. Orth, *North Carolina Constitutional History*, 70 N.C. L. REV. 1759, 1773 n. 101 (1992).)

At this time, African Americans are only allowed to vote in six states: Maine, Massachusetts, New Hampshire, Rhode Island, Vermont and New York. New York require African Americans to own \$250 in “freehold property” to qualify to vote. This is not a requirement for white men. These six states “...contained only 6 percent of the northern black population...” (Susan Cianci Salvatore, et. al, *Civil Rights in America: Racial Voting Rights*, National Park Service (2007, Revised 2009), https://www.nps.gov/subjects/tellingallamericansstories/upload/CivilRights_VotingRights.pdf.)

1857: US Supreme Court Chief Justice Roger Taney rules that slaves are the property of their owners and lack standing to be US citizen in *Dred Scott v. Sanford*, 60 U.S. 393 (1857).

1864*: Asa Mercer (Mercer Island), dismayed by the lack of women in the Washington Territory, embarks on a recruiting mission. The women he brings back are known as the “Mercer Girls.”

While the government took a sympathetic, but basically inactive approach to this problem, one man by the name of Asa S. Mercer made it his personal mission to bring women to the territory. Asa Mercer was in the territory only a little while when he was named president of the territorial university. After serving a second term as president, Mercer was commissioned to go east (where there was a surplus of young women) to recruit women to come west and settle in the predominantly male logging community. Although the territorial governor at the time encouraged Mercer, there were not enough funds in the public treasury to help him in his efforts. Instead, private contributions made by male citizens of the territory financed his trip. Mercer made his first trip back east in 1864. He reportedly held a meeting in Lowell, Massachusetts where there was a large population of Civil War widows and orphans. At that meeting, he emphasized to the women the good pay to be made in Washington Territory as teachers and seamstresses. According to most accounts, Mercer made no mention of the matrimonial purpose of his trip. Eleven women agreed to travel west with Mercer and they arrived in Seattle close to midnight on May 16, 1864. Even at that late hour, they were given what was described as “a royal reception, with such music as the town afforded and a plenty of refreshments thought suitable for New England ladies.” When asked to describe the kind of reception awaiting them, one woman commented that the welcoming party looked like “a pack of grizzlies in store clothes.” Despite such first impressions, records indicate that ten of the eleven girls married shortly after their arrival. Mercer planned a second trip in 1865.

Kelly M. Cannon, *Beyond the "Black Hole" – A Historical Perspective on Understanding the Non-Legislative History of Washington Community Property Law*, 39 GONZAGA LAW REVIEW 1, 25 (2003-2004).

1865: The 13th Amendment to the US Constitution is ratified, making slavery illegal unless used as a punishment for someone convicted of a crime.

1866: American Equal Rights Association (AERA) is formed by suffrage supporters.

This same year, President Stanton and Secretary Anthony of the National Woman's Rights Committee hold the first post-war Woman's Rights Convention. It is the 11th such convention.

At this convention, it was proposed that the Woman's Rights Societies be merged with those attempting to secure the vote for the "Negro" under the name "The American Equal Rights Association." This pamphlet contains addresses by Stanton, Susan B. Anthony, Mrs. Francis D. Gage, Francis Ellen Watkins Harper, Lucretia Mott, as well as Henry Ward Beecher, Wendell Phillips, and Theodore Tilden. There are also interesting letters regretting inability to attend the convention, given at the end, including those of Lydia Maria Child, Caroline Maria Severance, Frances Ellen Burr, Anna E. Dickinson, William Lloyd Garrison, and Frederick Douglass.

The Dobkin Family Collection of Feminism, *Proceedings of the Eleventh National Woman's Rights Convention, Held at the Church...Parkurst*, Glenn Horowitz Bookseller, http://www.glennhorowitz.com/dobkin/proceedings_of_the_eleventh_national_womans_rights_convention_held_at_the_c.

More about Frances Ellen Watkins Harper:

Here's a woman born before the Civil War in a slave-holding state who was orphaned at a young age. She emerges onto the public stage as a poet. She goes on to be an Underground Railroad and anti-slavery activist. She is present at the Women's Convention of 1866 and joins the movement for suffrage.

Kate C. Lemay & Martha S. Jones, *The Bold Accomplishments of Women of Color Need to be a Bigger Part of Suffrage History*, SMITHSONIAN MAGAZINE (March 19, 2019), <https://www.smithsonianmag.com/smithsonian-institution/bold-accomplishments-women-color-need-be-bigger-part-suffrage-history-180971756/>.

1867: The Washington Territorial Legislature changes the language of the election statutes to "all white American citizens 21 years of age" in an attempt to deny voting rights to former Confederate soldiers. Because the language of the phrase does not specify males, Rep. Edward Eldridge argues that it grants women the right to vote. (Wiggins, at 17).

Note: The phrase is not the complete language of the law.

That all white American citizens above the age of twenty-one years, and all American half-breeds over that age who can read and write and have adopted the habits of the whites, and all **other white male** inhabitants of this Territory above that age who shall have declared on oath their intention to become citizens at least six months previous to the day of election, and shall have taken an oath to support the Constitution of the United States and the organic act of this Territory, and who shall have resided six months in the Territory and thirty days in the county, and who have not borne arms against the United States of America or given aid or comfort to its enemies, unless pardoned, and none others shall be entitled to hold office or vote at any election in this Territory. ([Laws of Washington 1866-67 § 8](#)).

1868: The 14th Amendment to the US Constitution is ratified, granting full citizenship rights to former slaves and reversing the Supreme Court's decision in *Dred Scott v. Sanford*, 60 U.S. 393 (1857). Discrimination based on sex remains legal.

1869: Wyoming becomes the first state to allow women to vote. The language of the law does not specify a race. It states: “every woman of the age of twenty-one years, residing in this territory...” (Law Library of Congress, *An Act to Grant to the Women of Wyoming Territory the Right of Suffrage and to Hold Office* (1869), <https://www.loc.gov/resource/ppmsca.03000/>.) However, Wyoming historian Tom Rea points out that an amendment to include women of color and Native Americans in the new law failed during the legislative session. Rea also describes how race played a factor in the support for the law, saying that some Wyoming legislators felt that if African Americans and Chinese residents were going to be given the right to vote, women might as well have it, too. Lawmakers in the state also felt that women would reward those that got them the right to vote by always voting for their party. (Tom Rea, *Right Choice, Wrong Reasons: Wyoming Women Win the Right to Vote*, Wyoming State Historical Society (Nov. 8, 2014), <https://www.wyohistory.org/encyclopedia/right-choice-wrong-reasons-wyoming-women-win-right-vote>.)

Women in [the west] generally made up only a small portion of the population, but their scarcity actually worked to their political advantage in terms of gaining rights. Because these women were needed for companionship and to raise children, they tended to be more highly valued and therefore granted more rights, including voting rights. (Sabato & Ernst, at 441.)

It is said that this is one of the reasons why women in Washington State are given property rights in the state in 1869. (Cannon, at 22). The 1869 statute does not specify race. ([Laws of Washington 1869, 318](#).)

1870: African American men are granted the right to vote with the ratification of the 15th Amendment.

Section 1 of the amendment extends voting rights to all [men] regardless of race, color or previous condition of servitude. Section 2 grants Congress the authority to enact legislation needed to enforce the amendment. (Sabato & Ernst, at 440.)

However, poll taxes, literacy tests, fear, intimidation and later Jim Crow laws are used in former slaveholding states to keep them from exercising it. Literacy text exemptions are allowed for anyone with a grandfather who was eligible to vote in 1860, meaning that the exemptions apply only for white men. Poor white men are often subjected to literacy and “good citizenship” tests at this time, but because the tests are given at the discretion of the poll workers, their tests are generally much easier than those given to African American voters. In the following years, African American women’s organizations mobilize to fight against these barriers. Poll taxes and literacy tests also created barriers for Latino voters.

Historians note that suffragist Elizabeth Cady Stanton was fiercely and publicly opposed to the passage of the amendment. “Historian Faye Dudden wrote that Stanton “dipped her pen into a tincture of white racism and sketched a reference to a nightmarish figure, the black rapist,” and lashed out from the pages of the suffragist paper that she and Anthony published.” (Brent Staples, *Opinion: How the Suffrage Movement Betrayed Black Women*, THE NEW YORK TIMES, July 7, 2018, <https://www.nytimes.com/2018/07/28/opinion/sunday/suffrage-movement-racism-black-women.html>.)

Due to divisions over “tactics, aims, and personalities,” the AERA splits into two groups. Stanton and Anthony found the National Woman Suffrage Association (NWSA). “The NWSA wanted a constitutional amendment to secure the vote for women, but it also supported a variety of reforms that aimed to make women equal members of society.” (*Parading for Progress*, National Women’s History Museum (March 1, 2018), <https://www.womenshistory.org/exhibits/parading-progress>.)

This same year, the American Woman Suffrage Association (AWSA) is established. The AWSA believes in a state by state approach to achieving woman suffrage. Unlike Stanton and Anthony’s group, the AWSA supports the 15th Amendment to the US Constitution. The NWSA’s objection to the amendment is that it does not include women.

These affiliations are important in distinguishing the approach to woman suffrage adopted by individual Black suffragists.

African American women were in a difficult position. Sometimes they worked in their own clubs and suffrage organizations, sometimes with white suffragists. Black women did not accept their exclusion from white suffrage organizations or the racist tactics employed by white suffragists. In the twentieth century, more and more Black women joined the ranks of suffragists as the movement progressed.

Edith Mayo, *African American Women Leaders in the Suffrage Movement*, Suffrage Memorial, <https://suffragistmemorial.org/african-american-women-leaders-in-the-suffrage-movement/>.

This same year, notorious free-love activist and businesswoman Victoria Claflin Woodhull sends a letter to the *New York Herald*, announcing her intention to run for president:

I am quite well aware that in assuming this position I shall evoke more ridicule than enthusiasm at the outset. But this is an epoch of sudden changes and startling surprises. What may appear absurd today will assume a serious aspect tomorrow.

Danny Lewis, *Victoria Woodhull Ran for President Before Women Had the Right to Vote*, SMITHSONIAN MAGAZINE (May 10, 2016), <https://www.smithsonianmag.com/smart-news/victoria-woodhull-ran-for-president-before-women-had-the-right-to-vote-180959038/>.

In Washington Territory, Olympia suffragist Mary Olney Brown holds a picnic in the location of the June 6th election and casts votes, along with six other women. They are counted thanks to an election inspector who is married to one of the voters. When women of a nearby town receives a message that women are voting, eight of them show up to cast their own ballots. A group that Brown later takes to vote at the Olympia courthouse is not as successful. (Stevenson, at 8.)

1871: Oregon suffragist Abigail Scott Duniway starts a women's rights newspaper called *The New Northwest* in May. In autumn of that year she is joined on a tour of the Pacific Northwest by Anthony. After finding out that Anthony had taken a sip of alcohol during her stay in Oregon, the churches of Walla Walla refuse to admit her. (Shanna Stevenson, *Susan B. Anthony's Visit to Washington*, Washington State Historical Society <http://www.washingtonhistory.org/research/whc/milestones/suffrage/anthony/>).

During this trip, Duniway and Anthony present at a suffrage convention in Olympia. "The object of this convention is to arrange some plan by which to secure concert of action among the woman voters of the Territory." In attendance are three of the famed "Mercer Girls." (Shanna Stevenson, *Here Come the Suffragists: The Role of the Mercer Girls in the Washington Suffrage Movement*, WASHINGTON STATE HISTORICAL SOCIETY, <http://www.washingtonhistory.org/files/library/HereCometheSuffragists.pdf>)

This same year "...the United States District Court for Oregon holds that "An Indian... who is a citizen of the United States... cannot be excluded from the [voting] privilege on the ground of being an Indian, as that would be to exclude him on account of race. ' (*McKay v. Campbell* (1871) Fed. Cas. No. 8840, 16 Fed. Cas. 161, 166.) (N. D. Houghton, *The Legal Status of Indian Suffrage in the United States*, 19 CALIF. L. REV. 507 (1931).

1872: Sojourner Truth is arrested in Grand Rapids, MI for demanding a ballot at a polling booth and Susan B. Anthony is arrested in Rochester, NY for attempting to cast a vote for Ulysses S. Grant.

This same year, the Equal Rights Party nominates Victoria Woodhull as their presidential candidate. Frederick Douglass is nominated as the vice-presidential candidate – something that he did not publicly accept or acknowledge. As a result of the nomination, Woodhull is evicted from her home and is forced to withdraw her daughter from school so that she does not influence other children with her "radical" ideas. (Danny Lewis, *Victoria Woodhull Ran for President Before Women Had the Right to Vote*, SMITHSONIAN MAGAZINE (May 10, 2016),

[https://www.smithsonianmag.com/smart-news/victoria-woodhull-ran-for-president-before-women-had-the-right-to-vote-180959038/.](https://www.smithsonianmag.com/smart-news/victoria-woodhull-ran-for-president-before-women-had-the-right-to-vote-180959038/))

1874: The US Supreme Court rules in *Minor v. Happersett*, 88 U.S. 162 (1874) that the St. Louis registrar of voters did not violate any laws when barring Virginia Minor from registering to vote, opining that simply being a citizen doesn't qualify.

This same year, the Women's Christian Temperance Union is founded and becomes a voice in the fight for woman suffrage. Fearing that women may use the vote to end the sale of spirits, the liquor lobby becomes a strong opponent of granting women the right.

1875: Territorial Legislator Elwood Evans of Olympia makes an unsuccessful attempt to pass a suffrage bill. (Stevenson, at 13).

1877: The Territorial Legislature grants women (taxpayers who have lived in the district for three months) the right to vote in school board director elections in their local districts. ([Laws of Washington 1877, 268](#)).

1878: Anthony introduces an amendment to grant women the right to vote. (Anthony and Stanton did not live to see the passage of the 19th Amendment to the US Constitution.)

This same year, delegates assemble in Walla Walla for the drafting of a constitution to be submitted to Congress in Washington's petition for statehood.

Though the convention heard from Abigail Scott Duniway, a prominent Oregon suffragist, and [Edward] Eldridge moved to delete the word "male" from voter qualification requirements, the delegates rejected extension of the franchise. However, the delegates voted overwhelmingly to submit women's suffrage as a separate proposition for a direct vote by the electorate. The voters ratified the Walla Walla constitution, but rejected women's suffrage by a margin of almost 3 to 1, and the whole effort came to naught because Congress declined to grant statehood in 1878. (Wiggins, at 17).

1879: Omaha "Friends of the Indian" group member Inshta Theumba ("Bright Eyes") (Susette La Flesche (later Tibbles)) testifies on behalf of the Ponca Tribe and serves as the interpreter for Standing Bear in *U.S. v. Cook*, 5 Dill. 453 (1879). La Flesche, newspaper reporter and sister of the first licensed Native American woman doctor, is said to be the first woman to speak out for the rights of Native Americans. (Berger, at 1208.)

1882: US Senate Select Committee on Suffrage is created.

This same year, the US government passes the Chinese Exclusion Act (22 Stat. 58), barring certain people of Chinese descent from becoming citizens, thus excluding them from voting. "Congress...refused State and Federal courts the right to grant citizenship to Chinese resident aliens, although these courts could still deport them." (National Archives, *Chinese Exclusion Act (1882)*, <https://www.ourdocuments.gov/doc.php?flash=false&doc=47>.)

November 1883: The Washington Territorial Legislature grants women the right to vote and serve on juries. The amendment to the previous law eliminates the word "male" and states that "his...shall be construed to mean "his or her," as the case may be," but keeps the language about race. ([Laws of Washington 1883, 39-40](#).)

This same month, the Legislature also passes a Memorial (*Praying the Abolition of Indian Reservations*), that states in part:

To the Honorable Senate and House of Representatives, of the United States of America, in Congress Assembled: That the continuance of race distinction by segregating a particular class of our native population, and confining them to reservations, treating them as inferiors and dependent, whether they be regarded as wards of the government, or prisoners upon such reservations is inconsistent with the

progressive spirit of the age, and the grand achieved doctrine of the republic, that all humanity are equal before the law. Discrimination on account of race which ignores manhood or equality and uniformity of right as men and women, is at variance with the theory of Democratic government, and surely native born humanity of the United States cannot longer be regarded as aliens, nor can communities of such be treated as foreign nations. That the time has arrived when the Indian should be treated as other men are treated, with the same right to enjoy property, the same right to pursue happiness. That race should not be confined as prisoners upon, or be limited to reservations; nor should they enjoy rights to acquire or hold land superior to, or different from the American citizen. An Indian is human, he is neither more nor less than a native of our country, and your memorialists believe that a policy which recognizes his humanity and manhood should be adopted. ([Laws of Washington 1883, 434.](#))

Not everyone agrees with the idea of women serving on juries. Critics claim that a woman's presence in the courtroom is "...a misguided experiment that violated the laws of nature and would lead to dire consequences for family and society." (Aaron Caplan, *The History of Women's Jury Service in Washington*, WASHINGTON STATE BAR NEWS 13 (Mar. 2005), <http://www.washingtonhistory.org/files/library/WomenJurors.pdf>.)

The implication was tested when one Mollie Rosencrantz appealed her conviction for keeping a house of ill fame on the ground that a married woman had served on the grand jury which had indicted her. (*Rosencrantz v. Territory*, 2 Wash. Terr. 267 (1884)). [Supreme Court] Judge Hoyt, writing for himself and concurring Judge Wingard, upheld the conviction on the ground that the law was valid, and women were therefore eligible to sit on juries. (Wiggins, at 17.)

In his dissent in *Rosencrantz*, Judge Turner writes:

Legislative enactment would not make white black, nor can it provide the female form with bone and sinew equal in strength to that with which nature has provided man. No more can it reverse the law of cause and effect, and clothe a timid, shrinking woman, whose life theater is and will continue to be, and ought to continue to be, primarily the home circle, with the masculine will and self-reliant judgment of man. (Caplan, at 13.)

This same year, the Woman's Club of Olympia forms – the first of its kind on the West Coast and possibly in Washington. The club and its original meeting house still exist today.

1884: The National Equal Rights Party nominates another woman candidate for president, attorney Belva Ann Lockwood, who receives over 4,000 votes from six states.

1886: The Washington Territorial Legislature amends the 1883 "his or her" language to "male and female." The language about race remains.

"That all citizens of the United States, male and female, above the age of twenty-one years, and all American half-breeds, male and female, over that age, who have adopted the habits of the whites, and all other inhabitants, male or female, of this territory, above that age, who have declared on oath their intentions to become citizens of the United States at least six months previous to the day of election, and shall have taken an oath to support the constitution and government of the United States at least six months previous to the day of election, and who shall have resided six months in the territory, sixty days in the county, and thirty days in the precinct next preceding the day of election, and none other, shall be entitled to vote at any election in this territory..."

[Laws of Washington 1885-86, 113-114.](#)

1887: The Territorial Supreme Court declares the 1883 statute invalid in *Harland v. Territory*, 3 Wash. Terr. 131 (1887). Women are no longer allowed to vote or serve on juries.

This same year, [The Dawes Act](#) (also known as the General Allotment Act) is passed, granting citizenship to Native Americans who reject their tribal affiliations. (24 Stat. 388.) Susette La Flesche Tibbles is credited with helping to get the act passed, “at the time considered a progressive law of benefit to the tribes.” (National Women’s Hall of Fame, *Inductee: Susette La Flesche*, <https://www.womenofthehall.org/inductee/susette-la-flesche/>). However, the intent of providing additional rights to Native Americans through this act was not realized and is considered to be a disaster. “...the need to prepare Indians for citizenship helped justify federal boarding schools and subjection to American law.” (Bethany R. Berger, *Birthright Citizenship on Trial: Elk v. Wilkins and United States v. Wong Kim Ark*, 37 CARDOZO L. REV. 1185, 1190 (2016).)

1888: The Territorial Legislature reenacts the right to vote for women following the *Harland* decision. The legislation comes after a suffragist campaign that included a petition to Congress that read, in part, “We are disenfranchised; stripped of our rights and our liberties, and reduced to equality with the squalid savage and the heathen Chinese.” (Stevenson, at 26.) One Seattle judge opposes the legislation, imploring Governor Eugene Semple not to sign it as it could hurt Washington’s chances of becoming a state. (Stevenson, at 27.)

However, women again lose the right to vote and to serve on juries when the Territorial Supreme Court declares the statute unconstitutional in the case *Bloomer v. Todd*, 3 Wash. Terr. 599 (1888). Suffragists would later use this case in their campaign to claim that women were tricked out of their right to vote. Mrs. Geo. A. Smith of Spokane writes in a piece for *The Spokane Press* that Mrs. Nevada Bloomer was part of a scheme intended to end suffrage for women, created by the bootleggers and other criminals that female voters had driven out of the Territory. Mrs. Smith also declares that women had voted so much between 1883 and 1888, they would make it impossible for suffrage to be revoked. Thus, Mrs. Bloomer was called in to get the case into court. (Mrs. Geo A. Smith, *How Washington Women Were Tricked Out of Their Right to Vote*, THE SPOKANE PRESS July 8, 1909.)

See: *Bloomer v. Todd*, 3 Wash. Terr. 599, 611 (1888) and Chapter 51, Laws 1888.

1889: Washington becomes a state on February 22nd with the passage of “The Enabling Act” and holds its constitutional convention.

[Soon to be Justices] Dunbar and Hoyt were in serious contention for the honor of being presiding officer of the convention. However, their strong support for the women's vote was a hindrance. According to *The Seattle Daily Times*: “Hoyt is objected to by the antisuffragists, but his views upon the subject are mild, compared with those of Dunbar, consequently Dunbar's changes for the coveted honor have melted away like snow in the sunshine.” *Seattle Daily Times*, July 3, 1889, at 1, col. 4.

Charles H. Sheldon; Michael Stohr-Gillmore, *In the Beginning: The Washington Supreme Court a Century Ago*, 12 U. PUGET SOUND L. REV. 247 (1989).

The question of woman suffrage is raised on three separate days during the convention and debate covered the inclusion of it in the constitution and statutes. It is argued for by Rep. Eldridge, who spends over an hour explaining the history of the Washington movement to delegates. His motion is defeated 50-8. Eldridge is also unsuccessful in convincing the delegates to allow a vote on suffrage by the people in the future. (Wiggins at 20.) The convention is attended by Massachusetts suffragist Henry B. Blackwell, who writes to his wife of the proceedings:

Here I am fighting against odds – both the party conventions and leaders having dropped woman suffrage in order to conciliate the whiskey interest & the very general opposition which the men have manifested since the judges have overthrown the women’s right of suffrage. It is a most discouraging & perplexing condition of things. (Wiggins, at 19).

Suffrage for women is defeated at the convention 16, 527 to 34, 513. (Wiggins at 20).

Article 6 of the new State Constitution reads:

All male persons of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all elections: They shall be citizens of the United States; They shall have lived in the state one year, and in the county ninety days, and in the city, town, ward or precinct thirty days immediately preceding the election at which they offer to vote; **Provided, that Indians not taxed shall never be allowed the elective franchise**; Provided, further; that all male persons who at the time of the adoption of this Constitution are qualified electors of the Territory, shall be electors.

WASH. CONST. art. 6, § 1 (1889).

This same year, the Colored Ladies' Society (aka Ladies' Colored Social Circle) is formed in Seattle. African American, Native American and Chinese American women would continue to organize in Washington in the following years with the formation of several other clubs. (Shanna Stevenson, *WOMEN'S VOTES WOMEN'S VOICES: THE CAMPAIGN FOR EQUAL RIGHTS IN WASHINGTON* 23 (2009).)

1890: The NWSA and AWSA unite to form the National American Woman Suffrage Association (NAWSA).

During this same year, Jane Addams and Ellen Gates Starr found Hull House, a settlement house project in Chicago's 19th Ward. Within one year, there are more than a hundred settlement houses--largely operated by women--throughout the United States. The settlement house movement and the Progressive campaign of which it is a part propels thousands of college-educated white women and a number of women of color into lifetime careers in social work. It also makes women an important voice to be reckoned with in American politics.

One Hundred Years Toward Suffrage: An Overview, LIBRARY OF CONGRESS,
https://www.loc.gov/rr/print/list/076_vfw_timeline.html.

1892: After an invitation to the upcoming Columbian Exposition in Chicago, Washington women (race not specified) are allowed to hold and vote in an election to determine the state flower, to be displayed there. After balloting closes in August of this year, the majority of the 14, 419 female-only votes are cast for the rhododendron, which is later confirmed in the state Senate. (Stevenson, at 32.)

1893: African American women's organizations are denied participation in the Women's Pavilion at The Columbian Exposition, an incident that galvanizes more African American women to take their movement beyond their home cities. (Nancy F. Cott, *An Experiment of Women*, THE NEW YORK TIMES (July 19, 1981),
<https://www.nytimes.com/1981/07/19/books/an-experiment-of-women-1893.html>).

They came out of many movements: the anti-slavery movement, their own church communities, self-created clubs. African-American women were oftentimes at odds with their white counterparts in some of the mainstream organizations, so they continued to use their church communities as an organizing base, to develop ideas about women's rights. The club movement, begun to help African-American women see one other as political beings, became another foundation. By the end of the 19th century, many of these women joined the Republican Party. In cities like Chicago, African-American women embraced party politics and allied themselves with party operatives. They used their influence and ability to vote at the state level, even before 1920, to affect the question of women's suffrage nationally.

Kate C. Lemay & Martha S. Jones, *The Bold Accomplishments of Women of Color Need to be a Bigger Part of Suffrage History*, SMITHSONIAN MAGAZINE (March 19, 2019), <https://www.smithsonianmag.com/smithsonian-institution/bold-accomplishments-women-color-need-be-bigger-part-suffrage-history-180971756/>.

1894: The issue of racial integration of women's clubs on a local level is first presented when Fannie Barrier Williams is rejected from membership in the Chicago Women's Club because of her race. The decision is reversed "after fourteen months of debate and agitation." (BLACK WOMEN IN WHITE AMERICA: A DOCUMENTARY HISTORY 447 (Gerda Lerner ed., Vintage Books 1972).)

1895:** Boston hosts the First National Conference of Colored Women of America. Organized by Suffragist Josephine St. Pierre Ruffin (founder of the Women's New Era Club of Boston), the conference is attended by representatives of African-American women's clubs from 14 states. It is at this conference that the National Federation of Afro-American Women (NFAAW) is founded.

Speakers included Margaret Murray Washington (the wife of Booker T. Washington), author and former slave- Victoria Earle Matthews, anti-lynching activist Ida B. Wells, scholar Anna J. Cooper, civil rights leader T. Thomas Fortune, and social reformers Henry B. Blackwell and William Lloyd Garrison. The National Federation of Afro-American Women, which became the National Association of Colored Women the following year, was organized during the conference.

Walter Opinde, *The First National Conference of the Colored Women of America*, Black Then (July 16, 2017), [https://blackthen.com/first-national-conference-colored-women-america/.](https://blackthen.com/first-national-conference-colored-women-america/))

This same year, Elizabeth Cady Stanton publishes *The Woman's Bible*. From this point forward, she is deemed too radical and no longer invited to sit on stage at NAWSA conventions, an organization she served as president of before she stepped down in 1892.

1896:** The National Association of Colored Women (NACW) is founded with the motto of "Lifting as We Climb."

They advocated for women's rights as well as to "uplift" and improve the status of African Americans. For example, black men officially had won the right to vote in 1870. Since then, impossible literacy tests, high poll taxes, and grandfather clauses prevented many of them from casting their ballots. NACW suffragists wanted the vote for women and to ensure that black men could vote too.

Allison Lange, Ph.D, *National Association of Colored Women*, Women's History Museum (2015), <http://www.crusadeforthevote.org/nacw>.

This same year, an English speaking requirement is added to the voter qualifications in the Washington State Constitution. "They shall be able to read and speak the English language." (WASH. CONST. art. 6, § 1 (amended 1896.)) "The enactment of this voting restriction was a response to a growing nativist opposition to immigration." (Stevenson, at 33.)

1898: An attempt to amend the Washington State Constitution to grant women the right to vote again fails. Seattle suffragist Adella Parker blames the saloon lobby for the defeat. (Special Collections, *A Ballot for the Ladies*, University of Washington Libraries, [http://content.lib.washington.edu/exhibits/suffrage/.](http://content.lib.washington.edu/exhibits/suffrage/))

1900's

1900: In what is known as "The Ruffin Incident," African American suffragist Josephine St. Pierre Ruffin's Women's Era Club has its admission to the General Federation of Women's Clubs rescinded at the Wisconsin biennial convention when it is discovered that the club contains African American members. (Lerner, at 448.)

Upon arriving in Milwaukee, Mrs. Ruffin was forced into a humiliating position for which she was wholly unprepared. The Massachusetts delegation was immediately notified that the Board had met and would not receive an application for membership of the Woman's Era Club. Mrs. Ruffin was informed that she could not enter the convention representing a 'colored club' but would be received as a delegate from a

'white club,' and to enforce this ruling an attempt was made to snatch from her breast the badge which had been handed her on the passing of her credentials.

H. F. KLETZING, A.M. & W.H. CROGMAN, A.M., PROGRESS OF A RACE 222 (1903).

Ruffin is then banned from the convention when she refuses on principle to sit on behalf of any club she had planned to represent. At this same convention, Mary Church Terrell from the National Association of Colored Women is denied permission to extend greetings on behalf of her association. However, she addresses two white groups later this year about the needs of black women and the prejudice and lack of sympathy shown by white women. (SHARON HARLEY & ROSALYN TERBORG-PENN, THE AFRO AMERICAN WOMAN: STRUGGLES AND IMAGES 23 (1997).)

"Black women's suffrage clubs that sought formal affiliation with the national white suffrage movement were discouraged from doing so on the grounds that admitting them might anger white Southerners. It has since become clear that this was a ruse Northern whites used to obscure their own discriminatory policies." ((Brent Staples, *Opinion: How the Suffrage Movement Betrayed Black Women*, THE NEW YORK TIMES, July 7, 2018, <https://www.nytimes.com/2018/07/28/opinion/sunday/suffrage-movement-racism-black-women.html>.)

1903: Susan B. Anthony and other noted suffragists sign a prepared statement at the NAWSA meeting in New Orleans, endorsing the organization's states' rights position, "which was tantamount to an endorsement of white supremacy in most states, particularly in the South." Moves such as this one cause African American suffragists to feel that prominent white suffragists are sympathetic in words only. (Harley and Terborg-Penn at 24.)

During the convention week, Susan B. Anthony visited the black Phyllis Wheatley Club in New Orleans. In presenting flowers to Anthony on the occasion, Sylvamie Williams, president of the club, indicated that black women were painfully aware of their position among white suffragists. She compared black women to flowers "trodden under foot," stating: "When women like you, Miss Anthony, come to see us and speak to us it helps us believe in the Fatherhood of God and the brotherhood of Man, and at least for the time being in the sympathy of women."

Harley and Terborg-Penn at 24.

1905: Following their 1898 defeat, Washington suffragists revive their efforts get the vote by attending the Lewis & Clark Centennial Exposition in Portland – an event that is part of the NAWSA Convention. Anthony and Duniway are among the attendees. NAWSA president Anna Howard Shaw and Anthony seize upon the dedication of a statue of Sacagawea by deeming her "a symbol to western women campaigning for the vote and cast her as an example of the partnership of women and men in settling and prospering in the West." (Stevenson, at 38-39.)

January 1909: Washington legislators introduce a bill providing the right to vote to women with one child. "It is intended to head off the women's suffrage bill, which has no end of friends in the legislature." (Staff Writer, *No Votes for Old Maids*, THE TACOMA TIMES, January 23, 1909.)

The bill is so controversial that the author does not make their identity known and swears the clerk to secrecy. In response, suffragist leader Emma Smith DeVoe states that she will present a substitute bill requiring any man holding office to prove paternity. Among other qualifiers, her bill would also require Supreme Court judges to have six children each and governors an even dozen.

January 29, 1909: Washington State's Women's Suffrage Bill ([HB 59](#)) passes the House by a vote of 70 to 18. (Staff Writer, *Suffrage Bill Passes House*, THE SPOKANE PRESS, January 29, 1909.)

Feb. 4, 1909: Washington Women's Suffrage Bill passes the Senate Committee and the suffrage movement begins to gain a lot of ground in the state. The Spokane Press reports, "Every day finds fresh addition to the suffragist lobby until now it is difficult from a glance in the capitol corridor to tell whether there is a legislature in session or a woman's book club." (Staff Writer, *Suffragists Make a Killing in the Senate*, THE SPOKANE PRESS, February 6, 1909.)

Feb. 23, 1909: Suffrage Bill passes the Senate in WA “without a ripple,” 30-9. (Staff Writer, *Suffrage Bill Passed Today*, SPOKANE PRESS, February 23, 1909.) It will now be up to Washington voters to decide to include suffrage in the state constitution.

April 19, 1909: The Massachusetts Association Opposed to the Further Extension of Suffrage to Women, (an organization of over 14,000 women) makes a statement to the Massachusetts legislature, expressing the fear of what they feel suffrage would mean for them:

We are here in behalf of our own association and of all other women who wish to retain their existing, rights and exemptions, and who prefer to intrust the politics of the state to men rather than to women. The men of Massachusetts have always considered the welfare and wishes of her women. Our laws have been changed again and again for their protection and benefit, and they stand today as a proof that the interests of women can safely be intrusted to those who now enact our legislation. Indeed, our only fear is that the generosity toward women which so distinguishes American men may induce some legislature to listen too favorably to such petitions as are presented here today, simply because the petitioners are women. We ask you, therefore, to remember the wishes of the women throughout the state who would be injured by the change proposed. These women have no desire to secure the rights of men; neither do they wish to assume their duties. If you doubt this, we ask you to consult the women in your own homes and in your neighborhood. Do the women you know wish to attend town meetings? Are they anxious to go to caucuses? Do you believe they desire to take their share in jury service? Do they believe it is for the welfare of the state that they should assume your present duties while still retaining their own?

Equal Suffrage: Massachusetts Women Oppose Extension of Suffrage. THE ABERDEEN HERALD, April 19, 1909.

In the printing of the statement, Washington’s *Aberdeen Herald* newspaper acknowledges that the anti-suffrage movement is not organized, nor is it making any headway in stopping the momentum of the national tide.

April 17, 1909: Four women from Washington State participate in the Convention of the International Suffrage Societies in London, to celebrate the release of British suffragist Emmeline Pethick-Lawrence from jail. *The Wenatchee Daily World* proclaims, “Spokane’s float the finest in the largest women’s parade ever held in London.”

In a message sent by cable to be delivered at a meeting of the Spokane Equal Suffrage Association, Washington resident La Reine Baker writes:

One of the various objections advanced against granting women political liberty is that if the women have the ballot, the home and babies may be neglected and that the publicity at the polls may mar her chief charm - modesty. The fact that Election Day rolls around once in two years, or once each year at most, and that an opinion can be written and placed in a box in about five minutes does not seem to consume much of the years’ time. This duty of voting is less arduous than some that have fallen to the lot of women. And yet another objection. Women might have to sit on juries if they voted. I think that women who stand behind counters or in factories at the cook stove, washtub, ironing table, dish sink and baby crib would be mighty glad to sit on almost anything for a rest.

Participate in Demonstration, THE WENATCHEE DAILY WORLD, April 21, 1909.

June 1909: A train called the “Washington Suffragette Special” arrives in Seattle in late June, with suffragists from across the country, escorted by Mrs. Emma Smith DeVoe. Arriving on a different train are 300 delegates sponsored by the Tacoma Suffrage Club. They are there to attend the National American Woman Suffrage Association Convention, held from July 1 – 7, 1909.

During the convention in Seattle, major conflict strikes when the Washington Association plans to oust the Spokane delegation, whom they believe to be opposed to the association presidency of Smith DeVoe. (*Effort to Oust Spokane Suffrage Delegation*, SPOKANE PRESS, June 29, 1909). The Spokane group is labeled “the insurgents”

after they are ousted. Once rumor spreads that they will try to take their seats by force, the “insurgents” are locked in a room in the church hosting the convention and the police are called. However, with the help of prominent Seattle attorney Mrs. Leonia Browne, the members of the National Association vote to give seats to two women from the Spokane delegation. The news reports that while Association members are not able to get them a vote, they can at least get them a voice. (*“Outs” Score Point and Mrs. DeVoe and Friends are Peeved*, THE SEATTLE STAR, July 2, 1909)

As a result of what happens at this convention, the National Equal Suffrage Association Convention “adopts a motion depriving the Washington delegates of the right to vote, but granting them all other rights.” This strips the Washington women of having any say in the deliberations of the national body. The two organizations make peace after they agree to have separate but equal branches on their respective sides of the state.

September 1909: Female workers at the Leiserson Company, Rosen Brothers & Triangle Shirtwaist (NY) Companies stage a strike for union representation and to protest against unsanitary conditions, sexual harassment, long working hours and low wages and endless fines for everything from laughing to crooked stitching. It is estimated that between 10,000 and 40,000 women from NY and PA participate in the strike. The women are helped out financially during the strike by women’s labor unions, including the International Ladies Garment Workers Union, Women’s Trade Union League and suffragists. The cause gains much needed media attention when it is supported by JP Morgan’s daughter Anne and Alva Vanderbilt Belmont, referred to as the “mink brigade.” Magistrates of the court tell the women that they are on strike against “God and Nature.” The strike ends in February of 1910. (Global Nonviolent Action Database, *Triangle Shirtwaist Factory women strike, win better wages and hours, New York, 1909*, Swarthmore University (2014), <https://nvdatabase.swarthmore.edu/content/triangle-shirtwaist-factory-women-strike-win-better-wages-and-hours-new-york-1909>.)

1910: In the final months leading up to the passage of woman suffrage in Washington State, the topic can be found heavily covered in the newspapers of the region, particularly in the editorial section. Dueling opinion pieces appear frequently that generally pit the “votes for women” column written by an older woman against the anti-suffrage side penned by a younger woman. Arguments include:

- We don’t mind if women have the vote, but do they really want it?
- Government is a home and every home needs a mother. (Mrs. Harriet Taylor Upton)
- Suffrage will destroy the institution of marriage.
 - To counter this argument, the editor of the *Women’s Tribune of Portland* presents statistics showing that the number of marriage licenses increased after women were given the municipal ballot in Kansas. *Suffrage Means More Homes, Think Leaders*, THE SEATTLE STAR, July 6, 1909.
- Women don’t need the vote in order to make change for women.
- Women don’t want to vote and the right should not be granted because it is something that will only be done by the lower class.

See also:

Do the Women of Tacoma Want to Vote?, TACOMA TIMES, April 29, 1910.

Only Dregs of Womankind Vote, Says Chancellor, THE TACOMA TIMES, July 20, 2009.

Preacher Knocks Woman Suffrage, THE SPOKANE PRESS, March 8, 1909.

April 5, 1910: WA Governor Hay is asked whether or not he will vote for suffrage:

I haven’t seen Mrs. Hay for a few days, but I will tell you what, I am going to leave that question to her. If she votes for woman suffrage then they get my vote and if she sees fit to vote against the cause, I will vote with her. I don’t believe that woman suffrage will do the real good which is claimed by the enthusiasts of

the cause; neither do I think it will do the harm those who are greatly opposing it claim. We have a young lady in the office who is a radical suffragist. We generally fight against the question before her. She is an excellent office woman, though, if that counts for anything in their favor. But I am really going to vote with Mrs. Hay.

If Mrs. Hay Wants Suffrage Governor Will Vote For It, THE SPOKANE PRESS, April 5, 1909.

May 14, 1910:

Women don't want to vote and the right should not be granted because it is something that will only be done by the lower class.

This sentiment was shared by President Taft, who expressed his opinion to the non-receptive delegates of the National Women Suffrage Association Convention. "He said he thought one of the dangers in granting suffrage to woman was that women, as a whole, were not interested in it and, the ballot, as far as women are concerned, would be controlled by the 'less desirable class.'"

President Taft: "There is another qualification, which is that the class which has suffered should care enough for their interests to take part in the exercise of political power if conferred upon them. If they do not, then it seems to me that the danger is, if the power of suffrage is granted, it will be exercised by that part of the class which is less desirable."

President Insulted by the Suffragettes. THE EVENING STATESMAN, April 15, 1910.

Several newspaper articles describe the reaction from the suffragists as "hissing."

During 1910, a New York Suffragist named Mrs. Clarence H. Mackay comes to Seattle to organize a branch of the Equal Franchise Society, whose mission is to get high society/"fashionable" women on board with suffrage, much like the "influencers" of today's social media. *The Spokane Press* also reports in 1910 that "society cowgirl" Hazel Philip will take to the roads in her home state of South Dakota to promote the idea that if you own property and pay taxes, you should have the right to vote regardless of sex. Philip promises that if her campaign is successful, she will drive a herd of buffalo from her father's ranch to lead the local suffragist parade. (*Society Cowgirl to Stump State for Suffrage*, THE SPOKANE PRESS, May 13, 1910.)

October 28, 1910: *The Seattle Republican* posts a full page article dedicated to the results of a circular that was sent to ministers, religious publication editors and Sunday School Superintendents in all equal suffrage states. Questions posed to the ministers include "Has equal suffrage demoralized the women? Has it made less good wives and mothers? Do the immoral women control the elections? Has it made it harder for women to secure desired legislation? Is there any likelihood that woman suffrage will be repealed?" *Jury of Six Hundred Find for Woman Suffrage*, THE SEATTLE REPUBLICAN, Oct. 28, 1910.)

Of the 624 answers received from the religious sector, 516 are fully in favor of suffrage. As to the question of whether or not suffrage is likely to be repealed, one replies, "When the pyramids are obliterated." The results of this circular are of big importance to the cause as the opinions of ministers are considered to be more "weighty" than others.

Shortly after this piece is published, the *Republican* posts a full page editorial with a statement from Wyoming Governor Bryant B. Brooks about the benefits of suffrage to the family. The paper states that no other quote about the matter has been so widely distributed as this one:

In the first place, let me say that nothing can be so far from the truth as that woman suffrage has the slightest tendency to disrupt the home. Indeed, it has the very opposite effect. As a result of it, politics is talked freely in the family circle, and political questions are settled by intelligent discussion. This has a great and good influence on the growing generation. The children grow up in an atmosphere that encourages

intelligent consideration and debate of public problems, and are thus better equipped to deal with public questions when they reach voting age.

Equal Suffrage Benefits the Family, THE SEATTLE REPUBLICAN, Nov. 4, 1910.

November 8, 1910: Suffrage passes in Washington State by a two to one margin and the State Constitution is amended to read, “There shall be no denial of the elective franchise at any election on account of sex.” Washington is the first state in the 20th century and the fifth state in the union to pass voting rights for women. However, “Indians not taxed” remains in the State Constitution, as does the requirement that qualified voters must be able to read and speak English. Persons with developmental disabilities and mental illness are also disqualified from voting. (WASH. CONST. art. 6, § 1 (amended 1910).)

The front page of the *Seattle Star* states that “All day long yesterday women stood in the rain at every precinct poll and canvassed conscientiously. From Tacoma, Spokane and other large cities, similar victories are reported.” (*Suffrage Wins*, SEATTLE STAR, Nov. 9, 2010.)

March 25, 1911: The Triangle Shirtwaist Factory burns down, killing nearly 150 people, a majority of which are women under the age of 20. Following a trial, one of the factory owners is acquitted and the other is charged a \$20 fine, said to be about three week’s pay for a single worker. The event plays a critical role in the women’s labor suffrage movements. In a speech to Congress in 1912, New York social worker Leonora O’Reilly testifies:

The world to-day knows that the women in industry are making good. But we working women maintain that the rest of the world are not keeping faith with us, in that they are driving us like mad, burning us alive, or working us to death for profits. We, of New York, remember the Triangle fire cases; we saw our women burned alive, and then when our people appealed to the courts and tried to get justice we got instead the same old verdict from the courts, “Nobody to blame.” The ballot is a matter of necessity with working women. We want you to put behind you all your prejudice against votes for women; we ask you for fair play.

Macy Halford, *To the Woman It Is a Real Tragedy*, THE NEW YORKER (March 25, 2010), <https://www.newyorker.com/books/page-turner/to-the-woman-it-is-a-real-tragedy>.

This same year, Washington becomes the first state in the US to authorize female jurors by statute. ([Washington State Session Laws 1911, Ch. 57 § 2.](#)) Nationally, a group of wealthy, influential women and high ranking members of the Catholic Church form the National Association Opposed to Woman Suffrage (NAOWS).

1912: New York suffragists hold a parade in New York City, attended by 10,000 people. Helping to lead the parade on horseback is 16-year old Mabel Lee, who emigrated with her parents from China in 1900. As a student at Barnard College in New York City, Lee joins the Chinese Students’ Association, where among the feminist essays she pens is “The Meaning of Woman Suffrage.”

“The extension of democracy (through voting) and “equality of opportunities to women” was, she stated, the hallmarks of true feminism. In 1915, the Women’s Political Union started a Suffrage Shop and invited Lee to give a speech. Covered by the *New York Times*, her speech “The Submerged Half” urged the Chinese community to promote girls’ education and women’s civic participation.”

National Park Service, *Mabel Ping-Hua Lee*, NATIONAL PARK SERVICE PEOPLE (August 8, 2018), <https://www.nps.gov/people/mabel-lee.htm>.

Lee becomes the first Chinese woman to earn a PhD in economics at Columbia University. Women in New York are granted the right to vote in 1917, but this right does not extend to Lee because of the Chinese Exclusion Act.

This same year, Theodore Roosevelt's Progressive Party becomes the first national political party to adopt a woman suffrage platform.

1913: After being forced to leave Memphis because of an 1892 exposé she wrote about a lynching, Ida B. Wells-Barnett starts the Alpha Suffrage Club in Chicago, one of the first and most influential African American suffrage groups in Illinois. The group immediately sets out to mobilize and register black men and women voters and ensure that women were aware of their rights.

In order to draw the most attention, the Women's Suffrage Procession is organized and held in Washington, D.C. to coincide with the inauguration of Woodrow Wilson and is said to have been another major turning point in the woman suffrage movement. Present at the march are Helen Keller and journalist Nellie Bly. At the suggestion of suffrage leader Alice Paul (who is worried about losing the support of Southern suffragists), African American women, including members of the Alpha Suffrage Club, are asked not to march with the white Chicago delegation and are forced to walk in the back of the procession. Paul had previously expressed her sympathy for African American woman's suffrage. (Harley & Terborg-Penn at 25.)

Ida B. Wells refuses Paul's suggestion. When the group of women from her state march in the procession, she is among them. (Lorraine Boissoneault, *The Original Women's March on Washington and the Suffragists Who Paved The Way*, Smithsonian Magazine (January 21, 2017), [https://www.smithsonianmag.com/history/original-womens-march-washington-and-suffragists-who-paved-way-180961869/.](https://www.smithsonianmag.com/history/original-womens-march-washington-and-suffragists-who-paved-way-180961869/))

In June, Illinois Governor Edward Dunne signs limited voting rights for women into law. Through this law, women are allowed to vote for most local offices such as mayor and alderman. They are taught how to use voting machines and ballots by members of the Alpha Suffrage Club. "The group helped elect the city's first Black alderman and defeat a candidate supported by white suffragists." (Elyssa Ford, *Woman Suffrage in the Midwest*, NATIONAL PARK SERVICE (Apr. 10, 2019), <https://www.nps.gov/articles/woman-suffrage-in-the-midwest.htm>.)

1914: The Washington Secretary of State issues Washington's first statewide voters pamphlet.

1915: African American women organize the Banner State Woman's National Baptist Convention. In attendance is Nannie Helen Burroughs, daughter of former slaves and founder of the National Training School for Women and Girls, built from small donations from black women and children in her community. "Civil rights leader Booker T. Washington did not believe African Americans would donate money to found the school. But Burroughs did not want to rely on money from wealthy white donors."

Despite her academic achievements, Burroughs was turned down for a Washington D.C. public school teaching position. Some historians speculate that the elite black community discriminated against Burroughs because she had darker skin. Undeterred, Burroughs decided to open her own school to educate and train poor, working African American women.

In addition to founding the National Training School for Women and Girls, Burroughs also advocated for greater civil rights for African Americans and women. At the time, black women had few career choices. Many did domestic work like cooking and cleaning. Burroughs believed women should have the opportunity to receive an education and job training. She wrote about the need for black and white women to work together to achieve the right to vote. She believed suffrage for African American women was crucial to protect their interests in an often discriminatory society.

National Park Service, *Nannie Helen Burroughs*, NATIONAL PARK SERVICE PEOPLE (March 19, 2019), <https://www.nps.gov/people/nannie-helen-burroughs.htm>.

This same year, Zitkala-Ša (Red Bird) (born Gertrude Simmons Bonnin) joins the editorial board of *American Indian Magazine* and uses this platform to call for enfranchisement of Native Americans. Her activism is the result of

being separated from her mother when she was sent to White's Indiana Labor Institute, a Native American boarding school where children are assimilated using English-only instruction and manual labor.

The daughter of a Lakota mother and a white father, Gertrude Bonnin spent her early childhood on a reservation in South Dakota. As she pursued her education opportunities outside the reservation, she was increasingly troubled by pressures from the white world to disassociate herself from her ethnic heritage. In reaction, she turned to compiling an anthology of Native American lore, published in 1901 as *Old Indian Legends*. But the ultimate resolution of her identity crisis lay in her activism.

National Portrait Gallery, *Zitkala-sa*, Smithsonian, https://npg.si.edu/object/npg_S_NPG.79.26?destination=edan-search/default_search%3Freturn_all%3D1%26edan_q%3DZitkala%2520Sa.

1916: Washington Suffragist/UW alum Jeannette Rankin becomes first woman elected to Congress. Her suffrage activism helped secure the right to vote for women in Montana. It was granted to non-Native women in that state in 1914.

1917: The Washington State Federation of Colored Women (WSFCW) is founded in Spokane and becomes affiliated with the National Association of Colored Women. Their motto is "Today is Ours for United Service."

1918: On September 30th, President Woodrow Wilson becomes only the second president to personally appear before the Senate. He is there to appeal to Senators to pass the constitutional amendment that will grant women the right to vote. The President feels that the failure to pass the amendment has become a political liability. He implores the Senate to "Give justice to women."

The president's words did not fall on deaf ears. In the fall of 1918, a bipartisan majority of senators supported the proposal, though they fell just short of the two-thirds majority required for constitutional amendments. Perhaps the president's speech would win the support of senators known to oppose the measure, a coalition of Southern Democrats and Northeastern Republicans known as the "unholy alliance." Collectively, they opposed woman's suffrage for a variety of reasons. "Do not force upon [the states] the enfranchisement of those women who are not of our race," implored one opponent. Others argued that women possessed neither the intellectual nor emotional capacity to make reasoned decisions. Still others chafed at the thought of relenting to the demands of the so-called "petticoat brigade."

A Vote for Women, US SENATE, https://www.senate.gov/artandhistory/history/minute/A_Vote_For_Women.htm.

1919: The United States Congress passes a [joint resolution](#) to extend the right to vote to women – the 19th Amendment. Until the passage of the 19th Amendment, suffragists held protests, hunger strikes and vigils to plead their case. For their efforts, they were jailed and physically and verbally abused. However, despite their role in the suffrage movement, women of color and immigrants are not granted equal voting rights with the passage of the amendment. (See sources throughout the remainder of the timeline.)

This same year, Congress enacts legislation granting citizenship to Native American veterans of WWI. (H.R. REP. NO. 222 (1919).)

1920: Tennessee becomes the 36th state to ratify the 19th Amendment.

1922: The US Supreme Court rules in *Takao Ozawa v. US*, 260 U.S. 178 (1922) that people of Japanese heritage are not allowed to become citizens.

In Washington, "Inducing Certain Indians to Vote" is a crime punishable by a fine of up to \$500 and three months in the county jail. (RRS § 5391.)

1923: "...the Supreme Court holds in *Bhagat Singh Thind v. United States*, 261 U.S. 204 (1923) that Asian Indians are considered Caucasian, but not white. At this time, naturalized citizenship extended only to "free white persons" and those of African descent. Therefore, defining Asian Indians as Caucasian, but not white, barred naturalization applications by Asian Indians." (Wendy K. Tam Cho & Albert H. Yoon, *Pan-Ethnicity Revisited: Asian Indians, Asian American Politics, and the Voting Rights Act*, 10 ASIAN PAC. AM. L.J. 8 (2005).)

1924: Indian Citizenship Act of 1924 is passed.

States such as California adopt provisions in their constitutions to deny voting rights to Native Americans who are not "civilized," while others declare that residents living on reservations are not citizens. Also, like African Americans, Native Americans are subject to poll taxes, literacy tests and intimidation tactics designed to prevent them from voting. (Sabato & Ernst, at 446.)

After the passage of the 1924 citizenship bill, it still took over forty years for all fifty states to allow Native Americans to vote. For example, Maine was one of the last states to comply with the Indian Citizenship Act, even though it had granted tax paying Native Americans the right to vote in its original 1819 state constitution. As reported by Henry Mitchell, a resident of that state, Native Americans were prevented from voting in Maine in the late 1930s.

...[T]he Indians aren't allowed to have a voice in state affairs because they aren't voters. Just why the Indians shouldn't vote is something I can't understand. One of the Indians went over to Old Town once to see some official in the city hall about voting. I don't know just what position that official had over there, but he said to the Indian, 'We don't want you people over here. You have your own elections over on the island, and if you want to vote, go over there.'

Library of Congress, *Voting Rights for Native Americans*, Elections...The American Way (2019), <https://www.loc.gov/teachers/classroommaterials/presentationsandactivities/presentations/elections/voting-rights-native-americans.html>

While black Americans faced poll taxes, literacy requirements, gerrymandering, violence, at-large elections, and other devices which denied them the franchise, Indians, because of their extraconstitutional political status faced some similar discriminatory measures but also encountered a variety of unique obstacles placed before them by state officials. McCool found that states have devised a number of strategies to keep Indians from voting. He grouped them in three categories: 1) constitutional ambiguity, 2) political and economic factors, and 3) cultural and racial discrimination. Evidence of constitutional ambiguity is found in several states-Idaho, New Mexico, and Washington-which denied Indians the vote because of a specific provision in their constitutions regarding "Indians not taxed." Such Indians, according to the Idaho Constitution, could not vote or serve as a juror if they were considered to be non-taxable because they had not "severed their tribal relations and adopted the habits of civilization."

David Wilkins, *An Inquiry into Indigenous Political Participation: Implications for Tribal Sovereignty*, 9 KAN. J.L. & PUB. POL'Y 732, 738 (1999).

This same year, the US passes the Immigration Act (ch. 190, § 4, 43 Stat. 153, 155). "Although the 1924 quota act freely admitted white immigrant wives seeking to join their citizen husbands, it completely barred Asian wives from joining theirs." (Berger, at 1251.)

1926: Zitkala-Ša and R.T. Bonnin found the National Council of American Indians, an organization "interested in helping Indians secure the right to vote." Due to lack of tribal support and funding, the organization closes down in the 1930's. (Wilkins, at 743.)

1928: The Supreme Court of Arizona rules in *Porter v. Hall*, 34 Ariz. 308, 271 Pac. 411 (1928) that Native Americans living on reservations in Arizona are ineligible to vote. "This decision appears to be the first one involving the right

of the newly made Indian citizens to vote.” The court reasons this because the tribes are considered to be under guardianship of the federal government. Per the Arizona state constitution, persons under guardianship are excluded from voting.

The majority of the court, and the dissenting Chief Justice, as well, were strongly affected by the legitimate question as to whether it would be good public policy to permit large numbers of tribal Indians living on reservations in the state, and entirely immune from the laws and governmental authority of the state, so long as they remain on the reservations, to participate in the formulation of state governmental policy and the election of state and local officials. The Chief Justice, however, considered the proper function of the court to be that of applying the law as it stands, leaving to the political departments of the government the duty of changing the law, or making new law, when that may be necessary in order to declare and maintain sound public policy. He pointed out that it might be possible that tribal Indians on reservations ought not, as a matter of public policy, to be allowed to vote, but he expressed the opinion that further legal or constitutional action was necessary in Arizona in order legally to disqualify them.

N. D. Houghton, *The Legal Status of Indian Suffrage in the United States*, 19 CALIF. L. REV. 507 (1931).

1942: Following the US entry into World War II, “120,000 persons of Japanese ancestry from the West Coast are forcibly interned in 10 American concentration camps.” (Japanese American Citizens League, *History*, <https://jacl.org/about/history/>.) In April, Washington State Attorney General Smith Troy receives a letter in reply to a telegram that he sent to US Attorney General Earl Warren requesting confirmation that Warren had issued an opinion “to the effect that Japanese-American citizens, who had been evacuated from their homes, would retain the right to vote by absentee ballot at the time of the election...” In the letter, AG Warren repeats the view of Deputy AG Jess Hession that was given in a newspaper interview – if Japanese Americans had voluntarily evacuated and established residency in their new county, they would be eligible to vote. Warren further explains that determining whether evacuation had been voluntary and residency acquired would need to happen on a case by case basis. However, Warren concludes that he cannot present a formal opinion on the matter as none had been issued. (Letter from Earl Warren to Smith Troy (April 17, 1942), in Office of the Attorney General, “Correspondence on Absentee Voting,” *California State Archives Exhibits*, accessed May 1, 2019, <http://exhibits.sos.ca.gov/items/show/10218>.)

In August of this year, the Wartime Civil Control Administration releases a policy clarifying absentee voting rights for Japanese Americans living in internment camps.

If the laws of the state of the evacuee’s legal residence permit absentee voting by citizen evacuees in their present circumstances, and the evacuee is a fully qualified voter under these laws, the right of franchise by absentee ballot may be exercised without interference. Qualified citizen evacuees occupy the same position in regard to the exercise of their right of franchise by absentee voting as does any other citizen who for any reason is absent from his voting precinct, or is physically unable to go to his polling place on the day of the election.

Voting Clarified, TULARE NEWS (Aug. 12, 1942), <https://ddr.densho.org/media/ddr-densho-197/ddr-densho-197-29-mezzanine-4c8abd369a.pdf>.

Any Washington or Oregon resident who had not voted in an election after November 29, 1940, had his registration cancelled by operation of state law. (This was undoubtedly just about everyone, because there had been no election of any great significance between that date and the spring of 1942, when they were all evacuated.) Registration by mail from Heart Mountain was not possible. For California voters, the situation was not much better. Unless they voted in the 1942 primary election--something that was quite difficult, because they were all behind barbed wire at the time of that election--they had to register for the

November 1942 general election by early October of 1942, which was a major logistical challenge due to their incarceration. See War Relocation Authority, *Offer Aid in Application for Ballots*, 26 GENERAL INFORMATION BULLETIN 1 (Oct. 15, 1942). There were undoubtedly some intrepid Japanese American citizens who managed to keep their California, Oregon, or Washington voter registration intact. But it must have been quite a small number.

Eric L. Muller, *Apologies or Apologists? Remembering the Japanese American Internment in Wyoming*, 1 WYO. L. REV. 473, 486 n. 49 (2001).

1943: The Chinese Exclusion Act is repealed and while prohibitions on naturalization of immigrants begin to lift, the US government places a quota on the number of Chinese immigrants to the United States. (Terry Ao Minnis & Mee Moua, *50 Years of the Voting Rights Act: An Asian American Perspective*, AAJC (August 4, 2015), <https://www.advancingjustice-aaajc.org/report/50-years-voting-rights-act-asian-american-perspective.>)

Despite her notoriety in the suffrage movement of the early 1900's, Mabel Lee had been barred from voting until 1943 by the Chinese Exclusion Act. However, there is no record of Lee becoming a citizen or participating in an election during her lifetime. She devoted her life to the Chinese community and passed away in 1966.

This same year, Wyoming Governor Lester Hunt signs a law providing that any citizen "brought into . . . Wyoming by the WRA" and "interned in a relocation center or concentration camp . . . shall be prohibited from voting in any election in the State of Wyoming." "Thus, in practical effect, the Wyoming statute stripped most of the citizen internees of their only realistic chance to vote." (Muller, at 486). (See 2 Wyo. Comp. Stat. § 31-113 (1945).

1944: The US Supreme Court declares the "white primary" unconstitutional in *Smith v. Allwright*, 321 U.S. 649 (1944).

1952: All immigrants of Asian descent are allowed to become citizens with the passage of the Immigration and Nationality Act of 1952 (McCarran-Walter Act), which eliminated race-based naturalization requirements. Japanese immigrants become eligible for American citizenship. (Grace Panetta & Olivia Reaney, *The evolution of American voting rights in 242 years shows how far we've come – and how far we still have to go*, BUSINESS INSIDER (Feb. 15, 2019, 1:15 PM), <https://www.businessinsider.com/when-women-got-the-right-to-vote-american-voting-rights-timeline-2018-10.>)

1957: Congress passes the Civil Rights Act of 1957. It is "the first significant measure to address African-American civil rights since 1875—established the U.S. Commission on Civil Rights for two years, created a civil rights division in the U.S. Justice Department, and authorized the U.S. Attorney General to seek federal court injunctions to protect the voting rights of African Americans." (Historical Highlights, *The Civil Rights Act of 1957*, US HOUSE OF REPRESENTATIVES, [https://history.house.gov/Historical-Highlights/1951-2000/The-Civil-Rights-Act-of-1957/.](https://history.house.gov/Historical-Highlights/1951-2000/The-Civil-Rights-Act-of-1957/))

1962: New Mexico becomes the final state to grant voting rights to Native Americans. Barriers still remain in other states: "even today, North Dakota disenfranchises Native-Americans by insisting that they have a physical address rather than a P.O. Box." (National Portrait Gallery, *Suzette LaFlesche Tibbles*, SMITHSONIAN (2013), https://npg.si.edu/object/npg_NPG.2013.3.)

1964: The 24th Amendment is ratified, prohibiting the use of poll taxes in state and federal elections.

1965: The Voting Rights Act passes, granting African Americans full voting rights. However, exclusions for "language minorities" still exist. (See 1975 Voting Rights Act Extension.)

The Act consisted of two major provisions: Section 2 created a cause of action for any “denial or abridgment” of the right to vote on the basis of race; Section 5 required that electoral jurisdictions with a history of discriminatory voting practices submit for approval by the U. S. Attorney General any proposed procedural changes with respect to voting. While Section 5 is arguably the centerpiece of the Act, Section 2 provides the mechanism by which voters can seek redress through the drawing of voting districts. (Tam Cho & Yoon at 24.)

This same year, Shirley Chisholm becomes the first African American woman elected to Congress and then run for President.

1966: The US Supreme Court ends the use of poll taxes in all elections with their decision in *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966).

1971: The voting age is lowered to 18 from 21 to ensure that those old enough to fight in the Vietnam War are also old enough to vote.

1974: The Washington State Legislature amends Article 6 § 1 of the State Constitution, striking the phrase “Indians not taxed” from 1889 and eliminating the English language requirement from 1896. ([WASH. CONST. art. 6, § 1 \(amended 1974\).](#))

1975: An extension of the Voting Rights Act is signed into law by President Gerald Ford. “...the extension ended discrimination against so-called “language minorities,” the Mexican Americans of Texas and California, Puerto Ricans, Native Americans, Asian Americans, Alaskans, Hawaiians and others who continued to be kept from voting for at least a decade after the Voting Rights Act became law.” (Suzanne Gamboa, *For Latinos, 1965 Voting Rights Act Impact Came a Decade Later*, NBC News (2015), <https://www.nbcnews.com/news/latino/latinos-1965-voting-rights-act-impact-came-decade-later-n404936>.)

This provision is the result of legislation sponsored by African American Congresswoman Barbara Jordan. (History, Art & Archives, *Jordan, Barbara Charline*, United States House of Representatives, [https://history.house.gov/People/Listing/J/JORDAN,-Barbara-Charline-\(J000266\)/](https://history.house.gov/People/Listing/J/JORDAN,-Barbara-Charline-(J000266)/)).

1983: Washington allows special election votes to be cast by mail.

1984: Voting Accessibility for the Elderly and Handicapped Act is passed.

1991: For the first time, Washington allows the registration of absentee voters.

1993: Voter registration becomes easier with the passage of the National Voter Registration Act. The act provides for registration at the DMV and public assistance centers. This is also referred to as the “Motor Voter” law.

2000's

2000: A federal court rules that citizens of US territories such as Puerto Rico and Guam cannot vote in federal elections in *Igartua de la Rosa v. United States II*, 113 F. Supp. 2d 228 (D.P.R.), *rev'd*, 229 F.3d 80 (1st Cir. 2000).

2013: The US Supreme Court holds that the coverage formula in the Voting Rights Act is unconstitutional in *Shelby County, Ala. v. Holder*, 570 U.S. 529 (2013).

2018: Women make up more than half of the population and according to the [Center for American Women and Politics](#), every presidential election since 1980 has seen a higher female voter turnout than men. Women are also increasing their number on the ballot, with a [record number running for office this year](#), including [an historic number of women of color](#).

In November of this year, Florida voters approve a ballot measure restoring voting rights to 1.5 million former felons.

2019: A Florida legislator introduces a bill that would require that all court costs and fees be paid before allowing the vote. Former gubernatorial candidate Andrew Gillum and others liken the legislation to poll taxes.

“Amendment 4 was expected to re-enfranchise 1.5 million Floridians, but the new state legislation will disenfranchise *more than a third* of them.” (Rachel Maddow, *Are Florida Republicans really pursuing a new ‘poll tax’?*, MSNBC (March 21, 2019), <http://www.msnbc.com/rachel-maddow-show/are-florida-republicans-really-pursuing-new-poll-tax>.)

See also: The Editorial Board, *The Return of the Poll Tax in Florida*, New York Times (March 22, 2019), <https://www.nytimes.com/2019/03/22/opinion/voting-rights-florida.html>.

March 2019: Washington Governor Jay Inslee signs the Native American Voting Rights Act into law, adding “Indian reservation” or “Indian lands” into the definition of non-traditional address. ([S.B. 5079, 66th Leg., Reg. Sess. \(Wa. 2019\)](#).)

This same month, Senators Udall and Merkley introduce the *For the People* Act which includes provisions for extending provisions of the Voting Rights Act to eliminate barriers to voting that still exist today. (Senator Tom Udall, *For the People Act Summary*, US SENATE (Mar. 27, 2019), <https://www.tomudall.senate.gov/imo/media/doc/For%20the%20People%20Act%20Summary.pdf>.)

ADDITIONAL REFERENCE AND NOTES:

*The intent of including the Mercer story is to provide an example to potentially support the later theory that women were given rights in the Washington territory (and throughout the west) as a means of recruiting them to move here.

**I found conflicting dates for these two events, but consensus seems to put them in that order.

Washington State had many women’s suffrage groups, including:

Aberdeen Equal Suffragette Society

Equal Suffrage Club of Spokane

King County Equality Club

Washington Equal Suffrage Association

Central Equal Suffrage Club

National Park Service, *Did You Know? Suffragist v. Suffragette*, NPS Articles (July 3, 2018), <https://www.nps.gov/articles/suffragistvsuffragette.htm>.

2021: HOW GENDER AND RACE AFFECT JUSTICE NOW



GENDER AND JUSTICE COMMISSION

Promoting Gender Equality
in the Justice System



Executive Summary and Recommendations



www.courts.wa.gov/genderjustice



2021 Gender Justice Study: Executive Summary and Recommendations

September 2021

This report was developed under Project Grant number SJI-18-N-029 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

The Washington State Supreme Court Gender and Justice Commission, as a body, endorses all the Goals and Recommendations listed in the 2021 Gender Justice Study. We also support the general approach of viewing gender issues in the context of racial, ethnic, and poverty issues. The points of view expressed in each chapter, however, are those of the authors of that chapter and do not necessarily represent the official position or policies of the Gender and Justice Commission.

Justice Sheryl Gordon McCloud, Washington State Supreme Court Gender and Justice Commission Co-Chair, Gender Justice Study Co-Chair

Dr. Dana Raigrodski, LLB, SJD, Gender Justice Study Co-Chair

Sierra Rotakhina, MPH, Gender Justice Study Project Manager

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Recommended Citation:

WASHINGTON STATE SUPREME COURT GENDER AND JUSTICE COMMISSION, 2021 GENDER JUSTICE STUDY: EXECUTIVE SUMMARY AND RECOMMENDATIONS (2021). <https://www.courts.wa.gov/?fa=home.sub&org=gjc&page=studyReport&layout=2&parent=study>.



Goals to Reduce Problems We Found in Every Area of Inquiry

In 1989, the Washington Supreme Court’s Task Force on Gender and Justice in the Courts produced a groundbreaking [report](#) on the impact of gender on selected areas of the law. It concluded that gender did affect the availability of justice. We – the [Washington State Supreme Court Gender and Justice Commission](#) – are a product of that report and its recommendations. Now, in 2021, we have completed our follow-up study.

Our legal and social science research, our data collection, and our independent [pilot projects](#) all led us to the same frustrating conclusion about the effect of gender in Washington State courts: trustworthy, factual data about the effect of gender in Washington courts is hard to find, and it is especially hard to find for Black, Indigenous, other people of color, and LGBTQ+¹ people.

Still, based on the data in which we have a high degree of confidence, two points stand out: (1) gender matters – it does affect the treatment of court users (including litigants, lawyers, witnesses, jurors, and employees); and (2) the adverse impact of these gendered effects is most pronounced for Black, Indigenous, other women of color, LGBTQ+ people, and women in poverty.

We developed five overall goals for future action based on these results. These goals prioritize work on the areas of highest need. In many cases, that led us to adopting gender neutral goals – because that seemed like the best way to gain the best outcomes for those with the greatest need. It turns out that this approach will further the interests of more than just any single subpopulation of Washington residents – it should benefit us all. We look forward to our common work on these critical areas:

1. Improve data collection in every area of the law that this report covers: ensure collection and distribution of accurate, specific data, disaggregated by gender, race, ethnicity, and LGBTQ+ status, in the criminal, civil, and juvenile areas of law covered here.

¹ Lesbian, gay, bisexual, transgender, queer or questioning

2. Improve access to the courts in every area of the law that this report covers: expand remote access, adopt more flexible hours, increase access to legal help, reduce communication barriers, and ensure that courts treat all court users in a trauma-responsive manner.
3. Address the impacts of the vast increase in convictions and detentions over the last generation: (a) recognize and remedy the increase in conviction rates and incarceration length for women, especially Black, Indigenous, and other women of color, and (b) recognize and remedy the consequences that the increased incarceration of Black, Indigenous, and other men of color over the last generation has had on women and other family members.
4. Reduce reliance on revenue from court users to fund the courts.
5. Identify the best evidence-based curricula for judicial and legal education on gender and race bias.

Washington State Supreme Court Gender and Justice Commission

2021 Gender Justice Study Authors

Kelley Amburgey-Richardson, JD

Kelley Amburgey-Richardson is the Senior Court Program Analyst to the Gender and Justice Commission. Prior to joining the Administrative Office of the Courts in 2017, she was the statewide PREA Program Coordinator for the Washington Coalition of Sexual Assault Programs, and served as an appointed member of the Gender and Justice Commission. Ms. Amburgey-Richardson started her career as a legal aid attorney in Oregon, representing primarily immigrant survivors of domestic and sexual violence in family and employment matters.

Judge Joseph Campagna

Joe Campagna is the Presiding Judge of the West Division of the King County District Court. Prior to taking the bench in 2019, Judge Campagna worked in private practice representing criminal defendants and personal injury plaintiffs in courts throughout the region. Judge Campagna has a particular interest in therapeutic courts and prisoner re-entry initiatives.

Kristi Cruz, JD

Kristi Cruz is a staff attorney at the Northwest Justice Project. Ms. Cruz was a co-reporter for the American Bar Association's Standards for Language Access in Courts project, which created national standards for the effective delivery of interpreter and translation services in courts, and she is involved in state and national efforts to reduce language barriers for limited English proficiency (LEP) and Deaf individuals as they access education, healthcare, legal, and governmental services.

Laurie Dawson

Laurie Dawson was born and raised in Thailand. In 2012, after experiencing the incarceration of a close friend in Washington State, Laurie became actively involved in learning about restorative practices and the implementation of the United Nations Standard Minimum Rules for the Treatment of Women Prisoners (Bangkok Rules). She is a member of the Local Family Council at

the Washington Corrections Center for Women (WCCW), the Kitsap County Community Partnership for Transition Solutions, Washington State Coalition for Children of Incarcerated Parents, and she is active with other Washington State based coalitions focused on criminal justice reform. She is also a volunteer with the Kitsap Dispute Resolution Center.

Judge Rebecca Glasgow

Judge Rebecca Glasgow joined the Court of Appeals in 2019. Before joining the court, she was a Deputy Solicitor General in the Washington Attorney General's Office and she is a past statewide president of Washington Women Lawyers and a member of the Gender and Justice Commission

Katrina Goering, BSW, MPH

Katrina Goering (she/her) is a Public Health and Social Work professional with over a decade of experience working in direct social service, prevention, and advocacy efforts with diverse populations in urban and rural settings. She currently works with migrant and seasonal farmworkers in Northwestern Washington. Her area of expertise is in community-led research and programming aimed at reducing health disparities and advancing health equity efforts affecting rural and underrepresented immigrant/migrant communities. She has worked in the non-profit and government sectors. She earned her Bachelor of Social Work from Eastern Mennonite University and her Master of Public Health from the Community Oriented Public Health Practice Program at the University of Washington.

Chief Justice Steven C. González

Chief Justice Steven C. González was appointed to the Washington Supreme Court effective January 1, 2012. Before joining the Supreme Court, he served for ten years as a trial judge on the King County Superior Court hearing criminal, civil, juvenile, and family law cases. Chief Justice González is passionate about providing open access to the justice system for all and was previously appointed to the Washington State Access to Justice Board that was established in response to a growing need to coordinate access to justice efforts across the state. He also served as Chair to the Supreme Court's Interpreter Commission for eight years, supporting efforts to enhance language access across our state, including most recently amendments to general rules that address remote interpreting as courts responded to the COVID-19 pandemic and established protocols for team interpreting.

Justice Sheryl Gordon McCloud

Justice Sheryl Gordon McCloud was elected to the Washington Supreme Court in 2012 after a career of helping clients fight for their constitutional and individual rights. As a Justice, she serves as a Chair of the Gender and Justice Commission, as a member of the Supreme Court's Rules Committee, and as the liaison to the Supreme Court's Pattern Instructions Committee (on which she previously served as a lawyer-member). She is also on the Washington State Bar Association's Council on Public Defense. She speaks regularly at legal and community events throughout the state on topics ranging from ethics to criminal justice. Justice Gordon McCloud brought a wealth of appellate experience with her; she handled hundreds of cases before the Washington Supreme Court and other appellate courts before she became a judge. She also taught at the Seattle University School of Law and has published several articles. Her legal expertise was recognized by her peers before she joined the bench. For example, she received the Washington Association of Criminal Defense Lawyers' highest award, the William O. Douglas Award, for "extraordinary courage" in the practice of law. Her commitment to justice is still recognized by her peers now that she has a track record of work as a Justice. In 2015, Washington Women Lawyers King County Chapter honored her with its President's Award. In 2018, the Cardoza Society of Washington State presented her with its L'Dor V'Dor Award.

Kelly Harris, JD

Kelly Harris is a career prosecutor, serving as a Senior King County Prosecuting Attorney and Assistant U.S. Attorney for the Western District of Washington in his 26-year career. He is currently Chief of the Criminal Division for the Seattle City Attorney's Office. Additionally, Kelly is an Adjunct Professor with Seattle University Law School, teaching Professional Responsibility & Ethics and a first of its kind Criminal Justice Reform seminar.

Elizabeth Hendren, JD

Elizabeth Hendren is a staff attorney at Northwest Justice Project. In 2012, she created the Reentry Initiated through Services and Education (RISE) Project, which provides comprehensive civil legal services to currently and formerly incarcerated mothers to facilitate family reunification. Elizabeth also serves on the Gender and Justice Commission, where she chairs the Incarceration, Gender & Justice Committee.

Diego Rondón Ichikawa, JD

Diego Rondón Ichikawa is an attorney at Vreeland Law where he represents individuals in the areas of sexual abuse, employment, and civil rights. He currently serves on the Latina/o Bar Association of Washington board, and is a former law clerk to the Honorable Debra L. Stephens of the Washington Supreme Court.

Laura Jones, JD

Laura Jones currently works as a Project Coordinator for the Gender and Justice Commission, staffing projects related to domestic and sexual violence. Since completing a law school internship at a legal clinic in Managua, Nicaragua, Laura has focused her career on gender-based violence issues, including managing King County Sexual Assault Resource Center's CourtWatch program and coordinating legislative work groups related to domestic violence. Laura has also volunteered with the King County Bar Association's Neighborhood Legal Clinics, and participated in its Family Law Mentor Program.

Sharese Jones, MA

Sharese Jones began her career with the Washington State Department of Corrections (DOC) in 2002, beginning in the prison as a Correctional Officer and Classification Counselor. Then moving into Community Corrections, she worked as a Community Corrections Officer and Sex Offender Treatment Provider. In 2019 she took on the role of Gender Responsive Manager where she managed the Gender Responsivity in DOC for two years. She is now utilizing her education and experience to work in the mental health unit at Washington Corrections Center in Shelton as a Psychology Associate. She is doing Mental Health Evaluations and providing grief and/or crisis counseling to the incarcerated individuals. She earned a Bachelor's Degree from Evergreen in 2006 and a Master's Degree from Saint Martin's University in 2016.

Judge David Keenan

Judge David Keenan is the Superior Court Judges' Association Liaison to the Legal Financial Obligations Consortium and was part of a Washington delegation to the National Conference of State Legislatures Fines and Fees Policy Learning Consortium. Judge Keenan currently serves on the Access to Justice Board, previously served as board president at Northwest Justice Project, and has personal experience with poverty and the juvenile criminal legal system.

Shannon Kilpatrick, JD

Shannon Kilpatrick is a civil appellate lawyer with a solo practice in the Seattle area. She has spent most of her career representing people injured, killed, or mistreated by the negligence or misconduct of others, including large corporations and local and state governments. She began her career as a judicial law clerk to the Honorable Debra Stephens on the Washington Supreme Court.

Stephanie Larson

Stephanie Larson will graduate from Pitzer College in 2023 with a major in Political Studies, a concentration in U.S. Politics, and a minor in English & World Literature. She is planning to pursue a career in law and is passionate about using law as a tool to combat systemic biases within the criminal justice system.

Robert Lichtenberg, JD

Robert Lichtenberg serves as Senior Court Program Analyst for the Washington State Administrative Office of the Courts (AOC) and staffs the Supreme Court Interpreter Commission. He oversees spoken language interpreter testing and training, coordinates the policy-making efforts of the Interpreter Commission, and provides training and resource assistance to court personnel statewide on interpreter matters. Before joining AOC, he served as Assistant Director of the Office of the Deaf and Hard of Hearing, an agency in the Department of Social and Health Services, where he was responsible for program coordination and staff supervision of several program activities covering social and telecommunications services. Mr. Lichtenberg is a graduate of University of Washington School of Law and of Lewis and Clark College, where he majored in Economics. He also has a post-graduate certificate in Rehabilitation Management from San Diego State University.

Judge Barbara Mack (ret.)

Judge Barbara Mack (ret.) served ten years as a King County Superior Court Judge. She convened and chaired the King County Task Force on Commercially Sexually Exploited Children (CSEC) for its first five years. She serves on the board of the National Council of Juvenile and Family Court

Judges, and has trained judicial officers and others nationwide on issues related to human trafficking.

Judge Maureen McKee

Maureen McKee has been a King County Superior Court judge since her appointment on August 13, 2018. Prior to joining the bench, Maureen worked at The Defender Association, a division of the King County Department of Public Defense, for almost 16 years. During this period, Maureen was a staff attorney, supervisor for the Investigation and Misdemeanor Units, and the Interim Managing Attorney. Maureen received her B.A. degree in Black Studies from Oberlin College and received her law degree from Cornell Law School. Prior to law school, Maureen was a VISTA Volunteer in Chicago, IL, and a job developer with the National Institute for People with Disabilities in New York, NY. During law school, Maureen received the opportunity to serve displaced persons at the American Refugee Committee in Mostar, Bosnia and incarcerated mothers at Legal Services for Prisoners with Children in San Francisco, CA.

Robert Mead, JD, MLS

Robert Mead is the State Law Librarian for Washington State. Prior to this position he was the Deputy Chief Public Defender for New Mexico. He is co-author of the treatise *Advising the Elderly Client*. His career path has alternated between law librarianship and public interest law including public defense, elder law, and disability rights.

Claire Mocha, MPH

Claire Mocha is a public health professional with experience in social science research and community engagement, both locally and internationally. She received her masters of public health in Community-Oriented Public Health Practice at University of Washington in 2020.

Joanne Moore, JD

Joanne Moore was director of the Washington State Office of Public Defense until she retired in December of 2020. Her entire 40-year career was spent working for justice reform, including 22 years at the Office of Public Defense.

Sophia O'Hara

Sophia O'Hara will graduate from University of California, Santa Barbara in 2022 with a Sociology B.A. and minor in History. She is passionate about sexual health, reproductive justice, and gender equity. She coordinates a human sexuality course at UCSB, conducts policy analysis for Students for Reproductive Justice and Students Against Sexual Assault, and previously worked at the Seattle Public Health HIV/STD department. She plans to pursue a career in public health and policy in hopes of ensuring all people have access to inclusive, accurate, and resourced sex education.

Shelby Peasley, JD

Shelby Peasley graduated from University of Washington with a BA in Political Science and received her JD from Washington & Lee University School of Law. She previously externed for the Chambers of Washington Supreme Court Justice Sheryl Gordon McCloud. Shelby now lives and works as an attorney in Atlanta, GA with her cat Eleanor.

Dr. Dana Raigrodski, LLB, SJD

Prior to joining the faculty at the University of Washington School of Law, Dana Raigrodski practiced law for the Israeli Defense Forces Military Advocate General Staff Command, serving as a military prosecutor and legal counselor. Dr. Raigrodski serves as an appointed member of the Gender and Justice Commission and is Co-Chair of the Gender Justice Study. As a scholar and advocate she focuses on human trafficking, migration and globalization, criminal procedure and jurisprudence, and feminist and critical race theories.

Judge Judith H. Ramseyer

Judge Judith H. Ramseyer was elected to the King County Superior Court in 2012. Before joining the court, she practiced complex civil litigation and championed the rights of women and the disenfranchised. Judge Ramseyer chaired the task force that administered a state-wide survey and published the first Glass Ceiling report, assisted by the Gender and Justice Commission: 2001 Self-Audit for Gender and Racial Equity in Washington. She was Chief King County Juvenile Court Judge and is Immediate-Past President of the Superior Court Judges' Association.

Jennifer Ritchie, JD

Jennifer Ritchie is a Senior Deputy Prosecutor with the King County Prosecuting Attorney's Office. She has been with the Prosecuting Attorney's Office for 27 years, and currently serves as the Unit Chair of the Sexually Violent Predator Unit. Ms. Ritchie was first appointed to the Gender and Justice Commission in 2016 as the first person to fill the new permanent Washington Women Lawyers membership seat. She now serves as an attorney member of the Commission.

Sierra Rotakhina, MPH

Sierra Rotakhina is the Project Manager for the 2021 Gender Justice Study. She is a public health practitioner and researcher. Sierra earned her Masters in Public Health from the University of Washington Community Oriented Public Health Practice program. Sierra has focused her career on promoting equity in policies, programs, and procedures through evidence-based policy-making, the use of equity analysis tools, community engagement, and research.

Judge Jacqueline Shea-Brown

Judge Jacqueline Shea-Brown has served on the Benton & Franklin Counties Superior Court for almost six years. She is a member of the Gender and Justice Commission, a co-chair of the Commission's Domestic & Sexual Violence Committee and a co-chair of the Commission's E2SHB 1320 Working Group. She is the chair of the Washington State Superior Court Judges' Association (SCJA) Judicial Assistance Services Program (JASP) Committee and a member of the SCJA Equality and Fairness Committee.

Julie Tergliafera, MPH

Julie Tergliafera contracted as a Research Analyst for the Gender and Justice Commission's Gender Justice Study. Julie earned her Masters in Public Health from the University of Washington Community Oriented Public Health Practice program. Julie brought a public health and equity lens and extensive research experience to the study.

Constance van Winkle, JD

Constance van Winkle started interpreting American Sign Language (ASL) around age three for an older deaf sibling. She spent many years working as a Certified ASL Interpreter and recently completed her JD in public interest law.

Ophelia S. Vidal, MPH

Ophelia S. Vidal contracted as a Research Analyst for the Gender and Justice Commission's Gender Justice Study. She brought her diverse background as a paralegal, health educator, and case worker to the forefront of her research and analyses. She currently serves the people of Oregon through her role as a Chronic Disease Policy Specialist at the Oregon Health Authority.

Andrea Vitalich, JD

Andrea Vitalich is a senior deputy prosecutor for King County in the Sexually Violent Predator Unit, where she handles both trials and appeals. She also co-chairs the Conviction Integrity Committee, which investigates claims of innocence by previously-convicted defendants.

David Ward, JD

David Ward is an attorney and former member of the Gender and Justice Commission. He previously served as a staff attorney at Legal Voice in Seattle, where his areas of responsibility included family law, gender-based violence, and LGBTQ+ civil rights issues.

Mary Welch, JD

Mary Welch is a Statewide Advocacy Counsel for family law, sexual harassment and human trafficking at the Northwest Justice Project (NJP). Ms. Welch began her legal career working for NJP in the farmworker unit in Pasco. In 2000 she began working for Columbia Legal Services as a farmworker advocate and managing attorney of the Tri-Cities office. Ms. Welch returned to NJP in 2005 in the Bellingham office where she worked on domestic violence, employment, and consumer issues until she became advocacy counsel in 2018.

Marla Zink, JD

Marla Zink is a partner in Luminata, PLLC where she practices as a criminal defense attorney handling appointed and private direct appeals and other post-conviction matters in both the federal and state systems. Her work prior to Luminata includes nearly a decade with the Washington Appellate Project and serving as a law clerk to the Honorable Robert Beezer on the Ninth Circuit Court of Appeals.

Washington State Supreme Court Gender and Justice Commission

2020-2021

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For a list of current members, visit the [Gender and Justice Commission's website](#).

2021 Gender Justice Study Advisory Committee Members

Member	Affiliation
The Honorable Sheryl Gordon McCloud, Co-Chair Gender Justice Study	Washington State Supreme Court
Dr. Dana Raigrodski, Co-Chair Gender Justice Study	University of Washington School of Law
Director Jim Bamberger	Washington State Office of Civil Legal Aid
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The Honorable Raquel Montoya-Lewis	Washington State Supreme Court
Karen Murray	Former Public Defender: King County Department of Public Defense, Associated Counsel for the Accused

The Honorable Kathleen O'Connor	Former Spokane County Superior Court Judge
Becky Roe	Schroeter Goldmark & Bender
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Secretary Kim Wyman	Washington State Secretary of State
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Acknowledgments

We would like to thank the numerous individuals and organizations throughout the state who provided detailed review and feedback of draft chapters of the report, shared sources and data, shared anecdotal evidence, and helped develop recommendations. Your feedback and guidance were incredibly valuable.

We would specifically like to acknowledge the contributions of the following individuals:

Alyssa M. Garcia	Grace Lo	Judge Maureen McKee
Dr. Amanda Gilman	Jackie Jensen Eler	Nelson Lee
Andrew Lindsay	Jason Quackenbush	Maya Swanes
Dr. Andrew Peterson	Javiera L. Wood	Michael “Kopes” Glah
Dr. Arina Gertseva	Jeri Chavez	Moriah Freed
Ashley Callan	Jim Whisman	Nicole McGrath
Barbara Serrano	Judge Joseph Campagna	Olivia Ortiz
Judge Beth Andrus	Julie Tergliafera	Ophelia Vidal
Brenda Coufal	Kaili Brown	Pam Loginsky
Dr. Brooke Miller Gialopsos	Kalia Hobbs	Dr. Peter Collins
Dr. Carl McCurley	Kathryn Akeah	Rachel Reynolds
Catherine West	Katrina Goering	Robert Mead
Chris Gaddis	Kelsey Coke-Churchill	Samantha Tjaden
Claire Mocha	Kelsey Grindley	Sammie Alizadeh
Cynthia Delostrinos	Kristina McKennon	Sara Bensley
Cynthia Jones	Laura Edmonston	Shelby Peasley
D’Adre Cunningham	Laura Jones	Sophia O’Hara
Dulce Zamora	Judge Mafe Rajul	Tiffany Cartwright
Dr. Faith Lutze	Mary Miller	Victoria Tokar
Frank Thomas	Mary Whisner	Yulia Kotelevskaya

Thank you also to our early advisors for support as we developed the vision and goals of the report and sought funding: Washington Supreme Court Justice Barbara Madsen, Prof. Judith Resnik (Yale Law School), Lynn Hecht Schafran (Legal Momentum), Washington Women Lawyers, and the National Association of Women Judges.

We would also like to thank the authors and contributors to the five pilot projects who did significant work to increase Washington specific high quality, trustworthy, evidence-based data:

Adam Wohlman	Erica Magana	Nicole Hurst
Alyssa Lund	Jennifer Bright	Nnenna Ikpa
Dr. Amanda Gilman	Dr. Jillian Hagerman	Olivia Ortiz
Dr. Amelie Pedneault	Julie Tergliafera	Judge Rebecca Glasgow
Dr. Arina Gertseva	Kalia Hobbs	Rhaelynn Givens
Dr. Carl McCurley	Kelly Gilmore	Ronald Buie
Chianaraekpere Ike	Kelly Scalise	Samantha Tjaden
Dominique Alex	Leika Suzumura	Dr. Tatiana Masters
Elizabeth Hendren	Judge Maureen McKee	Veronica Ruiz
Elizabeth Ramirez	Miranda Johnson	Dr. William Vesneski
Emilie Maddison	Nick Flett	Yurie Osawa

In planning for and implementing this large-scale study and its pilot projects, we relied on support from our judicial branch partners, including the following entities and their staff:

Administrative Office of the Courts
 Association of Washington Superior Court Administrators
 Board for Judicial Administration
 District and Municipal Court Management Association
 Tribal State Court Consortium
 Washington Pattern Instructions Committee
 Washington State Association of County Clerks
 Washington State District and Municipal Court Judges' Association
 Washington State Law Library
 Washington State Superior Court Judges' Association
 Washington State Supreme Court Interpreter Commission
 Washington State Supreme Court Minority and Justice Commission

Land Acknowledgement

Our Gender and Justice community is spread throughout the state of Washington and around the country. We ask that all of you reflect on the lands on which we work and reside, and acknowledge all of the ancestral homelands and traditional territories of Indigenous peoples who have been here since time immemorial.

There are numerous tribes, some of which are federally recognized, that share traditional homelands and waterways in what is now Washington State. The Washington State Supreme Court Gender and Justice Commission in Olympia, Washington presides on the traditional unceded, ancestral lands of the Medicine Creek Treaty Tribes, the Nisqually and Chehalis tribes, and the Squaxin Island tribes, among other Coast Salish neighbors. We acknowledge our shared responsibility to their homelands and express our gratitude to do our work where they have traditionally done theirs.

Acknowledging the ceded and unceded land on which we all stand could not be more important in our current historical moment. We encourage you to consult [Native Land](#) to learn more.

This executive summary presents summaries of the findings and recommendations from each of the 16 chapters of the 2021 Gender Justice Study. For complete findings, supporting citations, methods, limitations and other supporting data, see the full report at:

<https://www.courts.wa.gov/?fa=home.sub&org=gjc&page=studyReport&layout=2&parent=study>

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2021: How Gender and Race Affect Justice Now

The main job of the courts is to resolve disputes – and to resolve them peacefully, fairly, and in accordance with the law and with justice. When we are at our best, we accomplish that by providing a fair and open forum, using neutral rules of procedure and equal application of the law, while ensuring respectful treatment of all participants.

But our courts have not always been at our best.

Early History of Gender Bias in Washington

Beginning with Washington’s statehood, our law officially excluded women, Black people, Native Americans, and others from full participation in the courts. The same was true across the United States: women, Black people, Native Americans, naturalized immigrants from China, and others, were all officially excluded from full participation in the court system. This exclusion was clear from laws as varied as those that excluded these groups from jury service, to laws that refused to provide a legal remedy for harms – such as rape – to some of these groups. Even after official, legally sanctioned, exclusion ended, it remained the rule in practice. For example, although Congress passed “woman’s suffrage” in 1919, it left out a lot of women: Black people including women, were still barred from full participation by slavery’s legacy and Jim Crow laws; Native Americans including women, Chinese Americans including women, Japanese Americans during World War II including women, were all barred from full participation by both official laws and exclusionary practices. And the list of excluded groups goes on. In other words, historically, courts were biased against women; the bias was not always as apparent for white women; but it was very apparent for Black, Indigenous, and women of color.

The 1989 Study of Gender Bias in the Judicial System in Washington

So in 1989, Washington’s predecessor to the Gender and Justice Commission conducted a study of how our courts were progressing on the historical exclusion and devaluation of women. That study was one of the first of its kind in the nation, and it offered a model for other jurisdictions to follow. The Washington State Legislature funded that study, and scores of volunteers from lawyers, judges, and academics, to legislators, statisticians and justice system partners,

researched the status of women in Washington’s courts. On the substantive law side, those researchers clearly heard the voices of women who had suffered from the courts’ treatment of domestic violence and rape; of women who had received unjust decisions in family law matters including child support, maintenance, property division, and child custody cases; and from women who felt they were denied full recovery of damages and fees in discrimination cases. On the procedural side, those researchers heard the voices of women whose credibility and dignity were insulted when they came to court as litigants, experts, witnesses, or legal professionals. As a result, that study focused on those “gendered” areas of the law. The study concluded that the courts were biased against women in those areas and concluded with recommendations for change. The Supreme Court established a permanent Gender and Justice Commission to continue this important work.

More than 30 years have passed. As then-Chief Justice Madsen said when she passed the torch of leadership of our Commission on to Justice Gordon McCloud and Judge Paja, it’s time to reassess.

This 2021 Study of Gender Bias in the Judicial System in Washington, and Our Focus on Race

We still hear those same voices. But now we also hear additional voices. For example, we hear the voices of missing and murdered Indigenous women and people; we hear the voices of domestic violence victims who have difficulty getting legal help, navigating the court system, and waiving legal fees; we hear the voices of those burdened with legal financial obligations and years of compounded interest from long past criminal matters, especially voices from the families of Indigenous, Black, and other people of color who bear a disproportionate burden of those obligations; we hear the voices of those remaining in prison due to increased convictions and harsher sentencing laws; and we hear voices from the LGBTQ+ community. So when we reassessed, we addressed not just whether the clearly “gendered” laws, but also whether other “non-gendered” laws – such as those concerning access to the courts, navigating the court system, user fees, legal financial obligations, bail, trials, and sentencings – nevertheless had a gendered impact.

This report is a data-based study of those questions, focusing on the 30 years since our last report. Once again, we are pathbreakers: this is one of the first such follow up studies in the nation. Once again, we benefitted from the work of hundreds of lawyers, judges, law students, social scientists, and community groups, and we came to terms with critical review by experts from multiple disciplines and all branches of government. We heard from stakeholders on terminology choices. We struggled with research showing that highlighting disparities in the justice system can unintentionally emphasize stereotypes rather than disrupt them. We acknowledged the significant overlap among the study topics, and concluded that someone navigating the justice system most likely experiences those overlaps as compounded barriers to justice. And of course, in the middle of our research, pilot projects, and writing, the COVID-19 pandemic hit in early 2020. The data on the impacts of COVID-19 is still developing, but it is already clear that this event impacted every aspect of life, including the justice system. You can read more about our processes in the full [2021 Gender Justice Study](#).

Once again, we sought the best data possible to capture this moment in time. Here's what the data tells us – and what it doesn't tell us.

The Data Shows That Gender Impacts Outcomes in Washington Courts – and That Impact Is Most Clear for Black, Indigenous, and Other People of Color

Some themes arise from multiple sections. First, the data shows that there have been several major changes for the better over the last 30 years. The Washington State Legislature has changed laws concerning domestic violence, commercial sexual exploitation, and marriage dissolutions; the people have changed the law on marriage equality; prosecutors' offices have changed their approach to domestic violence and sexual assault; judicial education on gender and race bias has dramatically increased, and rules for lawyers and judges about treating women and other populations with respect have been adopted; and the diversity of the bench has grown.

But other gender-based disparities remain or have increased. And these gender disparities have their harshest impacts on Black, Indigenous, and other people of color, as well as members of the LGBTQ+ community.

This is a brief summary of some of our key factual findings:

Gender, The Legal Community, and Barriers to Accessing the Courts

- The costs of accessing Washington courts—such as user fees, childcare, and lawyers—create barriers. This has the greatest impact on single mothers; Black, Indigenous, and women of color; LGBTQ+ people; and those with disabilities.
- Lack of affordable childcare limits the ability of low-income women to get to court, underscoring the need for flexible court schedules and online access to court.
- Lack of court interpreters and translated materials disadvantages people with distinct communication needs. This is a particular concern for those seeking protection from domestic violence, including immigrant women and families.
- Black, Indigenous, and women of color are not well represented in jury pools. Higher juror pay and research on challenges for female jurors are needed.
- Women, particularly Black, Indigenous, and other women of color, continue to face bias and pay disparities in the legal profession. Women and men of color are also underrepresented in judicial and law firm leadership positions.

Gender, Civil Justice and the Courts

- The highest rates of workplace discrimination and harassment affect Black, Indigenous, and women of color; women doing farm work, domestic labor, and hospitality work; people with disabilities; and LGBTQ+ workers.
- Those most impacted by workplace discrimination and harassment have difficulty reporting incidents and finding lawyers. They may receive unequal court outcomes by gender, race, and ethnicity.
- A 2021 workplace survey of employees in Washington courts, superior court clerks' offices, and judicial branch agencies found that employees who identified as American Indian, Alaska Native, First Nations, or other Indigenous Group Member (86%), bisexual (84%), gay or lesbian (73%), and women (62%) reported the highest rates of harassment.
- Current practices for valuing life for wrongful death and other tort claims devalue the

lives of women and Black, Indigenous, and people of color.

- Data suggests that gender and other biases in family law proceedings can impact custody, child support, and maintenance decisions.

Gender, Violence, Youth and Exploitation

- Domestic violence and sexual assault mostly harm women and LGBTQ+ people—particularly those who are Black, Indigenous, people of color, immigrants, or living in poverty. They face barriers to reporting such gender-based violence.
- Despite improvements in the law and its enforcement, barriers to justice remain for victims of gender-based violence. The large numbers of missing and murdered Indigenous women and people remain a key concern.
- The law requiring mandatory arrests in domestic violence cases may have unintended adverse effects on women, people of color, immigrants, those living in poverty, and LGBTQ+ people.
- Girls, LGBTQ+ people, and youth with disabilities take different pathways into the juvenile justice system than youth who are not a part of these populations, and have different needs inside the system.
- Boys are targeted for commercial sexual exploitation in larger numbers than previously known. But women, youth of all genders, LGBTQ+ people, those in poverty, and Black, Indigenous, and communities of color are the main targets.
- The justice system response to commercial sexual exploitation has greatly improved but still treats many in the sex industry, including exploited populations, as criminals.

The Gendered Impact of the Increase in Convictions and Incarceration

- While men of color have suffered the brunt of mass incarceration, the number of women incarcerated in Washington grew exponentially and largely in the shadows between 1980 and 2000. Their numbers continue to increase while the very high incarceration rates for men decrease.

- Our pilot project found that Black, Indigenous, and women of color are convicted and sentenced at rates two to eight times higher than white women.
- Jail and prison programs and policies are developed for men and often do not meet the needs of women or transgender and gender-nonconforming people.
- Incarcerated mothers are more likely than fathers to be primary caregivers. Mothers are thus more likely to lose their children to out-of-home care during their incarceration.
- Racial disparities in arrests negatively influence pretrial bail decisions, which influences plea deals, affects charging decisions, and creates a higher likelihood of incarceration and longer sentences for both men and women of color.
- There is little data on the gender impacts of legal financial obligations (LFOs). The available research suggests that while men face higher LFOs, women face greater challenges trying to pay both their own LFOs and those of people close to them.

In sum, the high-quality data that we gathered and developed sometimes clearly shows, and sometimes suggests, that gender affects justice system outcomes. Specifically, we conclude that in general, in Washington, Black, Indigenous, and other women of color suffered more from unequal treatment and outcomes than did white women.

Trustworthy Factual Data Is Lacking or Hidden

But that quality of data was not available to us in many critical areas.

For example, national and state reports show that Latinx prison and jail populations are disproportionately high. But those numbers include all genders combined. We were unable to draw conclusions about how pervasive that effect was in Washington for Latinx men or women in particular. In fact, certain Washington data improperly suggested that the incarcerated Latinx population was not disproportionately high.

Similarly, there is little to no accessible Washington data on whether gender and other demographic factors impact prosecutors' exercise of discretion in charging and plea bargaining or on bail and sentencing recommendations. And even though the Washington State Legislature charged state agencies with collecting certain data on rates of convictions, length of sentences,

use of sentence enhancements, and related matters, the quality of the data collected was, in our opinion, poor. The data was not gathered in a uniform manner, based on a uniform way; it was not clearly coded and explained; and it seemed to confuse race with ethnicity in a way that dramatically undercounted certain ethnic groups, particularly Latinx and Native Hawaiian and Other Pacific Islanders. We therefore conclude: (1) the trustworthy factual data that does exist and that is accessible shows that gender impacts the availability and quality of outcomes in Washington courts; (2) but trustworthy data on gender, particularly for Black, Indigenous, other people of color; LGBTQ+ people; and people in poverty, is often limited, low quality, and hard to access, even when it is held by public agencies; (3) the data we could find and could depend upon shows that gender bias usually, but not always, has its most adverse impact on women; and (4) that adverse impact is not always apparent unless you disaggregate the data by subpopulations such as race, ethnicity, women in poverty, etc.

There is a Pressing Need for More Washington-Specific Data

This shows that we need more standardized, accurate, and consistent data collection in Washington State for all the topics covered in this report. Throughout this report we supplemented the often-limited Washington-specific research and data with national sources. It is not always clear if national sources are generalizable to Washington. Collecting and analyzing local data would be more accurate and meaningful in advancing equity in Washington.

We undertook our own pilot projects, designed specifically for this study, to try to fill some of these gaps. We surveyed employees at all levels of the judicial branch about their experience with discrimination and harassment, including sexual harassment, in the workplace. Results show that a large percentage of respondents report such continuing discrimination, and that the majority of it was on the basis of race, LGBTQ+ status, and gender. We disaggregated jury pool data, and found that jury service was far more limited for Black, Indigenous, and women of color. We conducted a study of the effectiveness of a domestic violence treatment method that did not rely on a high fee for service model – and we concluded that this less expensive model, called Domestic Violence – Moral Reconciliation Therapy (DV-MRT), is effective and sustainable. We examined the accessible data on incarcerated women in Washington and concluded that the

numbers were growing, and that women of color bore the brunt of that growth. And we studied two courthouse childcare centers set up to serve those attending court and determined that they aided accessibility. Specifically, that evaluation found that women were more likely than men to say that the childcare program improved their access to the courts. We also concluded that the childcare centers could have a larger impact with increased capacity and outreach.

The results of this research and these pilot projects reinforced our conclusions that gender, combined with race, ethnicity, and poverty, adversely impacts outcomes in our court system. Those results also influenced our proposed recommendations.

Proposals for the Future

We believe, based on the limited data we found, when evaluated in light of historical injustices against women, particularly Black, Indigenous, and other women of color and LGBTQ+ people, that these are not isolated problems. They are remaining systemic problems.

That means they call for systemic solutions.

And certain solutions did emerge from our research and our pilot projects. Some even emerged unexpectedly, due to lessons learned from the trial courts struggling to keep their doors open and their courts accessible during the COVID-19 pandemic. Those solutions are our five overarching goals, listed at the beginning of this report. The path to those solutions are the specific recommendations that we listed at the end of each substantive chapter.

Many of these recommendations pose little to no costs to the justice system. They include: improving data collection; ensuring clear and transparent coding and comparisons of collected data; making such data accessible to researchers; allowing remote access to court proceedings through computer- and cell phone-based programs; giving clear directions about how to access courts, in person or virtually, particularly for often-overlooked matters such as protection orders; creating more flexibility in court hours to allow access without missing work; and changing certain forms to get more high-quality data in the near future while undertaking the task of developing more accurate, trustworthy, and transparent data sharing overall.

Some of our recommendations are likely cost-neutral, for example: expunging uncollectible debt; increasing opportunities for pre-arrest diversion and post-arrest deferrals; allowing remote access for many court proceedings; recognizing that caregiving can be considered a mitigating factor at sentencing; and discontinuing the use of certain non-violent victimless crimes in criminal history at sentencing.

Some of our recommendations will carry a noticeable financial cost: reducing court dependence on user fees; making all legal financial obligations discretionary; and considering elimination or reduction of the use of collection agencies.

And many will take a long time. For example, we recognize that our key recommendation, about making data collection mandatory, high quality, and transparent across all branches and agencies, means taking a big step. But we want to start that journey.

Lifting As We Climb

In the late 1800's, the National Association of Colored Women – a coalition of local groups – formed to fight for gender equality. They focused on the impact of gender disparities, particularly on Black women. And they developed a platform that addressed the issue directly, by fighting for the right to suffrage for all women. They also adopted a slogan that was as forward-thinking and inclusive as it was defiant: Lifting As We Climb. They obviously recognized that expanding justice for all would necessarily include justice for the most deprived. Thank you; we build on your successes.

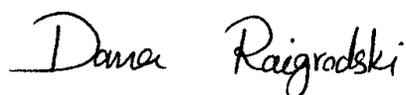
We assembled hundreds of volunteer lawyers, judges, law students, professors, experts from multiple disciplines and all branches of government, social scientists, community groups, and stakeholders with lived experience in the subjects studied to lift the accessibility and quality of justice in Washington for all women. We placed an emphasis on women who are Black, Indigenous, other people of color, immigrants, in poverty, and on people in the LGBTQ+ community. Those volunteers have devoted thousands of hours to the legal and social science research that went into this report. Justice partners have opened themselves up to rigorous analysis of, and potential criticism of, current practices from existing childcare facilities at courthouses, to searching inquiries about harassment in employment within the judicial branch

to domestic violence perpetrator treatment. Representatives from the Executive, Legislative, and Judicial branches, the law schools, legal professionals, and others volunteered their time to our oversight Advisory Committee. We celebrated our joys at the depth of the research produced, our principled differences about how to address the problems that the research highlighted, and our attempts to draw conclusions only from the trustworthy and accessible data. Together, we continue to lift as we climb.

Sincerely,



Justice Sheryl Gordon McCloud
Washington State Supreme Court Gender
and Justice Commission Co-Chair,
Gender Justice Study Co-Chair



Dr. Dana Raigrodski
Washington State Supreme Court Gender
and Justice Commission Member,
Gender Justice Study Co-Chair

Recommendations to Improve Justice System Data

- The Washington State Center for Court Research of the Administrative Office of the Courts (WSCCR) should convene a stakeholder workgroup to develop a comprehensive inventory of justice system related data systems, the information collected in each, the gaps and limitations in the data, the entities responsible for the data, and the opportunities for sharing data across systems. This mapping of justice system data will inform planning next steps to improve justice system related data and data sharing in Washington State.
- WSCCR should convene stakeholders to develop best practices and standards for collecting demographic data in the justice system (e.g., race, ethnicity, gender identity, gender expression, sexual orientation, educational attainment, income, etc.). This group of stakeholders should coordinate with similar efforts being conducted by the executive branch and local government where appropriate.

PART I

Gender, the Legal Community, and Barriers to Accessing the Courts

Chapter 1

Gender and Financial Barriers to Accessing the Courts

Mary Welch, JD

Sophia O'Hara; Julie Tergliafera, MPH

Summary

Equitable access to the courts is essential to achieve justice for all. Financial barriers may deprive low-income people of such equal access to the courts.

To be sure, there is limited Washington-specific data on the populations that these financial barriers impact most. However, based on clear evidence of huge historical income and pay inequities, these barriers likely have the greatest impact on single mothers; Black, Indigenous, and women of color; LGBTQ+ people; and those with disabilities. Such evidence includes data showing that 39.4% of single women with children in Washington live in poverty, and that such single-female-head-of-household families are the ones most likely to live below the poverty line. This income inequality is amplified for Black, Indigenous, and women of color in Washington: 19.2% of white women in our state live below 150% of the poverty line, compared to 41.3% of Hispanic women, 38.4% of Native American women, 35.8% of Black women, 28.1% of women of two or more races, and 21.2% of Asian and Pacific Islander women.¹

The financial barriers take many forms. Court user fees, such as filing fees, constitute one such barrier – and it is not always easy for a self-represented litigant to figure out how to reduce or waive these. Surcharges (such as the family court service surcharge) can create additional costs on top of the basic filing fee. Many of these surcharges apply only in family law matters, increasing the filing costs of family law cases compared to other civil cases. There are indicators that more women file family law cases than men, suggesting these surcharges specific to family law cases may impact women more.

¹ It is important to note that datasets which combine diverse populations into one racial category (e.g., combining all Asian and Native Hawaiian and Other Pacific Islanders) often mask disparities within those diverse populations.

The law certainly gives courts the power to waive many fees for litigants who are indigent – though obtaining such waivers can be time-consuming and difficult. The fee waivers also do not cover all fees – particularly in a contested family law case. For example, some litigants must pay for guardians ad litem (GAL), parenting seminars, facilitators, and court-ordered drug testing and evaluations. All of these fees and costs must be paid or waived before a litigant can complete a family law case. It is also unclear how fee waivers are being applied to name change recording fees across the various courts. In cases where the name change fees are not waived, such fees may have a disparate impact on indigent transgender and non-binary individuals.

There are also barriers in addition to the costs required for initial access to the court system. These barriers include the fees ordered in cases (such as family law cases), the price of missing work, the cost of childcare, the expense of a lawyer, the money spent copying pleadings, the cost of transportation to and from the courthouse, and other additional costs. For example, evidence from Washington shows that childcare and similar caregiving responsibilities pose barriers to accessing the courts, and that this is particularly true for women. Similarly, a 2015 Washington study found that 76% of low-income individuals with legal problems do not get adequate legal help.

Changes are needed to remove these barriers. Some of the most important changes needed to improve all court users' ability to conduct court business are: using low-cost remote means to "come to court," supporting access to childcare resources, and ensuring that user fees and other court related fees can be waived for those who can't afford them.

Recommendations

- Low-income care givers often lack access to safe, affordable, quality, childcare, and this limits their ability to access courts. To remove such barriers and improve all court users' ability to conduct court business using remote means:
 - Courts should retain and expand the best of the remote access opportunities that the courts adopted during the COVID-19 pandemic (e.g., digital platforms accessible via computer or smart phone) – the ones that maximize communication and language access without penalizing litigants for using remote means. Publish (electronically)

accessible directions on how to access court business and documents remotely, and limit fees for accessing court business and documents remotely.

- Courts should consider more flexible hours of operation or, with increased funding, expanded hours of operation.
- Stakeholders should explore additional way to improve access opportunities such as funding and distributing devices (laptops, tablets, phones, etc.) that can support remote access in community and childcare centers, women’s shelters, schools (as appropriate in individual jurisdiction); expanding on-site childcare centers at courthouses; or supporting other means (such as vouchers) to access childcare to attend court.
- The Washington State Legislature should consider funding “navigators” in courts in all counties to assist those seeking help with family law issues, and should also consider funding them for other areas of law.
- Stakeholders should propose an amendment to GR 34 to allow fee waivers based solely on the litigant’s attestation of financial status, without additional proof. Allowing presentation of such waivers to the Clerk or other designated non-judicial officer should also be considered to help streamline the procedure. Information about fee waivers should be prominently displayed (in multiple languages) at the courthouse and online.
- Stakeholders should convene a workgroup to analyze the application of GR 34 fee waivers to name change recording fees. The workgroup should consider ways to reduce barriers to name change recording for indigent individuals.
- GR 34 is not always interpreted to extend fee waivers to fees associated with parenting classes, family law facilitators, and other family law costs and fees. GR 34 should be amended to explicitly extend waivers to all such fees.
- Courts should be required to accept electronic (as well as hard copy) filings and submissions of all documents.

Chapter 2

Communication and Language as a Gendered Barrier to Accessing the Courts

Kristi Cruz, JD and Robert Lichtenberg, JD

Chief Justice Steven C. González; Claire Mocha, MPH; Constance van Winkle, JD

Summary

Equal access to justice demands that the justice system: 1) transmit information to everyone in a way they can understand, and 2) receive information from everyone equally. Federal and state laws require courts to provide spoken and sign language interpreters to ensure language access for individuals with Limited English Proficiency (LEP) and d/Deaf, Hard of Hearing or DeafBlind (D/HH/DB) individuals. Despite efforts by Washington courts, barriers remain for individuals whose primary language is not English and for those who are D/HH/DB. The consequences of not having an interpreter are serious, particularly in cases which involve domestic violence because the safety and wellbeing of the person and their children are at risk. Women (particularly Black, Indigenous, and women of color) and LGBTQ+ individuals are disproportionately impacted by sexual violence and Intimate Partner Violence (IPV), indicating that communication barriers may be particularly dangerous for these populations.

Legal language is complex, which creates a barrier for individuals to fully understand and exercise their rights in police interrogations and in the courts. This is true for all people who have difficulty communicating in spoken English, but these barriers are amplified for people who experience access issues or discrimination on multiple fronts. For example, individuals who are D/HH/DB and foreign-born may encounter even greater barriers. Research shows that many immigrant women are more likely than U.S.-born women to have lower educational attainment, to work in low-wage service industry jobs with inflexible schedules, to live in poverty, or to experience domestic violence and sexual assault. All indications, based on available data, are that woman immigrants are impacted more by language barriers as they navigate multiple barriers to accessing the

courts. Finally, prejudice and biases against certain forms of spoken English, including accents and vernacular, can jeopardize the right to a fair trial.

Language access services, through professional interpretation of spoken communication and translation of documents; as well as the use of bilingual and multilingual court personnel, lawyers, and others, is integral to court operations and services, and necessary to a functional and fair justice system.

Recommendations

- To improve access to interpreter services for people with limited English Proficiency (LEP) and d/Deaf, Hard of Hearing, and DeafBlind individuals in legal proceedings and court services and programs, stakeholders should convene to do the following:
 - Review accessibility – at all levels of court – by limited English language users statewide, including people with hearing loss, to court interpreting services, and develop an action plan to address identified barriers.
 - Suggest procedures to monitor and enforce the requirement that each court develop and annually maintain a language access plan pursuant to RCW 2.43.090; address whether the Washington Administrative Office of the Courts (AOC) needs to increase staffing within the Interpreter Services Program to assist courts in creating and implementing their language access plans and in making their language access plans accessible electronically.
 - Address the establishment of interpreter training programs in Washington, partnering with other state agencies and community colleges, to create dedicated language interpretation programs and to provide resources to develop new interpreters in the wide variety of languages we need to meet the language interpretation needs of government programs.
 - AOC should partner in the development of a certification program for American Sign Language (ASL) court interpreter certification.
- To improve access to the courts for those with limited English proficiency, the Washington Pattern Forms Committee should help translate key court information and forms into our state’s top 37 languages (per the Office of Financial Management).

To that end, the Committee should: (1) create a list of vital documents (including civil protection order requests and other court forms, information about language services, directions on how to access court in-person and remotely, etc.), and (2) determine how to make them most accessible to the people who need them. With regard to translating forms that trigger court action after filing (such as requests for protection orders), we suggest a pilot project in selected counties to test the feasibility of different approaches to gaining court action based on such translated documents.

- AOC should create guidance for and offer assistance to Washington courts in creating and maintaining accessible websites, including translations and disability accommodations.
- AOC should determine how best to acquire language data on LEP parties, witnesses, etc. from Superior, District, and Municipal courts, to enable AOC to identify and address gaps in language services delivery.

Chapter 3

Gender and Barriers to Jury Service

Judge Rebecca Glasgow

Shelby Peasley, JD; Ophelia S. Vidal, MPH

Summary

The diversity of a jury, and the larger jury pool from which the jury is selected, impacts jury decisions. Diverse juries typically deliberate for a longer period of time, discuss more case facts, make fewer inaccurate statements, and contain members who are more likely to correct inaccurate statements. In short, jury and jury pool diversity impact the equity and justice of jury verdicts.

Black, Indigenous, and women of color as well as Lesbian, Gay, Bisexual, Transgender, and Queer or Questioning (LGBTQ+) people are underrepresented in Washington jury **pools**. Insufficient data exist to show whether these populations are underrepresented on Washington juries statewide. We also do not know whether these populations are disproportionately excused from jury service for hardship, for cause, or because of peremptory challenges, though experts in the field strongly believe that racial and gender disproportionality exists at various stages of the jury selection process.

Experienced civil and criminal trial attorneys report that women are more often excused from jury service for hardship because they shoulder a disproportionate burden of child and family care responsibilities. There are also economic barriers to jury service, and evidence suggests that those barriers disproportionately affect low-income women, including Black, Indigenous, and women of color, and LGBTQ+ people.

Recommendations include further study to fill identified gaps in data and development of strategies to reduce known barriers to jury service. We emphasize eliminating or mitigating economic barriers. Recommendations include increasing access to childcare and other family care for potential jurors and establishing pilot community and nontraditional courts to accommodate people with

childcare responsibilities. Finally, recommendations include exploring ways to expand financial compensation for jurors.

Recommendations

- In order to determine whether women (including Black, Indigenous, women of color, and women in poverty) and LGBTQ+ people are disproportionately underrepresented in the jury selection process and why, by the end of 2021, stakeholders, such as the Washington State Supreme Court Minority and Justice Commission and the Washington Pattern Jury Instructions Committee, should convene a jury diversity workgroup to build on prior data collected by the Minority and Justice Commission by studying the following:
 - By the end of 2022, the workgroup, with assistance from AOC, should determine how best to mandate and fund collection of demographic data at every stage of the jury selection process in every Washington jurisdiction.
 - By the end of 2023, the workgroup, with assistance from WSCCR, should collect and study court data to determine whether Black, Indigenous, and women of color or LGBTQ+ people are disproportionately excused from jury service for hardship, for cause, or based on peremptory challenges, and whether different subpopulations are affected differently.
- Recent data shows that significant numbers of potential jurors in Washington lack the resources to participate in jury service. The Washington State Legislature should consider funding research to identify the level of juror compensation that would most effectively increase participation by low-income people.
- In order to enhance jury participation by Black, Indigenous, women of color, women in poverty, and LGBTQ+ people, by the end of 2023, the jury diversity workgroup should encourage courts to consider creative alternatives that accommodate jurors with caregiving responsibilities. Courts should consider whether they can accommodate parenting schedules for jurors who need to pick up children after school or childcare. The workgroup and Supreme Court Commissions should seek funding with court partners to develop creative pilot projects and measure their success. The workgroup should develop best practices for judges to

account for the effects on jury diversity when evaluating juror hardship, and train judges on these best practices.

- Apply the remote practices recommendation described in “Chapter 1: Gender and Financial Barriers to Accessing the Courts” for voir dire (jury selection).
- Apply the childcare access recommendation described in “Chapter 1: Gender and Financial Barriers to Accessing the Courts” to jurors.
- Apply the flexible hours recommendation described in “Chapter 1: Gender and Financial Barriers to Accessing the Courts” to jurors.
- By the end of 2022, the jury diversity workgroup should develop best practices for courts to account for the barriers to service for LGBTQ+ jurors, including adding nonbinary gender choices to all forms and referring to jurors by their correct pronouns and chosen names. Train judges and court staff on these best practices.
- Recent data shows that significant numbers of potential jurors in Washington cannot afford to participate in jury service.
 - In order to reduce or eliminate financial barriers to jury service, the workgroup should, by the end of 2023, explore how best to require or incentivize employers to provide paid time off for jury service, following models in other states.
 - The Legislature should consider adopting a statewide juror compensation increase sufficient to meaningfully increase juror attendance.

Chapter 4

The Impact of Gender and Race in the Courtroom and in the Legal Community

Robert Mead, JD, MLS; Jennifer Ritchie, JD; Andrea Vitalich, JD

Summary

The 1989 Gender and Justice in the Courts Study found that gender affects both process and outcomes. It found that women face credibility issues in the courtroom and that women, as litigants, lawyers, and judges, were not always treated with respect, though the impact was often subtle and individual. In 2021, evidence suggests that biases based on gender, race, ethnicity, and other demographics continue to impact and shape various dynamics in the courtroom between litigants, jurors, witnesses, attorneys, judges, and court personnel. Similar biases negatively impact the acceptance of women, people who identify as LGBTQ+, and Black, Indigenous, and people of color within the legal community more broadly.

Sometimes such bias in the courtroom is explicit, taking the form of unfair treatment in court, harassment, and disrespect. Often it is implicit, tainting decisions made by lawyers, judges, and jurors and possibly impacting case outcomes. For example, female and transgender litigants and witnesses face bias in the courtroom, especially if they are perceived to be sex workers. Stereotypes about women's gender roles and demeanor may affect the way female attorneys and their clients are perceived and, ultimately, judged. Female litigators, especially women of color, continue to face uneven treatment from judges and demeaning treatment from opposing counsel, and may fear that resisting this treatment will harm their clients. The systemic consequences of these biases are addressed in depth in other chapters throughout this report.

While the bench and the bar are much more diverse in 2021, women, particularly Black, Indigenous, and other women of color, face barriers within the legal profession including pay disparity, career complications, and workplace harassment. As of 2020, over 40% of Washington's judiciary is female and the Washington Supreme Court is now the most diverse

state supreme court in the history of the nation, with seven female justices (out of nine), two justices who are members of the LGBTQ+ community, and four justices who are persons of color. This includes Chief Justice González, who is the first person of color and the first Jewish person to hold that position. However, both men and women of color continue to be significantly underrepresented in judicial and law firm leadership positions nationally and in Washington. As of 2019, most equity partners in U.S. law firms were white males, whereas male attorneys of color constituted 6% of equity partners and women of color constituted only 3% of overall equity partners. About 2% of equity partners identified as LGBTQ+ and less than 1% of equity partners had a disability. There is a national pay gap between male and female attorneys, and it worsened from 85.3% in 2019 to 71.6% in 2021, dropping almost to the 2002 level of disparate pay (69.4%). Family and care responsibilities disproportionately borne by many women, and the impact of the COVID-19 pandemic, play a key role in contributing to these disparities.

Despite existing laws, policies and rules of professional conduct, sexual and workplace harassment continue to pervade the legal community, both nationally and in Washington. A pilot project conducted as part of the 2021 Gender Justice Study shows this. Our workplace survey of employees in Washington courts, Superior Court Clerks' Offices, and judicial branch agencies found that 57% of respondents experienced at least one type of workplace harassment on at least one occasion in the past 18 months. Though harassment experiences were not limited to any one group, employees who identified as American Indian, Alaska Native, First Nations, or other Indigenous Group Member (86%), bisexual (84%), gay or lesbian (73%), and women (62%) reported the highest rates of harassment.

In 2018, the Board for Judicial Administration (BJA) charged the Gender and Justice Commission with developing a model anti-harassment policy for Washington Courts. This policy was adopted by the Board for Judicial Administration on March 20, 2020. We strongly encourage all courts in the State of Washington to adopt a written anti-harassment policy and to implement it in a meaningful way. Much more needs to be done. For example, the judicial branch should take explicit steps to promote equity, diversity, and inclusion and should foster a culture that values individual differences in age, sexual orientation, gender identity or expression, disability, race, and ethnicity. It should also monitor the effectiveness of these efforts.

Recommendations

- To develop a more inclusive and respectful work environment, the judicial branch and its leaders should take explicit steps to promote equity, diversity, and inclusion, and to foster a culture that values individual differences in age, gender, sexual orientation, gender identity or expression, disability, race, and ethnicity.
- The judicial branch should deliver regular workplace harassment prevention trainings that drive real changes.
- The judicial branch and its leaders should follow best practices to design and deliver prevention trainings for all types of workplace harassment, including harassment based on gender, race, ethnicity, or LGBTQ+ status.
- These trainings should focus on changing behavior, not on changing beliefs. Anti-harassment programs should encourage the support of certain populations that are more likely to experience workplace harassment than others (including, but not limited to sexual and gender minorities; women; Black, Indigenous, and employees of color). These training programs should be evaluated to determine whether they are effective and what aspects of the training(s) are most important to changing culture.
- To improve transparency and accountability, the judicial branch and its leaders should be as transparent as possible (while respecting the rights of the accused person) about how they are handling reports of workplace harassment. Decisions regarding disciplinary actions, if required, should be made in a fair and timely way. This accountability can ensure that the court workforce feels supported by their organizations, because perceived organizational support is significantly associated with lower rates of workplace harassment.
- To measure progress, the judicial branch and its leaders should work with researchers to evaluate their efforts to create a more diverse, inclusive, and respectful environment. Conducting regular surveys will help to track whether planned processes have been implemented and whether an anti-harassment policy is producing the desired effects. The survey methodology, when fully implemented, will enable the judicial leadership to monitor the sustainability and effectiveness of the anti-harassment efforts. The methodology should allow the branch to disaggregate the data by race, ethnicity, sexual orientation, and gender

identity or expression to reveal different experiences across populations. The results of surveys should be shared publicly to demonstrate that the branch takes the issue seriously.

- The Gender and Justice Commission should continue to develop programs to increase the number of women, including women and other persons of color, in both the bench and bar.
- The Gender and Justice Commission should partner with the associations representing Washington courts and clerks' offices to educate and advocate for the adoption of the Model Anti-Harassment Policy by courts across Washington. AOC should track the progress on adopting the policy and should develop a method for evaluating outcomes of the policy.
- Every Washington court should publicize its procedure for filing complaints of sexual and other types of discrimination and harassment, and include this procedure on its website.
- By not later than 2022, the Court Education Committee of the Board for Judicial Administration (BJA) should partner with the Gender and Justice Commission to develop a training for judges on how to model and, if necessary, control their courtrooms in ways that immediately address inappropriate gender-biased conduct on the part of attorneys and court personnel.
- The Washington State Bar Association should identify (or convene stakeholders to identify) ways to minimize barriers within the profession related to: pay disparity, promotion opportunities, career complications, and workplace environment. The group should focus on barriers related to age, gender, sexual orientation, gender identity or expression, disability, race, ethnicity, family and care responsibilities, and the impact of the COVID-19 pandemic.

PART II

Gender, Civil Justice, and the Courts

Chapter 5

Gender and Employment Discrimination and Harassment

Diego Rondón Ichikawa, JD; Shannon Kilpatrick, JD; Claire Mocha, MPH

Summary

In 1989, there were certainly laws on the books that barred discrimination in employment. Today, there are even more federal and state laws on the books, and they bar even more forms of discrimination in employment – for example, federal law now explicitly bars discrimination on the basis of sexual orientation in employment. But the problems of discrimination and harassment in employment remain. They can invade all kinds of workplaces and affect all groups. Our research, however, shows that certain populations are subject to disproportionately high rates of discrimination and harassment in the workplace: females who are Black, Indigenous, and people of color; those with disabilities; LGBTQ+ workers; female workers in service and hospitality work; female farmworkers; and female domestic workers.

The evidence reviewed in this section suggests that despite widespread legal protections, patterns of racial discrimination in hiring have remained steady over the decades; that Black, Indigenous, and other women of color are underrepresented in management positions across industries; and that in general, women as a group, especially Black, Indigenous, and women of color, earn significantly less than white men. A national survey in 2020 reported that 45% of Black women said they had experienced racism while applying for a job and 44% said they had experienced racism during decisions about promotion and pay. But this discrimination affects more than employment opportunities, conditions, and wages. It can also cause deep emotional harm and produce long-term health impacts.

And although there are strong federal and state antidiscrimination laws to protect against discrimination and sexual harassment in the workplace, the evidence suggests that they are not fully effective. While there is no statewide data from Washington on the number of workplace discrimination cases filed each year, the available evidence suggests that very

few workers pursue cases in court and even fewer prevail. Some possible explanations include the fact that workers face barriers to reporting and to finding legal representation, and evidence suggests unequal outcomes by gender, race, and ethnicity.

While there is insufficient Washington State data to analyze outcomes by gender and race, in federal employment court cases, Black, Latinx, and Asian American plaintiffs are more likely to have their cases dismissed than white plaintiffs. There is some evidence that plaintiffs bringing claims based on multiple marginalized identities fare worse in court—meaning, for example, a Black woman alleging both race and sex discrimination may be less likely to win her case than a white woman alleging only sex discrimination, or a Black man alleging only race discrimination.

We therefore conclude by recommending improvements to data collection as a first step towards figuring out the best way to improve our workplaces, our laws, and our fellow Washington workers' access to legal remedies. We need accurate data on the landscape of discrimination claims in courts in Washington; on the effectiveness of measures to reduce discrimination and harassment; and on the ability of workers to take advantage of those measures in court.

Recommendations

- Stakeholders should convene a workgroup – in consultation with AOC data management professionals – to outline ways to collect the court data that is needed to identify trends in harassment and discrimination case filings and resolutions by race, ethnicity, gender, and other demographic factors.
- Stakeholders should convene a workgroup to identify resources needed to ensure that the Washington State Human Rights Commission has capacity to: 1) investigate all claims in a complete and timely manner, 2) analyze barriers to reporting and any disproportionate impact barriers have on marginalized groups, and 3) regularly analyze and report on the demographics of workplace harassment and discrimination.
- To improve the effectiveness of measures, such as anti-bias training, to reduce bias towards litigants in court, the Gender and Justice Commission should authorize the creation of a list of trainings for judges, court staff, and potential jurors, which have proven to be effective at reducing bias in the judiciary and among jurors.

- Justice system partners should consider analyzing the number and demographics of employees and employers who are not covered by the Washington Law Against Discrimination (WLAD) because of its employer-size exemption (*see* RCW 49.60.040(11)). The analysis should address: 1) whether this exemption has a disparate impact on the groups whom the law intends to protect (*see* RCW 49.60.010), and 2) the demographics of WLAD-exempt business owners to better understand how these exemptions impact women and minority owned businesses.
- Adopt the recommendation described in “Chapter 8, Consequences of Gender Based Violence,” to collect statewide data, including data on the prevalence and impact of coercion for sex and sexual assault in the workplace – especially for farm laborers and service workers.

Chapter 6

Gender Impacts in Civil Proceedings as They Relate to Economic Consequences Including Fee Awards and Wrongful Death

Shannon Kilpatrick, JD

Robert Mead, JD, MLS; Sierra Rotakhina, MPH

Summary

In 1989, the Washington State Task Force on Gender and Justice in the Courts identified potential gender disparities in wrongful death and loss of consortium awards. Due to small sample sizes and limits on time and resources, however, that Task Force concluded that “definitive answers are impossible.” Since then, the research on this topic has not grown much, but recent court cases and scholarly discussion have elevated concerns related to gender- and race-based discrimination built into wrongful death and loss of consortium awards.

One recent area of concern is that Washington law allows only legally married individuals or those in Registered Domestic Partnerships to recover for the wrongful death of their partner. Other couples are barred from recovering for the wrongful death of their partner regardless of how long-lasting the relationship was. Recent national data show that same-sex couples are less likely than opposite-sex couples to be legally married—indicating that same-sex couples are more likely to be unable to recover damages for the loss of their partner and relationship. In addition, a kinship caregiver who does not have legal guardianship of a child cannot receive damages for the child’s wrongful death. This likely disproportionately impacts women, elders, Black, American Indian/Alaskan Native, and Hispanic/Latinx caregivers as these populations are disproportionately represented among kinship caregivers in Washington.

Another area of gender and race disparity identified by the research is in verdicts for wrongful death and loss of consortium cases. The majority of the scholarship on this issue has focused on the use of gender- and race-based tables to predict a person’s life expectancy, work life expectancy, economic loss, and the number of hours of lost household services per week. These

tables are based on historical data showing women and Black, Indigenous, and people of color earn lower wages, with women of color having the lowest wages. Life and work life expectancy are also shorter for Black, Indigenous, and people of color compared to white populations. These disparities are a result of historical and structural discrimination and inequities. Relying on such tables, however, institutionalizes these past errors and perpetuates them with lower awards. Recently, some courts have viewed the use of race- and gender-based statistics as a potential constitutional violation. These issues merit further study.

Recommendations

- In order to eliminate discrimination based on gender, race, and ethnicity in the calculation of tort damages, stakeholders should study whether Washington courts should discontinue use of race- and gender-based life expectancy, work life expectancy, loss of household services, and historical earnings tables for the calculation of economic damages. If the conclusion of such further study is that the race- and gender-based tables should no longer be used, stakeholders should then determine whether to promote other means of calculating economic damages, instead.

Chapter 7

Gender Impact in Family Law Proceedings

David Ward, JD

Robert Mead, JD, MLS

Summary

Gender bias in family law proceedings² in Washington State is seldom obvious. Washington’s family law statutes are gender neutral, and do not on their face provide parties with an advantage or disadvantage based on their gender. It is also extremely uncommon today for Washington courts in family law proceedings to make statements that explicitly demonstrate bias against a party based on their gender. Nonetheless, there continue to be serious concerns about gender bias in family law cases, particularly implicit biases that may not be recognized by judicial officers, guardians ad litem (GAL), parenting evaluators, mediators, lawyers, or the parties themselves. Gender bias should be broadly understood to include bias based on sexual orientation and gender identity.

Researchers have noted the difficulties in attempting to measure gender bias in family law proceedings, resulting in few comprehensive studies on the topic. However, research and data suggest that gender bias in family law proceedings remains a concern, which may influence judicial decision-making in dividing property and ordering maintenance; crediting allegations of domestic violence, sexual abuse, or child abuse; making residential time decisions in parenting plans; and ordering and enforcing child support obligations. For example, a national study found that courts often do not credit mothers’ claims of child abuse by fathers; and in 14% of cases where a court credited a mother’s claim of abuse by the father, the mother nonetheless lost residential time with the child to the father. Implicit biases based on race, ethnicity, and other

² For the purposes of this chapter, “family law proceedings” generally refer to actions that arise under Title 26 of the Revised Code of Washington or that involve the application of the committed intimate relationship doctrine. This chapter does not address gender bias in child welfare proceedings under Title 13 of the Revised Code of Washington.

factors may also exacerbate the problems caused by biases based on gender. Data is also unavailable on the consequences to a parent who fails to pay child support – specifically, on the extent to which such parents – usually men – are named in bench warrants or incarcerated for failure to appear or failure to pay.

Increasingly, couples in Washington and nationwide are forming committed intimate relationships without marrying. However, Washington law provides fewer remedies to help ensure the economic stability of both partners when an unmarried couple ends a committed intimate relationship, compared to the remedies available when a couple in a marriage or state-registered domestic partnership ends a relationship. Because women are more likely to be economically disadvantaged after a committed intimate relationship ends, this lack of remedies tends to have a greater impact on women, particularly Black, Indigenous, and women of color. Nationally, in 2020, the poverty rate for families with children headed by unmarried mothers was 31%, compared to 15% for families with children headed by unmarried fathers. The poverty rates were even higher for Black (35%), Latinx (34%), and Native American (43%) families headed by an unmarried mother. In addition, only 30% of Washington families headed by a woman with one or more minor children received child support between 2017 to 2019.

Like most other civil cases, the vast majority of family law cases are resolved by agreement of the parties, rather than by contested trials. Unlike most other civil cases, however, contested family law cases are always decided by a judicial officer, rather than by a jury. These cases are decided under laws that give considerable discretion to the trial court, which has the authority to appoint third-party professionals such as GALs, court appointed special advocates (CASA), and parenting evaluators to make recommendations to the court regarding parenting plans. In most family law cases, neither party has legal representation. In addition, even when the parties resolve family law cases by agreement, women may face pressure to make economic concessions in order to avoid or resolve disputes over parenting plans.

All of these points are important considerations in developing recommendations to prevent gender bias in family law cases and to ensure that Washington's gender-neutral family laws are free of gender bias in their application. Recommendations include expanding funding to provide

greater legal representation for both parties in family law cases, particularly in cases that involve allegations of domestic violence; evaluating which types of implicit bias and domestic violence trainings are most effective for court actors; improving data collection related to family law cases; and providing increased remedies when unmarried partners in committed intimate relationships separate.

Recommendations

- Stakeholders should convene to consider proposing to the Washington State Legislature that it increase funding for civil legal aid in the 2022 legislative session to provide greater access to legal representation for both parties in family law cases, particularly cases involving minor children.
- Stakeholders should convene to propose to the Washington State Legislature during the 2022 legislative session that it fund a pilot project, in selected counties, that would provide appointed counsel at public expense to indigent parents in family law cases in which one or both parents are seeking restrictions on the other parent’s residential time with a child. The pilot project should be tailored to the needs of the chosen county(ies), should provide metrics to evaluate the fiscal and justice impact by gender, race, ethnicity, and LGBTQ+ status, and should include a public report on the findings.
- In order to make Washington law’s recognition of committed intimate relationships more accessible and understandable to people who cannot afford a lawyer, the AOC should develop forms to be used to file petitions brought under that doctrine.
- In the 2022 legislative session, the Washington State Legislature should consider repealing requirements related to the filing of “residential time summary reports” in dissolution cases involving children (RCW 26.09.231, RCW 26.18.230). In its place, the Legislature should consider adopting a requirement that an appropriate entity conduct an annual record review based on a sample of cases to collect the data currently required by RCW 26.18.230, and to publish an annual report based on the data collected.
- In 2022, the AOC, in consultation with the Gender and Justice Commission and other relevant stakeholders, should develop and implement a plan to regularly collect data from

Washington's Superior Courts to determine how often parents who owe child support are: (1) named in a bench warrant for failure to appear at a hearing for alleged failure to pay child support; (2) arrested and incarcerated, even temporarily, on that bench warrant; and (3) arrested and incarcerated for failure to pay child support. This data should include information about the gender, race, and ethnicity of the parent and whether the parent was represented by counsel before the bench warrant issued.

- In 2022, the Gender and Justice Commission should convene stakeholders to evaluate what evidence-based programs are most effective in educating judicial officers, attorneys, and third-party professionals in family law cases about domestic violence and racial or gender bias, including training on bias based on gender, sexual orientation, gender identity, and intersecting implicit biases.
- Based on the results of this evaluation, AOC should update and continue to publicize its training curricula for Title 26 Guardian ad Litem (GALs) and Courthouse Facilitators to include or expand training on domestic violence and on bias based on race, ethnicity, gender, sexual orientation, gender identity, and intersecting implicit biases. Training curricula should also be updated as needed to reflect changes in Washington law that have increased legal recognition and protections for gay and lesbian couples and parents.

PART III

Gender, Violence, Youth, and Exploitation

Chapter 8

Consequences of Gender-Based Violence: Domestic Violence and Sexual Violence

Laura Jones, JD and Judge Jacqueline Shea-Brown

Katrina Goering, BSW, MPH; Stephanie Larson; Rob Mead, JD, MLS

Summary

Domestic and sexual violence are categories of gender-based violence perpetrated against a person or group of people due to their actual or perceived sex, gender, sexual orientation, or gender identity. In the 1989 Gender and Justice in the Courts Study, the Task Force's Subcommittee on the Consequences of Violence evaluated the judicial system's response to domestic violence and adult rape to determine whether gender bias was evident in the implementation of domestic violence and sexual assault laws and in the treatment of victims. The 1989 Study identified gender-related problems in both areas.

Since the 1989 Study was published, Washington has addressed remedies for victims of domestic and sexual violence primarily through the passage of criminal and civil laws. Despite numerous improvements in the law since 1989, these types of violence remain prevalent, and have a disproportionate impact on women; Black, Indigenous, and people of color; immigrants; those living in poverty; and LGBTQ+ people. For example, in Washington State from 2010-2012, 44.8% of women reported having experienced contact sexual violence in their lifetime, compared to 21.6% of men. National data from 2010 shows: 1) 55.5% of American Indian/Alaska Native women reported having experienced physical violence by an intimate partner and 56.1% reported sexual violence in their lifetime, 2) nearly half of bisexual women (46.1%) reported having experienced rape in their lifetime, compared to 17.4 % of heterosexual women and 0.7% of heterosexual men; and 3) gay and bisexual men reported a significantly higher prevalence of sexual violence other than rape, compared to heterosexual men. A 2009 review of United States

data found that approximately half of transgender individuals experienced unwanted sexual contact.

There is also an urgent need to respond to the crisis of Missing and Murdered Indigenous Women and People. Indigenous women are murdered at significantly higher rates than women of other races. Meetings of tribal nations and community members across the state highlighted barriers and solutions to addressing this crisis. Some of the mentioned solutions include collaboration between law enforcement, government, and community; training for law enforcement on aspects such as the missing person process, human emotions, and Native American culture; respect for the government-to-government relationship; and increased community resources.

Women, LGBTQ+ individuals, and youth who are incarcerated are also at particularly high risk of sexual assault while in confinement. And incarcerated individuals who experienced sexual victimization before incarceration are more likely to report being sexually victimized by other incarcerated individuals or staff while in prison or jail.

In addition to the prevalence of domestic and sexual violence, barriers to access remain for victims seeking to access civil and criminal legal remedies stemming from and related to the violence perpetrated against them. These barriers may contribute to the choice many survivors of domestic and sexual violence make not to report this violence to law enforcement or to engage with the justice system. An estimated 44% of intimate partner violence incidents and 65% of sexual assaults go unreported to law enforcement.

Research shows that domestic violence survivors also decline to report due to fear of unintended consequences, previous negative interactions with the system, lack of confidence in the ability of the legal system to improve their lives, or not identifying their experience as intimate partner violence. Research also indicates that some immigrant women report withdrawing their court case out of fear of deportation. Similarly, for survivors of sexual violence, rape myths, perceived false reports, negative system response and treatment of victims, and high rates of case attrition are deterrents to engaging with the justice process.

Moving forward, Washington needs to prioritize increasing access to legal aid attorneys for civil domestic and sexual violence cases. Washington needs to expand data collection and research

on gender-based violence, to increase evidence-based prevention efforts including treatment options for perpetrators of domestic violence such as Domestic Violence Moral Reconciliation Therapy (DV-MRT), and to promote and require education for justice system stakeholders working on cases involving domestic and sexual violence.

Recommendations

- In order to improve access to the courts for litigants in cases involving gender-based violence, the Washington State Legislature should allocate increased funding to the Office of Civil Legal Aid for more civil legal aid attorneys who can assist victims of domestic and sexual violence with their legal issues. Although Washington State has enacted laws that provide protections to victims of domestic and sexual violence, legal assistance is needed to enforce them.
- Stakeholders, including the District and Municipal Court Judges Association (DMCJA) and Superior Court Judges Association (SCJA), in coordination with AOC, should review the HB 1320 work group's future recommendations³ and develop a model guidance memo to implement them.
- Given that the evaluation of Domestic Violence Moral Reconciliation Therapy (DV-MRT) showed it to be a promising practice in reducing domestic violence recidivism, and that litigants bear significantly lower costs to participate in the program, more courts in Washington State should consider implementing court-based DV-MRT programs.
- The Gender and Justice Commission should support the Tribal State Court Consortium's efforts regarding a judicial branch response to the pervasive problem of Missing and Murdered Indigenous Women and People and enforcement of Tribal Court protection orders.
- To monitor the efficacy of laws and regulations that combat gender-based violence and to identify gaps in protection, statewide data on the following topics should be collected: the barriers to enforcement of firearms surrender orders; the efficacy of domestic violence perpetrator treatment (in light of our pilot project report on the value of DV-MRT treatment); the prevalence and consequences of sexual assault in prison – especially for understudied

³ This work group will be convened by the Washington State Supreme Court Gender and Justice Commission, with its report due to the courts by July 1, 2022.

populations; the prevalence and consequences of coercion for sex and sexual assault in the workplace – especially for female workers in the farm labor, service, and related low-paying industries; and data on the investigation and processing of sexual violence cases, including time from the alleged assault to filing, to resolution via the court process, and the reasons for any delays. This work will require legislative funding.

- One component of this data collection could be development of a statewide online dashboard where law enforcement reports its data, as it already does pursuant to the Safety and Access for Immigrant Victims Act (2018) and pursuant to SHB 1501 (2017) to track denied firearm transactions.
- Requirements for the data could include the following: (1) data collected should include disaggregated demographic information, including gender information that goes beyond the male-female binary, and (2) that non-confidential data and information about the process should be transparent and available to the public to promote system accountability.
- The Legislature should fund Washington-specific primary research to evaluate the current requirement for mandatory arrest in domestic violence cases, including research regarding the impact on women; Black, Indigenous, and other people of color; immigrants; those living in poverty; and LGBTQ+ people.
- In light of the findings about the disparate impact of gender-based violence on women, Black, Indigenous, and people of color, immigrants, those living in poverty, and LGBTQ+ people and the continuing barriers to their access to justice, the Gender and Justice Commission should partner with stakeholders and experts to suggest modifications to judicial branch education on gender-based violence for judges, law enforcement, attorneys, and others working on such cases.

Chapter 9

Juvenile Justice and Gender and Race Disparities

Judge Judith Ramseyer

Claire Mocha, MPH

Summary

Girls make up a small percentage of youth involved in the juvenile justice system. There are, however, differences in the ways that girls and boys enter the juvenile justice system, their needs, and the resources available once they enter the system. For example, nationally, girls with juvenile justice involvement are more likely than their male peers to have experienced sexual and physical abuse, neglect, or maltreatment. In Washington, girls are more likely than boys to already have a history of involvement in the child welfare system when they come into contact with the juvenile justice system. This suggests there are many places within the juvenile justice system where more nuanced gender disparities may arise beyond looking at just the total numbers of youth by gender.

In addition, there is a significant gap in understanding whether bias or inequities may be impacting transgender and gender-nonbinary youth in their interactions with the juvenile justice system. National research does show that LGBTQ+ youth are over-represented in the juvenile justice system and that they experience biases and trauma once they become involved with that system. The best available national evidence suggests that the rate of lesbian, gay, and bisexual (LGB) boys in detention is roughly proportional to the rate in the general population, but LGB girls may be disproportionately represented at 3.3 times the rate of the general population. In addition, LGBTQ+ youth take paths into the system that are specific to their sexual orientation or gender identity. For example, they may experience homelessness due to family rejection or abuse centered on their LGBTQ+ identity, or they may be arrested for committing survival crimes such as stealing or trespassing. Once involved in the system, LGBTQ+ youth report feeling invisible and experiencing discrimination and harassment. Some reported what they perceived

as hostile treatment by court professionals and more severe sentencing because of their LGBTQ+ identity.

Further, research has identified disparities in the juvenile justice system by race, ethnicity, socioeconomic status, disability status, and the intersection of these factors. For example, WSCCR and the Washington State Supreme Court Minority and Justice Commission released a special research report on girls of color admitted to juvenile detention in Washington State. Analyzing 2019 data, they found that American Indian/Alaska Native, Hispanic/Latinx girls, and Black girls were overrepresented in juvenile detention. This all shows that we need more comprehensive Washington data on youth who have contact with the juvenile justice system – data that would allow for analysis by gender and the intersection of gender with other factors.

Recommendations

- To reduce disparities in arrest, detention, and resolution of juvenile cases, and to reduce the number of girls detained for status and misdemeanor offenses, stakeholders should:
 - Identify and develop, throughout the state, community-based resources that address the needs of youth involved in the juvenile justice system for status offenses so they may be safely served in the community.
 - Identify and develop, throughout the state, culturally-competent community mentoring programs upon which schools, law enforcement, prosecutors, and courts can draw instead of referring low-risk criminal behavior for prosecution.
- To assess and develop gender-responsive and culturally-competent resources for status and juvenile offenders that respond to individualized needs derived from individualized assessment, stakeholders should:
 - Follow the status of the Kitsap County girls' court, including WSCCR's current evaluation, and consider new recommendations based on this data.
 - Maintain an inventory of gender- and LGBTQ+-specific programming and services offered at Echo Glen Children's Center and Ridgeview Group Home and track their progress. Based on tracking of these programs (and any others), identify gaps in gender-responsive programming and build programs to address the gaps.

- Maintain an inventory of the gender- and LGBTQ+-specific programming and services offered through Washington's juvenile courts. Track program effectiveness, identify program gaps and deficiencies, develop solutions to deficiencies, and fund effective program development.
- WSCCR and juvenile justice stakeholders should develop standards to collect and report demographic data by entities operating in all phases of the juvenile justice system (initial referral, diversion/prosecution, detention, adjudication, disposition, use of manifest injustice/decline, and outcome). Data should include self-identified sexual orientation, gender identity, gender expression, race, and ethnicity; age; developmental challenges; and status as a parent.
- WSCCR should maintain and publish uniform data on the rate of youth arrests in each Washington county by subpopulations, including gender, race, ethnicity, age, and referral charge.
- WSCCR should expand the annual juvenile detention report to examine county detention admissions by gender, race, ethnicity, age, admission reason, and length of stay.
- WSCCR and juvenile justice stakeholders should develop uniform standards to collect and report demographic data for school-based referrals. Data should include self-identified sexual orientation, gender identity, gender expression, race, and ethnicity; age; developmental challenges; and status as a parent. Use this data to (1) identify student populations and geographic locations with the greatest need, (2) develop restorative programs tailored to specific needs at the local level, and (3) reduce criminal referrals.

Chapter 10

Commercial Sex and Exploitation

Judge Barbara Mack (ret.) and Dr. Dana Raigrodski, LLB, SJD

Summary

Commercial sexual exploitation (CSE), including sex trafficking, mainly targets women, children, young adults (up to age 24), and individuals identifying as LGBTQ+, primarily in communities in poverty, Indigenous communities, and communities of color. Economic and social marginalization drives people into the commercial sex industry and exploitation, which in turn perpetuates that economic and social marginalization. The most targeted and marginalized populations have been doubly harmed by exploitation and by poor treatment within the legal system.

While data is limited, CSE is widespread in the sex industry in Washington State and nationally. State and national data show significant disparities based on gender and gender identity, sexuality, age, class, race, ethnicity, and Indigenous identity. Prior experiences of abuse, trauma, homelessness and alienation from one's family increase vulnerability and risk, now exacerbated by the COVID-19 pandemic. Washington data indicates that CSE survivors are mostly female, although male and LGBTQ+ survivors are likely significantly under counted. A significant number of those trafficked and exploited in the commercial sex industry are children and youth (up to age 24). Third-party exploiters and many sex buyers target women and girls of color, which contributes to their over-representation among those who are sexually exploited. Sex buyers are almost exclusively men and high-frequency buyers are often high earners. In Washington, human trafficking is deeply and historically connected to missing and murdered Indigenous women and people.

Inequities in the justice system amplify disparities for survivors of exploitation and for individuals in the sex industry generally. Washington's justice system addresses commercial sex through overlapping frameworks: sex industry offenses such as prostitution and patronizing, commercial

sexual abuse of minors (CSAM), and human trafficking. Those frameworks are often in tension with each other due to misconceptions about the pathways into the sex industry and the barriers to leaving it. Individuals in the sex industry, including the many who are exploited, have been criminalized rather than recognized as victims or survivors, and have been sanctioned disproportionately to their exploiters. Washington data shows that women and girls have been disproportionately criminalized. The data does not provide much information about the criminalization of LGBTQ+ populations, though national data suggests they are also disproportionately criminalized. Washington data also shows the disproportional criminalization of Black, Indigenous, and people of color. Exploiters, on the other hand, have often escaped prosecution or faced limited sanctions.

Increased knowledge about the impacts of sexual exploitation has led to greater recognition that sex work often masks sexual exploitation. As a result, the criminal justice system now is better equipped to identify and serve survivors. Since the early 2000s, Washington has made significant progress on issues of human trafficking and CSE, due in large part to a concerted effort to provide cross-disciplinary training to identify and respond earlier to CSE children and youth. Washington has also reduced the disproportionate gender and race impact of the justice system response to individuals in the sex industry, including victims of exploitation. Current responses focus on holding exploiters accountable, on ending the cycle of CSE-related crime, and on facilitating a way out of the sex industry by providing services and enhancing economic and social safety nets. Washington has increased the accountability of traffickers and exploiters, who are almost exclusively men, and has legislated a survivor-centered approach to sexually exploited minors and, to some extent, adults. The number of arrests and charges for trafficking, CSAM, and patronizing is increasing, while the number of prostitution arrests and charges is decreasing. Washington has made significant progress in reducing the involvement of CSE minors in the justice system, many of whom are at-risk girls, LGBTQ+ minors and young adults, boys, and Black and Brown minors and young adults. These actions are helping to alleviate the historic gender, racial, and socio-economic inequities in the justice system.

However, many of the new protections apply only to minors. Even with new protections and better identification, lack of services and facilities statewide remains a challenge. Adult

prostitution is still a criminal offense. Where no force or coercion is involved, until the recent passage of SB 5180 (effective date 7/25/21), adults had few available defenses to the charge or easily accessible ways to vacate prostitution convictions. Challenges still exist for sexually exploited people, both minors and adults, who are arrested and adjudicated for other crimes. The bulk of current research shows that most people who are sexually exploited have histories of child abuse and became involved in the sex industry as minors, when coerced into prostitution by families, by third parties or because of poverty, substance abuse, or homelessness. The lack of protective legislation and policies for 18 to- 24-year-olds constitutes a failure to recognize this reality. CSE survivors and sex workers suffer from shame and stigma imposed on them by society because of a pervasive belief that they are responsible for the harm, violence, and criminalization they suffer. Explicit and implicit biases at various decision points in the justice system can perpetuate disparities and inequities. Protective CSE laws and policies may only be available when individuals are identified as victims or survivors. Bias can affect whether or not a person is identified as a victim or survivor and at which stage of their involvement in the justice system, which means gender and race may determine outcomes.

To reduce CSE and the disproportionate gender and race impact of the justice system’s response, Washington should continue to develop multidisciplinary systems-wide responses with a focus on “upstream” prevention and a public health approach. Washington should also strive to further reduce justice system involvement for minor and adult CSE survivors, increase accountability of exploiters, provide for comprehensive continuing cross-sector education, and improve data collection on commercial sexual exploitation.

Recommendations

As to Commercially Sexually Exploited Children and Youth

- Washington State should institute demand-reduction efforts specific to the exploitation of children, including:
 - Stakeholder trainings should address the demand for sex from children and identify upstream strategies to prevent Commercial Sexual Exploitation of Children (CSEC).
 - All criminal statutes that address demand for sex from children should be enforced.

- Broader prevention efforts should include public awareness and education about the harms of sex buying and the role of buyers as exploiters of children.
 - Technology-based interventions should address the demand for children on a broad scale.
- Continue to develop multidisciplinary systems-wide responses, with a focus on upstream prevention and a public health approach. Judges in state and tribal courts should be encouraged to convene and work with broad multidisciplinary collaborations of those who come in contact with sexually exploited minors and young adults. Those collaborative groups should develop locally appropriate policies and procedures for multidisciplinary responses designed to keep youth out of the system, and to respond in a trauma-responsive manner when system involvement is necessary. To the extent possible, the group should include systems and service providers (e.g., courts, law enforcement, defense attorneys, service providers, survivors, school systems, child welfare, health care providers).
- The Washington State Legislature should adequately fund both the receiving centers authorized under the Safe Harbor Bill HB 1775 and residential treatment beds for sexually exploited youth who suffer from co-occurring disorders, including Post-Traumatic Stress Disorder (PTSD), substance abuse disorder, and other mental health issues.
- Juvenile courts, including those in rural areas, should have designated probation counselors who are trained to identify and respond to sexually exploited children. Where a youth is on probation, their probation counselor should be part of any multidisciplinary team convened to help and to provide services to an exploited minor.
- Follow the recommendation in “Chapter 9: Juvenile Justice and Gender and Race Disparities” to assess and further develop gender-responsive and culturally competent programs and services for justice system involved youth, including Kitsap County girls’ court and other gender- and LGBTQ+-specific programs and services offered through Washington’s juvenile courts.

As to All Impacted Populations, Adults as Well as Children

- Washington State should expand therapeutic courts for victims/survivors of exploitation. Defendants charged with crimes related to exploitation should be admitted into those courts. Those therapeutic courts should place an emphasis on connecting these individuals with robust local services, including housing, substance abuse and mental health treatment, and training/employment opportunities, to facilitate exit from the sex industry.
- Courts and the Washington State Legislature should study and consider expanding education, accountability and therapeutic options for those benefiting from Commercial Sexual Exploitation (CSE), and should determine how to fund those programs.
- Drugs are often used to coerce people as a means of control. The Washington State Legislature should consider amending the definition of coercion in trafficking and CSE laws to include supplying, furnishing, or providing any drug or illegal substance to a person, including to exploit the addiction of the person or cause the person to become addicted to the drug or illegal substance.
- The Washington State Legislature should consider enacting an affirmative defense for victims of sexual exploitation to other crimes committed as a direct result of their exploitation (exploitation as victims of crimes includes but is not limited to commercial sexual abuse of minors [CSAM], promoting CSAM, trafficking in the first or second degree, dealing in depictions of a minor engaged in sexually explicit conduct).
- Current efforts in Washington State to reduce justice system involvement and its harms for adults in the sex industry vary by jurisdiction and are implemented through discretionary and locally implemented policies. The Governor, Legislature, or Attorney General should create a bipartisan collaborative group to work with appropriate state, county, local, and tribal law enforcement, prosecutors, and stakeholder groups to recommend best practices and guidelines.
- All courts and courtrooms should be trauma-informed and trauma-responsive.
- To better understand the demographics of sexual exploitation, particularly of children and youth, Washington State should establish and fund a cross-sector database and develop criteria for safely sharing that data while protecting the identity and privacy of survivors. The following steps could be taken to implement this:

- Develop and implement data sharing agreements to track cases of sex trafficking of children and youth, including information related to victim identification and service provision, across all state agencies. Such agreements should include standardized identifiers and definitions and established protocols to share information, protect the confidentiality of children and youth, and be limited in scope.
- Develop and implement data sharing agreements among all public agencies and publicly funded private agencies that provide services to children and youth who have experienced sex trafficking. Such agreements should include standardized identifiers and definitions and established protocols to share information, protect the confidentiality of children and youth, and be limited in scope.
- Require state agencies and private agencies that receive public funding to collect and report aggregate data about the sex trafficking of children and youth and their agency's response to the Washington State Legislature or the Governor for public dissemination.
- Data that is collected is inconsistent. Washington State should consider funding development, validation, and adoption of a short trauma and sexual exploitation screening tool for all youth who enter detention, child welfare, health care, or any other state system, and make the tool available to others who come in contact with at-risk or trafficked children (e.g., school counselors). That tool should contain demographic information and the data should be entered into the statewide database.
- Washington State should require regular evidence-based education and training for all court personnel (including judges, court staff, prosecutors, defense attorneys, and law enforcement) about the dynamics and complexities of trauma and human trafficking. It should address the impact of systemic racial, cultural, and gender-based bias on those affected by CSE.
- Training for judges and court staff should acknowledge and provide tools to reduce the effects of secondary or vicarious trauma on judges, staff, and the people they serve.

PART IV

The Gendered Impact of the Increase in Convictions and Incarceration

Chapter 11

Incarcerated Women in Washington

Marla Zink, JD

Judge Joseph Campagna; Sierra Rotakhina, MPH

Summary

The number of women who are incarcerated in Washington State grew exponentially and largely in the shadows between 1980 and 2000, a trend mirrored in much of the nation. However, while the female population of prisoners has declined in many other states in the 2000s, Washington's numbers have continued to increase or have declined at a lower rate during this same time period. It is well past time to shine light into the shadows and address the growing incarceration of women in Washington.

Unfortunately, the data and research in this area is thin. Voluminous research shows American Indian/Alaska Natives and Black individuals are disproportionately represented in our prison and jail populations. However, for the most part, data analyses do not account for the intersection of sex, race, and ethnicity—even when the data would allow for such exploration. To start addressing this gap in the literature, the Gender and Justice Commission commissioned an analysis of Washington State felony judgment and sentencing data. The pilot project found that Black, Indigenous, and women of color are convicted and sentenced at rates two to eight times higher than white women. In addition, the types of crimes for which women and men are convicted, vary greatly. Women were convicted and sentenced in relatively higher proportions in drug, property, and fraud categories, compared to violent and sex offenses.

Complicating the problem, data on race and ethnicity suffers from problems in how groups are identified, classified, and reported. Moreover, Washington-specific gender identity and sexual orientation data largely does not exist. Therefore, we lack a complete picture. We extrapolate from national and other research where possible, but more work should be conducted to parse out Washington's data and to identify and address the root causes of over-incarceration.

Based on the research and data in which we do have confidence, the forces driving the growing incarceration of women in Washington center around criminalization rather than treatment of complex and other traumas; increasingly harsh penalties, particularly for drug offenses, which have disparately harsh impacts on Black, Indigenous, and communities of color; policing and prosecuting practices that zero-in on certain offenses in certain communities, particularly Black, Indigenous, and communities of color; a rise in pretrial incarceration and its relation to socioeconomic status but also its impact on socioeconomic status; and persistent growth in sentencing laws that result in lengthier sentences, keeping more women locked up for longer. We also recognize that racism and marginalization underlie criminalization and incarceration in this country, and in Washington. Throughout this chapter, we recommend changes to end these practices and substantially reverse the trend.

Recommendations

- Adopt the recommendation described in “Chapter 13: Prosecutorial Discretion and Gendered Impacts” to institute a centralized database and standardized reporting criteria for jail bookings.
- Adopt the recommendation described in “Chapter 13: Prosecutorial Discretion and Gendered Impacts” to collect and analyze data on the prosecutors’ diversionary practices.
- Government data collection should follow the best practices recommended by the 2020 *Incarceration of Women in Washington State* pilot study commissioned by the Gender and Justice Commission. The pilot study sets forth comprehensive recommendations for improvements in data collection as well as additional analyses and research to be implemented by the Caseload Forecast Council, the Washington State Legislature, and the Department of Corrections (see pages 31-32 of the *Incarceration of Women in Washington State* pilot study).
- When sufficient bail data can be obtained from the counties, WSCCR should study the impact of pretrial reform (including bail reform and more widespread pretrial services, such as those enacted by Yakima County) on wellbeing, recidivism, incarceration, community safety, and failure to appear rates.

- WSCCR and/or other stakeholders should undertake a study of (1) the impacts of incarcerating women for violating conditions of release, and (2) whether other sanctions could be equally or more effective.
- In the short term (next two years), criminal justice stakeholders, including the Department of Corrections and Juvenile Rehabilitation Administration, should study the effect that the increasing detention of girls - especially Indigenous, Latinx, and Black girls - has on this state's large incarcerated-adult female population. We also recommend finding a way to measure disparities impacting other populations not currently represented in the data, such as Native Hawaiian and other Pacific Islander populations.
- The Washington State Legislature recently enacted SB 5476 (2021), which codifies simple drug possession as a misdemeanor; requires law enforcement to divert certain suspects to assessment, treatment, or other services and encourages prosecutors to do the same; and invests in programs and oversight. The Gender and Justice Commission should partner with stakeholders to evaluate that new law's impact on women and girls, including Black, Indigenous, and other women and girls of color, in terms of incarceration rates, legal financial obligations (both of their own and of their family members and partners), treatment impact, and public safety.
- During the 2022 legislative session, the Washington State Legislature should again consider legislation to retroactively account for trauma-based criminalization and incarceration, similar to the way that the Survivors Justice Act, HB 1293 (proposed during the 2021 Regular Session) and N.Y. Penal Law § 60.12 address this problem in the area of domestic violence trauma. The Legislature should consider whether other sources of trauma, such as adverse childhood experiences, surviving through war, etc., should be included in any such legislation.
- In the short term (next two years), criminal justice stakeholders should convene to consider whether to amend CrR 2.2, CrRLJ 2.2, CrR 3.2, and/or CrRLJ 3.2 to limit trial court power to issue bench warrants for failures to appear and to consider alternative methods of addressing non-appearances.

Chapter 12

Department of Corrections Gender-Responsive and Trauma-Informed Policies, Practices, and Programs

Judge Joseph Campagna

Laurie Dawson; Sharese Jones, MA; Sierra Rotakhina, MPH

Summary

Historically, prisons and jails have confined mainly men. As a result, prisons and jails use approaches that are based on research conducted with men. The Washington State Department of Corrections (DOC) is no exception. Its programs, policies, and even its commissary items and clothing tend to serve the needs of the typical male population.

But not all incarcerated individuals are men. Women, transgender, and gender-nonconforming individuals often have different backgrounds, experiences, traumas, physical needs, and social interactions than men; so approaches designed for cisgender men don't necessarily work for these other individuals. But there is evidence that certain correctional programs, when administered with fidelity, generally reduce recidivism for women, and that gender-responsive programs may be more effective than gender neutral programs in achieving this goal. In order to achieve positive outcomes, more gender-responsive and trauma-informed policies, procedures, and programs are needed within DOC.

DOC has taken intermittent strides in recent years toward becoming more gender-responsive. For example, in 2014, DOC instituted its first gender-responsive policy (DOC Policy 590.370), and in 2020, DOC implemented a Transgender, Intersex, and/or Gender Non-Conforming Housing and Supervision Policy (DOC Policy 490.700). In addition, DOC provides (or collaborates to provide) three gender-responsive and trauma-informed programs to incarcerated and formerly incarcerated women: Moving On, Beyond Violence, and the Seattle Women's Reentry initiative. The research shows that these programs are effective when implemented as designed—so it is important to monitor and evaluate existing DOC programs to ensure they are implemented with fidelity.

In addition, there are women who are incarcerated in Washington who have been very active in starting and running programs and in building communities that are relevant and responsive to the needs of incarcerated women. For example, the Women’s Village at Washington State Corrections Center for Women (WCCW), was founded and is led by incarcerated women who develop programs, activities, and events that are responsive to their needs.

While DOC has made some progress in implementing gender-responsive policies and programs, a 2019 survey by the Washington State Office of Corrections Ombuds, and anecdotal evidence from incarcerated and formerly incarcerated people, highlight that many areas still need improvement. There is a pressing need for more research in Washington to determine if policies and programs are meeting the needs of, and improving outcomes for, women, transgender, and gender-nonconforming individuals—particularly for Black, Indigenous, and people of color who are disproportionately incarcerated and doubly harmed by sexism and racism.

Recommendations

- To provide effective gender-responsive and trauma-informed programs, policies, and procedures to all justice-involved women and non-binary, transgender, and other gender nonconforming individuals, the Washington State Department of Corrections (DOC) should consider:
 - Expanding access to more types of programs with guidance from the incarcerated individuals who would be using the programs.
 - Expanding locations of program administration. DOC facilities appear to be the only location at which gender-responsive programming is available. County jail populations might be too transitory to benefit from these programs, but people subject to out of custody supervision might benefit from this valuable tool.
 - Providing training for staff who work with individuals on Community Supervision to increase their understanding of gender-responsive and trauma-informed principles.
 - Ensuring that DOC Policy 610.650-Outpatient Services and the “Washington DOC Health Plan” include complete women’s health care services for women incarcerated in DOC facilities, and that these policies are implemented as written.

- Making all DOC policies, practices, and programs gender-sensitive, responsive, and trauma-informed.
- Reducing trauma and enhancing safety through the preservation of human dignity by developing trauma-informed alternatives to strip search.
- Research from other states has shown that outcomes of gender-responsive programming depend heavily on the manner in which the programs are administered, which often varies widely. Conduct research, monitoring, and evaluation in Washington to assess the effectiveness of DOC's gender-responsive programming generally, and for subpopulations such as Black, Indigenous, and women of color, in particular.

Chapter 13

Prosecutorial Discretion and Gendered Impacts

Kelly Harris, JD; Joanne Moore, JD; and Claire Mocha, MPH

Summary

Prosecutors have wide discretion in deciding whether and how to charge defendants; to whom diversion and deferral opportunities should extend; whether to recommend pretrial detention or how much bail to request; and when to make plea bargain offers. The evidence from across the U.S., and the limited evidence from Washington State, suggests that Black, Indigenous, and other women of color are systematically disadvantaged when compared to their white peers at those discretionary decision points. While judges can oversee some aspects of the power of prosecutors in the context of an individual case, there is a lack of systematic public oversight or accountability, and a lack of data to understand if, how, and where prosecutors may be contributing to disparities in the criminal justice system.

The data we do have, though, suggests that individuals from marginalized communities may experience systematic and cumulative layers of disadvantage, both inside and outside the criminal justice system. Inequities outside of the justice system may compound disparities within the system. For example, racial disparities in arrests negatively influence pretrial bail decisions, which influence plea deals, affect charging decisions, and create a higher likelihood of incarceration and longer sentences for both men and women of color.

Data from the Washington State Patrol shows that Black, Latinx, and Pacific Islander drivers, and particularly Native American drivers, were searched at higher rates than white motorists in 2009-2015. Native Americans were searched at a rate five times higher than white motorists. And 2019 data from Washington shows that Black and Indigenous women are also arrested at rates higher than their representation in the population. The evidence also suggests that transgender women are subjected to disproportionate arrests, and aggressive or even abusive policing practices.

Looking at charging decisions, female defendants may be more likely to have arresting charges against them dropped or decreased when compared to male defendants (although females with prior felonies may actually be treated more severely than male defendants). For female defendants, having minor children may increase the chances of charges being dropped. There is a gap in the research regarding outcomes for transgender, gender non-binary, and gender-nonconforming individuals.

In addition, evidence suggests that prosecutors may believe that cases fitting stereotypical ideas of rape and rape victims have the best chances of winning in court. Survivors who are attacked by strangers, who are injured during the attack, or who are attacked in public places are more likely to see charges brought against their attackers. However, these charging patterns do not align with the reality of all sexual assaults.

The data also shows that prosecutors can (and in some places do) use their discretion to lessen disparities. But more data is needed (particularly on prosecutorial discretion in smaller jurisdictions and rural areas) on outcomes for all racial and ethnic groups including Asian Americans, Native Hawaiians and Other Pacific Islanders, and Indigenous populations. More data is also needed on the intersection of gender with race, ethnicity, sexual orientation, poverty, and disability. This data is needed to understand the effect of prosecutorial discretion on different populations and to build systems of accountability to counteract documented criminal justice disparities in Washington State.

Recommendations

- To systematize and incentivize more equitable pretrial, charging, and plea bargaining practices, prosecutors in every jurisdiction in Washington State should conduct an internal analysis of their use of prior arrest, charge, and conviction data in decisions regarding pretrial detention and bail, charging, and plea bargaining, to assess the public safety impact and the gender, race, ethnicity, and LGBTQ+ impacts of using those prior records. Prosecutors should also revisit policies that limited consideration of prior records as part of office charging and plea-bargaining guidelines, to determine more accurate means of protecting public safety while reducing disproportionate impacts.

- To increase the use and effectiveness of pre-arrest and pre-file diversion and deferral programs, the Washington State Legislature should direct the Washington State Institute for Public Policy (WSIPP) to partner with relevant state, local, and tribal experts to create and maintain an inventory of criminal justice diversion programs that have proven to be effective for different populations and different needs, with a particular emphasis on cultural competence, trauma-informed care, and gender-responsiveness.
 - Courts should not order defendants into any program or treatment that has not proven to be effective enough to make that list.
- To better understand and address disparities in charging, pretrial detention, bail, plea bargaining, and diversion or deferral decisions, the Washington State Legislature should work with the appropriate statewide and county prosecutorial agencies to fund the creation of a statewide system for data collection and publication. This group should also determine the best way to ensure that individual jurisdictions collect and submit data from charging, bail, pretrial detention, plea bargain, and diversion or deferral decisions, and that this data is disaggregated by gender, race, ethnicity, sexual orientation, and disability. Data should be made available to the public in a timely and accessible manner.

Chapter 14

Sentencing Changes and Their Direct and Indirect Impact on Women

Marla Zink, JD

Judge Maureen McKee; Sierra Rotakhina, MPH

Summary

The Washington State Legislature has made many changes to the sentencing laws since the 1980s. These reforms have had the overall effect of increasing the length of sentences and therefore increasing overall incarceration rates. Average offender scores increased across all offense categories (violent, drug, property, and public order) from 1986 to 2016. These increases happened despite declines in crime rates and stable recidivism rates during this same time period.

In 1981, the Washington State Legislature enacted the Sentencing Reform Act (SRA). The stated purposes of the SRA are to ensure proportionate sentencing, mete just punishment, punish commensurately with others, protect the public, offer rehabilitative measures, reduce the use of governmental resources, and reduce recidivism. Washington allows judges to issue “exceptional sentences” outside the presumptive sentencing range if warranted by aggravating or mitigating circumstances. Washington provides sentencing enhancements triggered by other aggravating circumstances. Washington also allows certain structured sentencing alternatives such as community-based sanctions and rehabilitative programs.

Gender and other biases appear to play a role in sentencing because disparities exist even when controlling for factors such as seriousness of the offense and criminal history. While there is significant nuance and sometimes conflict in the literature on sentencing by gender, race, ethnicity, and other factors, Washington and national literature largely indicates that women are treated more leniently than men at sentencing. Researchers theorize that stereotypes contribute to this disparity. According to the chivalry/paternalism theory, males, who dominate the criminal justice system, associate women with their mothers, sisters, wives, and daughters. As such, they may be less likely to view some women as dangerous and blame-worthy, as women are often

stereotyped as victims, and being nurturing and docile. It is important to note that this stereotype of women as nurturing and docile is not universal. Evidence indicates that Black, Indigenous, and women and girls of color are perceived differently than white women and girls, and the former are depicted very differently in the media from the latter. In addition, women who conform to the “appropriate” gender role are most likely to be given preferential treatment whereas women who act in a manner outside of the role are more likely to receive harsher punishment.

While the sentencing literature on race and ethnicity is mixed, the body of literature overall shows that Black, Latinx, and Indigenous individuals are punished more severely than similarly situated white offenders under at least some conditions. There is very little research that looks at how race, ethnicity, and gender interact—making it almost impossible to understand sentencing outcomes for specific populations of women. But the few studies that have looked at the intersection of gender, race, ethnicity and other factors suggest that young Hispanic and young Black men have the worst sentencing outcomes while young Black women and young white women tend to receive the most lenient sentences. One study found that young Hispanic women received sentences more similar to those of male defendants than to those of female defendants of other racial or ethnic populations. This certainly suggests that Hispanic women may receive the harshest sentences of all women.

Research has also found that the influence of defendant race and ethnicity was impacted by employment status, education, crime type, seriousness of offense, criminal history, and victim race and ethnicity. These findings highlight the importance of research that considers the interaction of many factors to better understand how bias is amplified for some populations.

Recommendations

- To decrease disparities in sentencing, study what evidence-based programs work to educate the judiciary, the bar, and court partners on how to identify and avoid gender and race bias. Based on the results, the education programs, bench cards, and other resources that have proven to be effective should be continued, expanded, and made mandatory.
- For policy-makers: Consider legislation amending RCW 9.94A.535(1) to recognize that primary caregiving constitutes a mitigating sentencing factor. It is a mitigating factor because

family structures can provide support to rehabilitating offenders; courts should therefore be able to consider the role of the offender within their family when determining sentences. Failing to recognize ‘primary caregiving’ as a mitigating factor also adversely impacts those who generally carry the burden of caregiving, that is, predominately women and families without resources. This should be done in the next two years or as soon as possible.

- For policy-makers: To reduce the disproportionate effect of mass incarceration and lengthy sentencing regimes, consider enacting legislation, such as HB 1282 which was considered in the 2021 regular session, to make all inmates eligible for earned early release time at the rate of 33% or higher for all sentences and enhancements.
- Adopt the recommendation described in “Chapter 11: Incarcerated Women in Washington,” which recommends considering legislation to retroactively account for trauma-based criminalization and incarceration.

Chapter 15

Legal Financial Obligations

Judge David Keenan

Summary

Legal financial obligations (LFOs) have a long history in the United States, and their impact on individuals of different genders varies at different stages in the criminal legal system, from sentencing to reentry. LFOs find their roots in institutional racism, starting with convict leasing in the post-reconstruction South, and today they are levied at every level of trial court, throughout the United States. In Washington, trial courts fine individuals under criminal statutes, may require those individuals to pay the cost to prosecute and defend them, can charge them fees for such bureaucratic tasks as processing their DNA, may require forfeiture of assets, and can require individuals to pay restitution to victims.

While courts must sometimes ask whether an individual can actually afford to pay, many LFOs and certain fines are mandatory. For example, whether low-income or no-income, most people convicted of a felony will have to pay at least \$600. When a person is released from a period of incarceration, they can be punished and even returned to jail if they don't pay their LFOs. Those LFOs provide revenue to jurisdictions throughout Washington, many of which employ collection agencies—which then add surcharges—to collect LFO debt. As long as the debt remains, the LFO debtor stays under the court's jurisdiction; no matter their income or obligations, the court can require individuals to keep verifying their ability to pay. Thus, for many, LFOs are a life sentence.

While a great deal of LFO research exists, very little of that research examines the role gender plays in how LFOs are imposed and how individuals of different gender identities—binary and non-binary—are impacted by LFOs. Though this chapter refers to what little reported data there is regarding women and men, none of the data sources examined specified whether the binary gender references were to sex assigned at birth versus gender identity. Indeed, none of the twenty-five states that have provided data to the National Indexing Project on Fines and Fees collect information relating to gender. The data that is available suggests that men are sentenced

to higher LFOs than women. However, significantly, the post-conviction LFO-related collateral consequences for women are substantial. Women reentering the community from a period of incarceration, many of whom are mothers, face tremendous obstacles in accessing employment, housing, healthcare, and public benefits. Moreover, women are often burdened with the LFOs of individuals close to them. Overall, women may bear a disproportionate share of the post-conviction consequences flowing from LFOs. Given the paucity of LFO-related gender-specific data, more needs to be done to collect this information to allow conclusions beyond inferences and anecdotes.

In recent years, stakeholders have sought to reform how and how much Washington courts impose in LFOs. From legislation in 2018 eliminating the onerous 12% interest previously charged on non-restitution LFOs, to current efforts to provide more discretion to judges and more avenues for post-conviction LFO relief, advocates, judges, and legislators are making progress on LFO reform, though none of it is focused on gender disparities. With more data and more research, future reform efforts may be better-informed to address how LFOs impact individuals of various genders.

Recommendations

- To facilitate a single place to access statewide Legal Financial Obligation (LFO) data, by December 2021, stakeholders should be convened⁴ to: (1) assess what LFO data is currently available from each level of court; (2) assess what LFO data is not available; (3) assess how stakeholders (e.g., researchers) currently access available data; and (4) recommend ways to (i) fill in the missing data, and (ii) create a single portal for accessing statewide data. Any analysis should first consider the reliability of the underlying data, e.g., the sources of that data and how it was collected in the first instance. The data should include impact of LFO's by gender, race, and ethnicity as overlapping categories; it should also strive to include who is making the payments (i.e., the sentenced defendant or another family member).

⁴ Such a convening is already being planned for September 2021, coordinated by AOC and co-chaired by Representative (and Gender Justice Study Advisory Committee member) Tarra Simmons and Judge David Keenan (author of this chapter).

- The Washington State Legislature recently named WSIPP as the justice system partner responsible “to study legal financial obligations,” and provided WSIPP with funding to do so. The scope of the LFO study includes some of the data gathering recommended above, though there is no provision for collecting or analyzing data specific to gender. WSIPP should consult with stakeholders, including the Gender and Justice Commission, immediately about conducting this study. The Gender and Justice Commission should (1) recommend to WSIPP that their data collection and analysis include gender and intersectionality with other demographics, and (2) offer the Gender and Justice Commission’s assistance with the study.
- To ensure that LFOs do not pose a barrier to completing a sentence, exiting the criminal legal system, and successfully reentering the community, the legislature should consider enacting the following Washington State Criminal Sentencing Task Force LFO recommendations:
 - Address interest on restitution:
 - Change current law to give judges the discretion to waive or suspend interest on restitution, rather than it being mandatory, based on a finding of current or likely future ability to pay.
 - If restitution is imposed, allow accrual of interest to begin following release from the term of total confinement.
 - Lower the current 12% interest rate on restitution.
 - Waive existing non-restitution interest.
 - Victim Penalty Assessment (VPA):
 - Provide trial court judges with the discretion to reduce or waive the VPA upon a finding by the court that the defendant lacks the present and future ability to pay.
 - Provide trial court judges with the discretion to eliminate stacking of multiple VPAs (multiple VPAs imposed at same time) based on a finding that the defendant lacks the present and future ability to pay.
- Convene stakeholders to collaborate on legislation requiring, at a minimum, that superior courts means-test LFOs which are currently mandatory, including, for example, the victim penalty assessment.

- Convene stakeholders to study means-testing imposition of all LFOs in courts of limited jurisdiction, requiring a report and recommendations by November 2022.
- Convene stakeholders to propose draft revisions to CrR 3.4(d) and CrRLJ 3.4(d) concerning the necessity of an individual's presence at a hearing ordered solely to address LFO collection, and the advisability of issuing warrants when an individual fails to appear at such a hearing. Stakeholders should consider whether warrants should still be permitted where, for example, there is proof by a particular standard (e.g., preponderance) that the failure to pay is willful.
- Ask AOC to revise Appendix H of the Felony Judgment & Sentence Form (re Community Custody) to include a space for waiving supervision fees. While a sentencing judge in superior court can waive DOC supervision fees at sentencing, the standard form community custody Appendix H used by superior courts throughout Washington includes language requiring payment of supervision fees, without advising the court or the defendant of the court's ability to waive the fee.
- Convene stakeholders to make recommendations concerning the use of collection agencies to collect LFO debt. Stakeholders should examine, at a minimum: (1) whether LFOs should be exempt from referral to collection agencies; (2) whether to increase the minimum collection referral period (currently 30 days under RCW 19.16.500(2)); and (3) whether to reduce collection agency fees (currently up to 50% of the first \$100,000 under RCW 19.16.500(1)(b)).
- To ensure that LFOs do not pose barriers to completing a sentence, exiting the criminal legal system, and successfully reentering the community, and to stop dependence on LFO revenue to fund the courts and victim services, by mid-2022, convene stakeholders to: (1) assess what portion of court funding and victim services funding is supported by LFOs; (2) assess the impact of means-testing LFOs currently supporting court funding and victim services funding; (3) assess the economic and social impact of eliminating referral of debts to collection agencies; and (4) recommend alternative sources of funding for courts and victim services.

Chapter 16

Gendered Consequences of Incarceration and Criminal Convictions, Particularly for Parents, Their Children, and Families

Elizabeth Hendren, JD
Claire Mocha, MPH

Summary

Incarceration can have lifelong adverse consequences for incarcerated parents, their children, their loved ones, and their children's caregivers. This is true even for short periods of incarceration, and this is true even if the incarceration ends without a conviction. Strict timelines, along with barriers to obtaining court documents, responding to them, and appearing in court during incarceration can lead to permanent termination of parental rights, particularly the parental rights of mothers. They can also lead to negative consequences for incarcerated parents in family law cases, especially for mothers.

These consequences have a harsher impact on mothers because incarcerated mothers are significantly more likely than incarcerated fathers to be primary caregivers. They are also significantly less likely than incarcerated fathers to have another parent or family member available to step in to care for their children during detention. Consequently, the children of incarcerated mothers are more likely to be declared "dependent" on the state, which triggers further dependency and termination proceedings.

In addition, health and wellbeing consequences of incarceration can also fall more harshly on women, including mothers, and on other vulnerable populations. Some incarcerated individuals face overcrowding and poor sanitation; limited access to or disruption in behavioral health treatment; limited access to quality healthcare; and violence, harassment and trauma (not necessarily from within the institution). Pregnant and parenting incarcerated people face additional health and wellbeing challenges. Even after release, formerly incarcerated people continue to suffer from such health effects of incarceration.

Further, removing a parent from the family and community causes broader emotional, financial, and health impacts. Parental incarceration has been identified as an Adverse Childhood Experience that can produce serious, lifelong, health, educational, employment, and social consequences for the children of incarcerated parents. Families with incarcerated loved ones shoulder an enormous financial burden when supporting a loved one through the legal process, and during and after incarceration – a burden disproportionately carried by women, especially Black, Hispanic/Latinx, and Indigenous women. As one astute commentator noted, “Women are the informal reentry system of this country.” And both children and families of incarcerated persons and the communities disproportionately impacted by mass incarceration suffer poor health and cumulative consequences.

Criminal convictions and incarceration also lead to adverse consequences after release. Such convictions produce formal legal collateral consequences, such as legal financial obligations (LFOs), barriers to accessing positions requiring occupational licensing, and inability to participate fully in civic life. Such convictions also produce an array of broader and less formal consequences, such as diminished job and housing opportunities. These formal and informal consequences can make it especially hard for formerly incarcerated parents to participate fully in their children’s lives.

For example, people with a history of arrest, conviction and/or incarceration experience disproportionately high rates of trauma, poverty, housing insecurity, deportation, and food insecurity. These problems affect not only the formerly incarcerated person, but also their families and loved ones. These problems also tend to have a disproportionately adverse impact based on gender, race, ethnicity, and other demographics. For example, incarcerated women are more likely to have been homeless before incarceration than incarcerated men, and incarcerated Black women more likely to have been homeless before incarceration than incarcerated white women. Individuals experiencing homelessness before incarceration are unlikely to be able to return to a stable home after release. Obtaining housing is a critical component of not only successful reentry but also family reunification after prison.

In sum, whole communities – especially children – suffer during and after the incarceration of the parent. Some of those consequences are intentional, and are part of the legal process. But

others are likely unintentional, and even the intentional consequences may have impacts on health, employability, housing, parenting, and family life that are far more devastating than was ever intended.

Recommendations

- The Washington State Legislature should, consistent with RCW 72.09.495, RCW 74.04.800, RCW 43.216.060, and RCW 43.63A.068, receive data from DOC, the DCYF, Department of Early Learning, Office of Superintendent of Public Instruction, and Department of Commerce on how many children in Washington are impacted by parental or primary caregiver's incarceration, as well as data on available programs and resources to support the specific needs of the children of incarcerated parents, so that Washington has a comprehensive understanding of the needs, available support, and identified gaps in data collection and services.
- The Washington State Legislature may want to consider ways to equitably increase access to and eligibility for Parenting Sentencing Alternatives to prison confinement, so more parents can serve more of their sentences in the community with their children. Specific consideration should be given to any racial, ethnic, or gender disparities within the existing Family and Offender Sentencing Alternative (FOSA) and the Community Parenting Alternative (CPA) programs.
- Stakeholders, in consultation with experts on child psychology and on parent-child visitation in incarceration settings, should convene county jail leadership across Washington State to develop guidance on meaningful in-person visitation for parents and children in those settings.
- Stakeholders should study the causes of, and offer solutions for, the lengthy delays in establishing consistent phone calls and visits between dependency-involved parents serving DOC sentences and their children, so these families can maintain continuous, uninterrupted contact, even if parents are transferred to different facilities.
- Stakeholders should study ways to make it less expensive for incarcerated individuals to maintain contact with their families and support systems. Specifically, consider ways

to: reduce or eliminate the cost of emails; reduce or eliminate the cost of video conferences; and, reduce or eliminate the cost of phone calls.

- To provide incarcerated parents with meaningful court access, stakeholders should determine: (1) whether to increase the response deadline beyond 20 days for incarcerated parents in family law matters, and (2) how to ensure that these parents can access mandatory family law forms and legal information.
- The Washington State Legislature, donors, and other funders should consider allocating funding to indigent incarcerated parents for access to legal services, including representation in their family law matters involving minor children.
- Incarcerated parents who are ordered into treatment by dependency and family law courts should have access to such treatment while incarcerated. DOC should update its eligibility requirements for such treatment services to prioritize participation by these parents within a timeline that allows them to comply with such civil court orders relating to their children. DOC should also tell the court when a parent's failure to participate in ordered treatment is due to lack of DOC resources, rather than the parent's unwillingness to comply.
- Judicial officers should be trained on the social and emotional needs of children of incarcerated parents. This would equip judicial officers hearing dependency and family law cases to craft visitation orders consistent with best practices for facilitating the resilience of children of incarcerated parents.

Recommendations to the Washington State Caseload Forecast Council

- The Caseload Forecast Council (CFC) should write a report outlining: (1) the current limitations of data from Felony Judgment and Sentencing (FJ&S) forms, and (2) possible solutions. For FJ&S data, it would be beneficial for the CFC to immediately begin coding “Hispanic/Latinx” as a separate ethnicity variable rather than as a race, so that CFC’s data is comparable to Office of Financial Management population estimates and would allow for accurate disproportionality analyses. CFC should also issue corrections to past reports which have included inaccurate disproportionality analyses for the Latinx population. We recommend considering legislative changes, changes to and standardization of the FJ&S forms, education and outreach to courts to support more standardized and complete data collection, changes to coding methodologies and internal documentation of coding methodologies, and needed updates to CFC databases.
- The CFC should immediately develop a codebook clearly outlining how data from the various FJ&S forms used by counties across the state are coded. This should be a living document that is updated any time a form comes in with data response options that are not currently addressed in the codebook. This codebook should always accompany the dataset when FJ&S data is shared with outside researchers.
- The CFC should immediately ensure that all CFC reports analyzing FJ&S data clearly outline the limitations of the race and ethnicity data including, but not limited to, the frequency with which the race and ethnicity fields are left blank on the forms, the lack of representation of Native Hawaiian and Other Pacific Islander and multiracial individuals in the dataset, the lack of consistency and standardization in how counties provide the data and which FJ&S forms are used, a lack of consistency related to who identifies an individual’s race and ethnicity, and a lack of granular race categories which may mask disparities for some populations.
- The CFC, beginning with the 2021 Adult General Disproportionality Report, should include racial disproportionality analysis for the male incarcerated population and the female incarcerated population in addition the analyses currently conducted for the combined population.

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors and Governors-Elect
FROM: Pam Anderson, Chair, Committee on Professional Ethics
Jeanne Marie Clavere, Staff Liaison
DATE: February 9, 2022
RE: New Advisory Opinion 202202

INFORMATION ONLY: New Advisory Opinion 202202 expanding on the meaning and applicability of RPC 1.4(c), effective September 1, 2021.

The Committee on Professional Ethics (CPE) approved an advisory opinion regarding ethical considerations under new RPC 1.4(c) and comments thereto, effective September 1, 2021. A subcommittee of the CPE which included members also served on the 2020 BOG ad hoc Committee, collected questions and inquiries from staff and stakeholders and studied the issue for several months as it developed the opinion. The CPE believes the new opinion, focusing on a variety of questions regarding the application of the new rule in various practice contexts, will assist in interpreting and understanding the client communication requirements associated with these changes.

Advisory Opinion: 202202

Year Issued: 2022

RPCs: 1.4(c), 5.5(d)(1), 5.7, 8.5(b)

Subject: Scope and Applicability of Rule Requiring Disclosure to Clients of Lack of Malpractice Insurance at Minimum Levels

FACTS:

The Washington State Supreme Court recently adopted a new Rule 1.4(c) of the Rules of Professional Conduct. RPC 1.4 focuses on communication from a lawyer to a client so the client can make informed decisions regarding the representation. RPC 1.4(c) requires disclosure of a lawyer's malpractice insurance status to clients and prospective clients if the lawyer's professional liability insurance ("malpractice insurance") does not meet minimum levels. A lawyer must promptly obtain written informed consent from each client, and within 30 days obtain similar consent from each client when the lawyer's malpractice insurance policy lapses or is terminated. The minimum levels are \$100,000 per occurrence and \$300,000 in the aggregate. Affected lawyers include lawyers with an active status in the Washington State Bar Association ("WSBA"), emeritus pro bono status lawyers, and visiting lawyers permitted to engage in limited practice under APR 3(g). The disclosure requirements do not apply to judges, arbitrators, and mediators not otherwise engaged in the practice of law; in-house counsel for a single entity; government lawyers practicing in that capacity; and employee lawyers of nonprofit legal services organizations, or volunteer lawyers, when those lawyers are provided malpractice insurance coverage at the minimum levels. RPC 1.4(c) became effective September 1, 2021.

The WSBA has received several questions regarding the meaning and applicability of RPC 1.4(c). These questions are addressed below.

QUESTIONS:

1. *Does RPC 1.4(c) apply retroactively to existing clients of uninsured lawyers, or to new clients only? If an insured lawyer's insurance policy lapses or is terminated, must the lawyer disclose that fact and obtain waivers from all existing clients, including those who had engaged the lawyer prior to the effective date of the new rule?*

RPC 1.4(c) does not apply retroactively to an uninsured lawyer's clients whose representation commenced prior to the effective date of RPC 1.4(c), i.e., September 1, 2021. Indeed, RPC 1.4(c)(1) on its face requires an attorney to notify a client in writing of the absence of such

insurance coverage only “before or at the time of commencing representation of a client,” and thus the rule does not require notice of the absence of such insurance with respect to representation that commenced prior to September 1, 2021.

With respect to the lawyer who is insured as of September 1, 2021, whose insurance policy lapses or is terminated during the representation, the duties set forth in the second and third sentences of RPC 1.4(c)(1) will apply. There is no language in those sentences which exempts an insured lawyer from the termination-of-policy notice requirements, even if the representation had commenced prior to September 1, 2021.

2. If a lawyer or law firm is “self-insured” at or exceeding the minimum coverage levels through the accumulation of reserved amounts or retentions, or covered by a “captive insurer,” is that sufficient coverage by lawyer professional liability insurance as defined in RPC 1.4(c)?

A lawyer or firm that decides to be wholly “self-insured” with personal or corporate assets and otherwise is without a malpractice policy issued by an insurance company, is “not covered by lawyer professional liability insurance” under RPC 1.4(c). Such an attorney or law firm essentially is “going bare,” and therefore must comply with the notice and consent provisions of RPC 1.4(c).

RPC 1.4(c)’s reference to “lawyer professional liability insurance” generally means coverage under a malpractice policy offered through the private, competitive insurance marketplace. However, there is nothing in RPC 1.4(c) that precludes insurance coverage from a “captive insurer,” “risk retention group,” “insurance purchasing group,” or some other insurance entity that is in good standing, chartered or licensed as an insurer in its domicile jurisdiction, has assets that exceed its liabilities, has the ability to pay claims, and complies with all applicable statutory and regulatory requirements. A lawyer or law firm insured by such an insurance entity generally does not violate RPC 1.4(c).

A liability insurance policy with a self-insured retention, reserve, or deductible, does not by itself violate RPC 1.4(c). However, as noted in Comment [9] of the rule, if the lawyer knows or has reason to know the deductible or self-insured retention cannot be paid by the lawyer or the law firm if a loss occurs, the attorney or firm’s insurance coverage is insufficient to meet the minimum dollar amounts set forth in RPC 1.4(c).

3. Is coverage by a professional liability fund such as the Oregon State Bar Professional Liability Fund (PLF) “lawyer professional liability insurance” within the meaning of RPC 1.4(c)?

The PLF website describes the PLF as follows:

For over forty years, the Oregon State Bar Professional Liability Fund (PLF) has provided malpractice coverage to lawyers in private practice in the state of Oregon. The PLF is a unique organization within the United States. The Oregon State Bar Board of Governors created the PLF in 1977 pursuant to state statute (ORS 9.080) and with approval of the OSB membership. The PLF began operation on July 1, 1978, and has been the mandatory provider of primary malpractice coverage for Oregon lawyers since that date. Though a handful of other states in the U.S. require malpractice coverage for lawyers, Oregon is the only state that provides that coverage through a mandatory bar-related program.

www.osbplf.org/about/who-we-are.html 11/21/2021. Based on this description and the answer to Question 2 above, coverage by the PLF at or exceeding the minimum levels required by RPC 1.4(c) meets the requirements of the Rule.

4. Are lawyers who only provide non-legal services, or “law-related services” as defined RPC 5.7, subject to RPC 1.4(c)’s disclosure and waiver requirements?

A Washington licensed lawyer whose work is entirely unrelated to legal services would not be subject to the disclosure provisions of RPC 1.4(c). RPC 1.4(c)(4) implicitly establishes that the disclosure requirements apply to active members of the Washington State Bar Association who are engaged in the practice of law. A lawyer who provides no legal services and provides no legal advice, but instead only works, for example, as a commercial banker, an orchardist or a bartender, is not required to comply with the RPC 1.4(c) disclosure requirements.

RPC 5.7(b) denotes “law-related services” as services that “might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.” Typical law-related services include title insurance and real estate work, legislative lobbying, accounting, financial planning, and certain human resources work. RPC 5.7 Comment [9]. RPC 5.7(a) states that when a lawyer is providing “law-related services,” the lawyer will be subject to the RPCs unless those services are provided in circumstances that are clearly distinct from the lawyer’s provision of legal services, or unless the lawyer makes it clear to recipients of the services that those are not legal services and that the protections of the client-lawyer relationship do not exist.

A lawyer who provides only law-related services, including but not limited to the examples in RPC 5.7 cmt. [9], is subject to the RPCs, including the disclosure requirements of RPC 1.4(c), unless that lawyer complies with the provisions of either RPC 5.7(a)(1) or RPC 5.7(a)(2), *i.e.*, by providing the services in a manner clearly distinct from legal services, or by taking reasonable

measures to assure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not exist.

5. Is a lawyer in private practice subject to RPC 1.4(c)'s disclosure and waiver requirements if the lawyer represents only one entity, or a group of corporate or LLC entities that are controlled by that single entity?

A lawyer in private practice must comply with RPC 1.4(c) whether the lawyer represents a single client or many clients.

6. If a lawyer employed by an entity as in-house counsel advises that entity and also advises other corporate or LLC entities that are controlled by the single entity, will that lawyer be subject to RPC 1.4(c)'s disclosure and waiver requirements?

RPC 1.4(c)(4)(ii) provides that the disclosure requirement of RPC 1.4(c)(1) does not apply to "in-house counsel for a single entity." It is not customary for an employee to purchase insurance to cover potential claims by the person's employer. If a lawyer's employer expects the lawyer also to represent its affiliates, such work would be considered within the scope of the lawyer's employment. In that situation, the lawyer must comply with applicable rules governing conflicts of interest, but the lawyer is not required by Rule 1.4(c) to notify the employer's affiliates of the absence of insurance meeting the requirements of this Rule. Cf. RPC 5.5(d)(1) and Comment [16] to RPC 5.5, permitting an in-house lawyer not admitted in Washington to represent the affiliates of the employer, as well as the employer, in circumstances meeting the requirements of that rule.

7. If a Washington licensed lawyer does not represent any clients within Washington State, will that lawyer be subject to RPC 1.4(c)'s disclosure and waiver requirements?

Yes. RPC 1.4(c) defines "lawyer" as an active member of the Washington State Bar Association, without regard to the lawyer's office location and without regard as to whether the lawyer's clients are in Washington, in another state, or in another country. With regard to exercise of the disciplinary authority, Comment [10] to RPC 1.4(c) observes that whether the disclosure and notice obligations of that Rule apply to a Washington-licensed lawyer practicing in another jurisdiction is determined by the choice of law provisions of Rule 8.5(b).

C L I E N T P R O T E C T I O N F U N D



Trustees' Annual Report: Fiscal Year 2021

LAWYERS' INDEMNITY FUND EST. 1960 • CLIENT PROTECTION FUND EST. 1994



WASHINGTON STATE BAR ASSOCIATION
1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539
206-727-8200

PURPOSE OF THE CLIENT PROTECTION FUND

“The purpose of this rule is to create a Client Protection Fund, to be maintained and administered as a trust by the Washington State Bar Association (WSBA), in order to promote public confidence in the administration of justice and the integrity of the legal profession. [...] Funds accruing and appropriated to the Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any person by reason of the dishonesty of, or failure to account for money or property entrusted to, any member of the WSBA as a result of or directly related to the member's practice of law (as defined in GR 24), or while acting as a fiduciary in a matter directly related to the member's practice of law. Such funds may also, through the Fund, be used to relieve or mitigate like losses sustained by persons by reason of similar acts of an individual who was at one time a member of the WSBA but who was at the time of the act complained of under a court ordered suspension.”

Admission and Practice Rules 15(a) and (b).

WASHINGTON STATE BAR ASSOCIATION
CLIENT PROTECTION FUND, FISCAL YEAR 2021

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WSBA STAFF TO THE CLIENT PROTECTION BOARD

Nicole Gustine	Assistant General Counsel; CPF Liaison/Secretary
Brenda Jackson	CPF Analyst

WASHINGTON STATE BAR ASSOCIATION
CLIENT PROTECTION FUND, FISCAL YEAR 2021

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I. HISTORY AND ESTABLISHMENT OF THE CLIENT PROTECTION FUND

Washington is fortunate to have a history of maintaining a stable, well-funded Client Protection Fund (CPF) that is strongly supported by the Washington Supreme Court and the Washington State Bar Association. Washington was one of the first states to establish what was then called a Lawyers' Indemnity Fund in 1960. Since that time, the members of this state have compensated victims of the few dishonest members who have misappropriated or failed to account for client funds or property.

The current CPF was established by the Washington Supreme Court in 1994 at the request of the WSBA by the adoption of [Rule 15](#) of the Admission to Practice Rules (APR), now called the Admission and Practice Rules. Prior to the adoption of that rule, the WSBA had voluntarily maintained a clients' security or indemnity fund out of the Bar's general fund. Similar funds are maintained in every jurisdiction in the United States, as well as Canada, Australia, New Zealand, and other countries.

The CPF helps accomplish important goals shared by our Court and WSBA members – client protection, public confidence in the administration of justice, and maintaining the integrity of the legal profession. Under APR 15, CPF payments are gifts, not entitlements. An annual assessment from certain members licensed in Washington finances all CPF gifts. Gifts are not financed by public funds.

On December 13, 2019, the Washington Supreme Court reduced the assessment from \$30 to \$25 for calendar year 2021. Due to the pandemic, on July 28, 2020, the Board of Governors (BOG) recommended that the Supreme Court make a further one-time reduction to the Client Protection Fund assessment, from \$25 to \$10, for the calendar year beginning 2021. The Court approved the BOG's recommendation.

Currently, WSBA lawyers on active status, lawyers with *pro hac vice* admissions, in-house counsel lawyers, house counsel, foreign law consultants, and Limited Licensed Legal Technicians (LLLTs) pay an annual assessment to the Fund. The following chart shows the experience of the past 10 years.

Client Protection Fund Applications 2012-2021

Fiscal Year	# Of Members ¹	# Of Members With Approved Applications	# Of Applications Received	# Of Applications Approved	Gifts Approved
2012	29,184	17	137	39	\$378,574
2013	29,682	18	130	45	\$423,508
2014	31,495	14	141	44	\$337,160
2015	31,335	20	79	59	\$495,218
2016	32,969	16	56	44	\$253,228
2017	33,357	19	72	47	\$439,273
2018	33,858	18	119	46	\$926,434
2019	34,388	18	61	48	\$419,488
2020	34,905	16	57	33	\$586,266
2021	34,839	18	107	29	\$491,737

¹ Through December 31, 2018, lawyers on Active status, pro hac vice, in-house counsel, house counsel, and foreign law consultants, only paid the assessment. Effective January 1, 2019, Limited Licensed Legal Technicians (LLTs), also paid the assessment.

II. FUND PROCEDURES

The CPF is governed by [Admission and Practice Rule \(APR\) 15](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaa_pr15) and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court. These can be found at http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaa_pr15 and http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaa_pr15p.

Administration: The members of the Board of Governors of the WSBA serve during their terms of office as Trustees for the CPF. The Trustees appoint and oversee the Board, comprised of 11 lawyers and 2 community representatives. This Board has the authorization to consider all CPF claims, make CPF reports and recommendations to the Trustees, submit an annual report on Board activities to the Trustees, and make such other reports and publicize Board activities as the Court or the Trustees may deem advisable. Two WSBA staff members help the Board ensure the smooth functioning of its work. WSBA Client Protection Fund Analyst Brenda Jackson performs a wide variety of tasks to help members of the public and the Board in the processing and analyzing of CPF claims. WSBA Assistant General Counsel Nicole Gustine acts as WSBA staff liaison to the Board, provides legal advice to the Board, and serves as Secretary to the Board.

Application: Clients of WSBA members that allege a dishonest taking of, or failure to account for, funds or property by a WSBA member, in connection with that member's practice of law, can apply for a gift from the CPF. To be eligible, clients must file a disciplinary grievance against the member with the Office of Disciplinary Counsel, unless the member has resigned in lieu of discipline; is disbarred, or deceased. Because most applications involve members who are the subject of disciplinary grievances and proceedings, action on Fund applications normally awaits resolution of the disciplinary process.² This means that some applicants wait years for the discipline process to be complete before the Board reviews their application. However, to help expedite the application process, application review is in the order that an applicant filed their grievance (if applicable). Otherwise, an application is processed and reviewed in the order of receipt.

Eligibility: To be eligible for payment, an applicant must show by a clear preponderance of the evidence that he or she has suffered a loss of money or property through the dishonest acts of, or failure to account by, a WSBA member. Dishonesty includes, in addition to theft, embezzlement, and conversion, the refusal to return unearned fees as required by Rule 1.16 of the Rules of Professional Conduct.

² APR 15 Regulation 6(h). In addition, Rule 3.4(i) of the Rules for Enforcement of Lawyer Conduct provides that otherwise confidential information obtained during the course of a disciplinary investigation may be released to the Client Protection Fund concerning applications pending before it. Such information is to be treated as confidential by the Board and Trustees.

The Fund is not available to compensate for member malpractice or professional negligence. It also cannot compensate for loan, investment, or other business transactions unrelated to the member's practice of law.

When an application is received, it is initially reviewed to determine whether it appears eligible for recovery from the Fund. If the application is ineligible on its face, the applicant is advised of the reasons for its ineligibility. If the application passes the initial intake process and appears potentially eligible for payment, Fund staff investigates the application. When the application is ripe for consideration by the Board, a report and recommendation is prepared by Fund staff.

Board and Trustee Review: On applications for less than \$25,000, or where the recommendation for payment is less than \$25,000, the Board's decision is final. Board recommendations on applications where the applicant seeks more than \$25,000, or where the Board recommends payment of more than \$25,000 or involving payment of more than \$25,000 be made to applicants regarding any one licensed legal professional, are reviewed by the Trustees.

The maximum gift amount is \$150,000. There is no limit on the aggregate amount that may be paid on claims regarding a single member. Any payments from the Fund are gifts and are at the sole discretion of the Fund Board and Trustees.

Legal Fees: Members may not charge a fee for assisting with an application to the Fund, except with the consent and approval of the Trustees.

Assignment of Rights and Restitution: As part of accepting a gift from the Fund, applicants are required to sign a subrogation agreement for the gift. The Fund attempts to recover its payments from the members or former members on whose behalf gifts are made, when possible; however, recovery is generally successful only when it is a condition of a criminal sentencing, or when a member petitions for reinstatement to the Bar after disbarment.³ To date, the Fund (and its predecessors) has recovered approximately \$571,306.

Difficult Claims: One of the more difficult claim areas for the Board and Trustees involves fees paid to a member for which questionable service was performed. The Board is not in a position to evaluate the quality of services provided, or to determine whether the fee charged was reasonable, therefore, an application can generally be denied as a fee dispute. (The denial may also include other bases, such as malpractice or negligence.) However, where it appears that there is a pattern of conduct which establishes that a member knew or should have known at the time the member accepted fees from a client that the member would be unable to perform the service for which he or she was employed, or the member simply performs no service of value to the client, and does not return unearned fees, the Board has concluded that such conduct may be either dishonesty or failure to account within the context of the purposes of the Fund, and will consider such applications. Similarly, if a member withdraws from representing a client or abandons a client's case without refunding any unearned fee, the Board may conclude that the

³ Admission and Practice Rule 25.1(d) provides that no disbarred lawyer may petition for reinstatement until amounts paid by the Fund to indemnify against losses caused by the conduct of the disbarred lawyer have been repaid to the Fund, or a payment agreement has been reached.

member has engaged in dishonest conduct or has failed to account for client funds.

Another difficult claim area concerns loans or investments made to or through members. In instances where there is an existing client/LLP relationship through which the member learns of his or her client's financial information, persuades the client to loan money or to invest with the member without complying with the disclosure and other requirements of RPC 1.8,⁴ and does not return the client's funds as agreed, the Board may consider that a dishonest act for purposes of the Fund.

⁴ In relevant part, RPC 1.8 provides:

- (a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
 - (1) the transaction and terms on which the member acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;
 - (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and
 - (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.
- (b) A member shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

III. FINANCES

The Fund is financed by an assessment as described above. The Fund is maintained as a trust, separate from other funds of the WSBA. In addition, interest on those funds accrues to the Fund, and any restitution paid by members is added to the Fund balance. The Fund is self-sustaining; administrative costs of the Fund, such as Board expenses and WSBA staff support, are paid from the Fund.

Year	Pending applications at start of fiscal year:	Fund beginning balance ⁵	Fund revenues received	Board expenses and overhead ⁶	Restitution received	Gifts recognized for payment
FY 2012	\$2,421,848	\$261,318	\$893,487	\$27,654	\$5,942	\$326,800
FY 2013	\$1,615,062	\$791,399	\$914,547	\$72,430	\$10,674	\$416,870
FY 2014	\$1,814,266	\$1,213,602	\$949,965	\$70,196	\$3,668	\$339,161
FY 2015	\$1,229,864	\$1,746,010	\$990,037	\$90,315	\$3,703	\$490,357
FY 2016	\$13,203,653	\$2,144,289	\$1,001,198	\$129,553	\$2,970	\$371,452 ⁷
FY 2017	\$1,463,914	\$2,646,222	\$1,024,954	\$113,672	\$3,709	\$318,584
FY 2018	\$2,045,175	\$3,242,299	\$1,040,498	\$166,969	\$28,255	\$917,051 ⁸
FY 2019	\$3,206,880	\$3,227,988	\$1,110,963	\$146,618	\$8,347	\$379,818
FY 2020	\$3,342,227	\$3,816,143	\$1,099,237	\$141,514	\$15,351	\$591,449 ⁹
FY 2021	\$4,690,958	\$4,193,130	\$368,170	\$151,055	\$137,971	\$499,637

⁵ It is important for the Fund to maintain a sufficient balance to meet anticipated future needs. It is impossible to predict from year to year how many meritorious claims injured applicants will make.

⁶ Board expenses and overhead include WSBA staff time to administer the Fund, including processing of applications, helping members of the public, investigating claims, and making recommendations to the Board. Expenses and overhead have increased since 2012 for resources allocated to eliminate backlogs, update systems, and improve processes, which have resulted in claims being resolved more efficiently and expeditiously.

⁷ The amount of gifts recognized in the FY 2016 financial statements overstates by \$115,000 due to a duplicate recording of approved gifts, correct in FY 2017. This explains the substantial difference between the amounts listed for FY 2016 and FY 2017 under this column as compared with the "Gifts Approved" column on page 2.

⁸ The amount of gifts recognized in the FY 2018 financial statements understates by \$9,383 due to unclaimed CPF gifts that expired in FY 2018.

⁹ The amount of gifts recognized in the FY 2020 financial statements overstates by \$5,183, due to interest owed to an applicant and a payment voided in FY 2021. This explains the difference between the amounts listed for FY 2020 under this column as compared with the "Gifts Approved" column on page 2.

IV. BOARD AND TRUSTEE MEETINGS AND ACTIVITIES

Board: The Client Protection Board met four times this past fiscal year: November 9, 2020; February 8, 2021; May 10, 2021, and August 9, 2021. The Board considered 54 applications to the Fund involving 39 lawyers and approved 29 applications involving 18 lawyers.

Fund Trustees: The Trustees reviewed the Board's recommendations on applications for more than \$25,000, or for payment of more than \$25,000, and approved the 2021 Annual Report for submission to the Supreme Court pursuant to APR 15(g).

Public Information: The Client Protection Fund maintains a website at <http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Client-Protection-Fund> that provides information about the Fund, its procedures, and a downloadable application form. The Fund information is also available in Spanish, but currently, applications and materials must be submitted in English.

V. APPLICATIONS AND PAYMENTS

At the beginning of FY 2021, there were 94 pending applications to the Fund. During FY 2021, the Fund received 107 additional applications. The Board and Trustees acted on 54 applications concerning 39 lawyers and approved 29 applications concerning 18 lawyers. The total amount in approved payments is \$491,737. Shown below is a summary of Board and Trustee actions.

Applications Pending as of October 1, 2021	94¹⁰
Applications Received During FY 2021	107
Applications Acted Upon by Board and Trustees	54
Applications Carried Over to FY 2022	147

Applications Approved for Payment in FY 2021	29
Applications approved for payment arose from the member's dishonest acts such as theft or conversion, failure to return or account for unearned legal fees, and investments or loans with members.	

Applications Denied in FY 2021	25
Application denials are for reasons such as fee disputes, no evidence of dishonesty, alleged malpractice, restitution already paid in full, no attorney client relationship, and other reasons.	

¹⁰ Applications received or pending are still in investigation, not yet ripe, or temporarily stayed. All approved applications receive initial payments of up to \$5,000, with the balance reserved for possible proration against 75% of the Fund balance at fiscal year-end.

APPROVED APPLICATIONS

ATTORNEY	Number of Applications Approved	Dollar Amount of Applications Approved	Page Number
Anderson, Jesse, WSBA #46426	1	\$4,628	10
Chan, Alexander, WSBA #41706	1	\$3,500	10
Cox, Kenneth, WSBA #35650	1	\$13,450	11
Crowley, John, WSBA #19868	6	\$120,000	11-13
Edensword-Breck, George, WSBA #394	1	\$9,777	13
La Rocco, Robert, WSBA #42536	1	\$1,000	14
Liebman, Daniel, WSBA #41498	4	\$40,500	14-15
Kah, Helmut, WSBA #18541	1	\$8,000	15
Marsh, Samuel, WSBA #43756	2	\$11,800	16
Morriss, Roy Earl, WSBA #34969	1	\$987	16
Piper, Darlene, WSBA #24244	1	45,501	17
Pitner, Noel, WSBA #36158	1	\$3,000	17
Sindell, Richard, WSBA #2194	1	\$19,500	18
Smith, Jill, WSBA #41162	1	\$10,000	18
Thommes, Adrienne, WSBA #43721	1	\$31,344	19
Vance, Tanja, WSBA #41941	3	\$9,350	19-20
Williams, Charles, WSBA #11674	1	\$9,400	20
Quick, Daniel, WSBA #26064	1	\$150,000	20
	TOTAL:	\$491,737	

The following summarizes the gifts and recommendations made by the Board:

ANDERSON, JESSE, #46426 – SUSPENDED

Applicant 20-052 - Decision: \$4,628

In January 2017, Applicant hired Anderson to represent her in a dissolution, paying an advance fee deposit of \$3,500 and an hourly rate of \$190. On March 2, 2017, Applicant and her husband stipulated to convert their separation petition to a petition for dissolution. Anderson filed an amended petition for dissolution. Anderson and Applicant agreed that Anderson would prepare a motion for temporary orders. During the course of representation, Anderson produced various billing statements totaling 11.2 hours from the months of April and August 2017. The charges were for drafting, preparing, and filing the motion for temporary orders, and noting it on the court's calendar. This was all false as Anderson had not filed the motion for temporary orders and it was never noted on the court's calendar. On August 29, 2017, Applicant emailed Anderson to check the status of the motion for temporary orders. Anderson told Applicant that it had been filed, but no date was set. At the hourly rate of \$190, Applicant paid \$2,128 for work that was not performed. On October 30, 2017, Applicant emailed Anderson requesting copies of the filed motion for temporary orders. Anderson sent her an attachment of the unfiled documents and told her the court date was set for November 13, 2017. Thereafter, it became difficult to contact Anderson and became unresponsive. On February 28, 2018, Applicant terminated Anderson's representation and hired new counsel.

The Board approved payment of \$4,628.

CHAN, ALEXANDER, #41706 – DISBARRED

Applicant 20-056 – Decision: \$3,500

In March 2016, Applicant hired Chan to represent her in an immigration matter to reinstate her U.S. citizenship and U.S. Passport. Applicant paid Chan a flat fee of \$3,500. On April 23, 2016, Chan filed a complaint in the U.S. District Court in Seattle. Chan emailed Applicant to inform her that the case had been filed and sent her a text of the case number. Thereafter, it became difficult for Applicant to contact Chan as he had ceased communicating with her. The complaint that Chan filed was legally insufficient to support Applicant's claim and lacked evidence and explanation that she renounced her citizenship under duress. Chan never informed Applicant that the government made a motion to dismiss, nor did he do anything to fight the dismissal. On October 14, 2016, the court granted the motion to dismiss without prejudice. Chan did not inform Applicant that her case had been dismissed and did not file an amended complaint to help Applicant get her U.S. citizenship and passport reinstated.

The Board approved payment of \$3,500.

COX, KENNETH, #35650 – DECEASED

Applicant 19-033 - Decision: \$13,450

In June 2010, Applicants hired Cox to represent them in a Chapter 7 Bankruptcy. Applicants had pledged their home as security against a bond post for their grandson to be released from ICE custody. The grandson failed to appear at his next hearing, which forfeited the bond and the pledge of the Applicants home. Applicants then pledged their tax refund. Cox filed the bankruptcy but never completed it. The tax refund never made it from Cox's office to the Bankruptcy Trustee, resulting in the dismissal of their bankruptcy, the bond debt not being discharged, and the loss of the Applicants ownership of their home. The \$13,450 was misappropriated by Cox and the Applicants bankruptcy was never discharged.

The Board approved payment of \$13,450.

CROWLEY, JOHN, #19868 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 18-104 - Decision: \$80,000

In December 2014, Applicant's father hired Crowley to represent her in a criminal matter paying \$75,000, with an additional \$5,000 for Crowley to hire a private investigator. Neither Applicant nor her father signed a representation agreement. Crowley verbally agreed to represent Applicant through trial and the appeal process. Crowley contacted Applicant's prison counselor to set up contact visits with Applicant. According to the visitation records, Crowley went to visit Applicant seventeen times from November 2014 to January 2016. In May 2016, Applicant received a letter informing her that she was appointed new counsel, as Crowley withdrew from representation on January 12, 2016. Applicant and her father attempted to reach Crowley with no return response. Despite their requests, Applicant and her father never received an accounting of the funds, nor the client file relating to Applicant's matter. Crowley never hired a private investigator. Crowley performed no work of value in Applicant's case. Applicant's case ended April 2021. Crowley's seventeen visits to meet with Applicant in prison indicates that he may have performed some work. However, the court docket does not appear to exhibit any work of value to Applicant's matter.

The Board approved payment of \$80,000.

Applicant 18-114 - Decision: \$6,500

In February 2017, Applicant hired Crowley to represent him in a criminal matter paying a total of \$6,500. Crowley insisted that Applicant pay cash to expedite the services and did not provide a representation agreement. Applicant paid Crowley in two separate transactions at a Wells Fargo bank where Crowley deposited the first payment into an account in the name of "The Wrench," and the second transaction into an account with a different name other than his firm. Thereafter, Crowley became difficult to contact, failed to appear at court dates, and when he did appear, did little to no work of value. Crowley volunteered Applicant to participate in a psych evaluation that classified Applicant as paranoid schizophrenic, causing harm to Applicant's case.

Later, a judge and prosecutor told Applicant that Crowley was no longer practicing law. According to JIS records, Crowley represented Applicant from April 17, 2017 to October 9, 2017. During the time Crowley took Applicant's case he was already in discipline and resigned in lieu of discipline effective September 18, 2017.

The Board approved payment of \$6,500.

Applicant 18-121 - Decision: \$1,500

In April 2014, Applicant hired Crowley to represent him in a post-conviction criminal matter paying \$1,500. Applicant's former boss referred him to Crowley. Applicant's boss took him to meet with Crowley at his office, where they discussed Applicant's case and gave Crowley \$1,500 cash. Thereafter, they never heard from Crowley again. Applicant and his boss made separate attempts to contact Crowley with no return response. Applicant's immigration lawyer also attempted to contact Crowley and accompanied Applicant on an unsuccessful visit to Crowley's office, which was located in her office building. According to immigration counsel, Crowley performed no work of value on Applicant's case. Crowley's lack of performance caused harm to Applicant's immigration matter.

The Board approved payment of \$1,500.

Applicant 19-041 - Decision: \$20,000

In June 2014, a family friend (Friend) hired Crowley to represent Applicant in a criminal matter paying \$20,000. Crowley made Friend feel as if he would keep a close eye on Applicant. Crowley barely went to meet with Applicant. Thereafter, it became difficult for Friend to contact Crowley and he failed to appear for court hearings. When Friend finally got in contact with Crowley, he told Friend that he was arranging for Applicant to see a psychologist and was looking into finding him a good mental health provider. Crowley never contacted a psychologist or a mental health provider. Crowley performed no work and did not refund the unearned fee.

The Board approved payment of \$20,000.

Applicant 19-043 – Decision: \$7,500

In June 2014, Applicant hired Crowley to represent him in a Personal Restraint Petition (PRP) for immigration purposes, paying a total of \$7,500. From June 2014 to June 2015, Applicant made weekly attempts to reach Crowley for an update on his case. Applicant often only spoke with a paralegal, another attorney in Crowley's office, or left messages with the receptionist. Crowley never returned Applicant's calls. In March 2018, Applicant made his final unsuccessful attempt to reach Crowley, before hiring new defense counsel (New Counsel). New Counsel represented Applicant in post-conviction proceedings in Pierce County Superior Court. Upon New Counsel's review of Applicant's matter, he found that Crowley never filed the PRP or a post-conviction petition. In April 2018, New Counsel sent Crowley an email with a release of information form, with no return response.

The Board approved payment of \$7,500.

Applicant 20-014 - Decision: \$4,500

In March 2017, Applicant hired Crowley to represent her in a potential criminal matter, paying a total of \$9,500. Applicant was being investigated for alleged involvement in a murder and subsequently facing a Child Protection Service (CPS) case. The extent of the work Crowley performed was calling the police to inform them of his representation of Applicant. Thereafter, it became difficult for Applicant to reach Crowley. Ultimately, she did not face any charges. Crowley never returned the unearned fee.

The Board approved payment of \$4,500.

EDENSWORD-BRECK, GEORGE, #394 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 19-004 - Decision: \$9,777

In June 2011, Applicant, an inmate serving a life sentence, accepted the representation of Edensword-Breck in setting up his Trust. Edensword-Breck represented the estate of Applicant's aunt, in which Applicant was a beneficiary. Since Applicant was incarcerated, he had little choice but to accept Edensword-Breck's representation. In June 2011, \$14,157.59 was deposited into Applicant's account. Edensword-Breck cancelled Applicant's life insurance policy with a cash value of \$1,093.62, which he deposited, bringing Applicant's bank account balance to \$15,251.21. Other than \$5,200 distributed to Applicant, Edensword-Breck used the remainder of funds to pay himself for "services," to rent a storage unit, and to pay storage late fees and bank fees. Without authorization Edensword-Breck rented a storage unit for Applicant's aunt's personal items, in which he was often late on the payments, resulting in late charges. Applicant's bank account fell below the minimum balance of \$1,000, resulting in a \$10 monthly fee. Edensword-Breck never informed Applicant that he was taking fees for these services nor that his bank account was under the minimum balance. In June 2018, Applicant received \$274.20 when his trust account was liquidated. This loss was discovered by Applicant's new counsel, representing him in seeking clemency. Otherwise, Applicant would have never known that he had been defrauded by Edensword-Breck.

The Board approved payment of \$9,777.

LA ROCCO, ROBERT, #42536 – DISBARRED

Applicant 20-031 - Decision: \$1,000

In June 2016, Applicant hired La Rocco to represent her in quashing an old warrant, paying \$1,000. In 1993, Applicant moved from Washington (WA) to Florida (FL). In June 2016, during a traffic stop, Applicant learned that she had a warrant for her arrest in WA. Applicant reached out to her previous divorce attorney who referred her to La Rocco. The primary form of communication between Applicant and La Rocco was telephone. La Rocco appeared in court a couple of times and thereafter it became difficult to contact him to find out the status of her case. In 2019, Applicant tried to renew her passport and learned that she was not eligible to get a new passport due to a warrant for her arrest in WA. Applicant tried to hire a new attorney to help her. The attorney discovered La Rocco's disbarment and that Applicant's case was not complete. La Rocco performed no work of value in Applicant's case.

The Board approved payment of \$1,000.

LIEBMAN, DANIEL, #41498 – INTERIM SUSPENSION – DISABILITY

Applicant 19-054 - Decision: \$17,000

In February 2019, Applicant hired Liebman to represent him in an estate matter and a criminal matter, paying a total of \$19,000: \$1,000 for the criminal matter, \$5,000 for "retainer for Gpa," and \$13,000 for "Trust for Gpa." Liebman made a trip to Raymond, Washington for a surrender of weapons declaration in the criminal matter, and he attend one hearing and a will signing in the estate matter. Thereafter, it became difficult to contact Liebman as his phone numbers were no longer in service. Applicant had to hire new counsel. Liebman earned \$2,000 of the fees Applicant paid. Liebman never returned the balance of the unearned fees.

The Board approved payment of \$17,000.

Applicant 20-008 - Decision: \$15,000

In November 2018, Applicant hired Liebman to represent her in a family law matter, paying \$15,000. Thereafter, Liebman became difficult to reach. After a year of no work being performed and nothing being filed, Applicant filed a grievance with ODC and a claim to the Fund.

The Board approved payment of \$15,000.

Applicant 20-009 - Decision: \$5,000

In November 2018, Applicant hired Liebman to represent her in a family law matter paying \$5,000. Thereafter, it took a while to hear from Liebman's office. On January 10, 2019, Applicant received an email from Liebman's paralegal informing her that they were preparing the modification documents and would be in contact to schedule the signing. Applicant received no follow-up regarding the signing. On May 21, 2019, Liebman's new paralegal contacted Applicant

to apologize for the delays, and Applicant stayed hopeful. However, on June 15, 2019, Liebman's former paralegal advised Liebman's clients to contact WSBA regarding possible embezzlement and fraud. On August 30, 2019, Applicant sent Liebman a letter to terminate his representation.

The Board approved payment of \$5,000.

Applicant 20-025 - Decision: \$3,500

In February 2018, Applicant hired Liebman to represent him in a dissolution matter, paying \$3,500. Applicant did not see Liebman again until a year later in court. In the meantime, Applicant's primary contact was with Liebman's office assistant. Applicant was initially told that his case would take 90 days. As the 90 days approached, Applicant contacted Liebman's office to check the status of his case. Liebman's assistant told Applicant that his documents had been filed with the court and a court date would be assigned soon. During the dissolution, Applicant signed a Quit Claim Deed on his property under false pretenses. Liebman's assistant told Applicant to bring a copy of it into the office. When Applicant went to obtain a copy of the Quit Claim Deed, he learned that no other documents had been filed in his case although the assistant told him otherwise. Applicant obtained more case information and documents and noticed that under "case status" it listed "completed/recompleted," and that a Petition for Dissolution, Summons, and Notice of Appearance had been filed. Applicant received notification from his wife's attorney about an upcoming court date. Liebman said he was unaware of the court date. At that court date, Applicant learned that he missed a settlement hearing and thus failed to have his interests represented. Applicant felt that Liebman's office staff had misled him about his case.

The Board approved payment of \$3,500.

KAH, HELMUT, #18541 – DECEASED

Applicant 19-052 - Decision: \$8,000

In May 2019, Applicant hired Kah to represent her in a family law matter paying \$8,000. On June 25, 2019, Kah failed to appear at Applicant's court hearing. Thereafter, Applicant tried to locate Kah and learned that Kah had suffered a severe stroke, was in the hospital, and had lost his memory. In July and August 2019, Applicant received text messages from Kah stating that he was in the hospital. On August 21, 2019, Applicant sent Kah a text message to inform him that she had to hire new counsel and needed him to sign a release form. She also requested her client file and a refund of the unearned fee. Kah did not respond to Applicant's requests because he was in hospice. Kah passed away on December 20, 2019. According to the court docket in Applicant's matter, the last court date on June 25, 2019 resulted in a continuance from previous court dates. Therefore, Kah could not perform any work of value within the period he was hired.

The Board approved payment of \$8,000.

MARSHALL, SAMUEL, #43756 – DISBARRED

Applicant 18-011 - Decision: \$1,500

In August 2016, Applicant hired Marsh to represent her in an immigration matter paying a down payment of \$1,500. On August 4, 2016, Applicant tried to contact Marsh to obtain information about her case, with no return response. When Applicant was finally able to reach Marsh, he was rude and demanded more money. In October 2016, Marsh sent Applicant a text message terminating representation. Marsh never performed any work of value on Applicant's matter and never refunded the unearned fee.

The Board approved payment of \$1,500.

Applicant 20-007 - Decision: \$10,300

In January 2015, Applicant hired Marsh to represent her in obtaining her green card and work permit, paying a total of \$10,300. Thereafter, Marsh performed no work and Applicant never received any immigration documents to apply for her green card. It became difficult for Applicant to contact Marsh. However, when Applicant finally spoke with Marsh, he would request more money for paperwork, or state that he was sending more documents, which she never received.

The Board approved payment of \$10,300.

MORRISS, ROY EARL, #34969 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 19-038 - Decision: \$987.00

In May 2014, Applicant hired Morriss to represent him in a land use matter, paying \$1,000. On May 7, 2014, a hearing was held before the Snohomish County Examiner. The hearing lasted for 30 minutes. After the hearing, Applicant no longer needed Morriss's services and asked that he withdraw and return the unused portion of the legal fee. When Applicant did not receive a response to his requests, he filed a small claims suit against Morriss and won a judgment for \$986.63.

The Board approved payment of \$987.00.

PIPER, DARLENE, #24244 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 19-032 - Decision: \$45,501

In June 2012, Client hired Piper to help her with a Medicaid trust when her husband was diagnosed with dementia, paying \$350. On August 28, 2012, Client signed an irrevocable trust document appointing Piper as trustee of the "Family Trust." The assets in the trust were an annuity of \$218,000, real property worth \$300,000, and \$80,000 cash. On August 28, 2012, Client also signed a durable power of attorney (POA) appointing Piper as her attorney-in-fact with regard to making financial decisions. In September 2012, Piper opened a bank account in the name of the "Family Trust, Darlene Piper Trustee" (Trust). Piper deposited \$57,634.93 of Client's assets and transferred \$30,015.60 from Client's personal account into the Trust. In October 2012, Piper began making large withdrawals from the Trust and by August 2014, she had withdrawn \$45,250. Piper did not inform Client or any of Client's family members about the withdrawals and she did not provide invoices or other documentation to justify the withdrawals. Piper knew she was not entitled to the funds. On January 27, 2015, Piper resigned as Trustee and Client's daughter, Applicant, became the Trustee. On September 28, 2015, Applicant requested that Piper provide an accounting of the Trust. Applicant discovered that Piper had converted funds for her own use. On March 1, 2017, Applicant filed a Petition to Repay Trust for Breach of Fiduciary Duty and Unreasonable Fees in King County Superior Court. On April 25, 2017, the Court entered an order directing Piper to repay \$45,500.75. On May 24, 2017, a judgment was entered against Piper. Piper never repaid the funds she took from the Trust. Piper filed bankruptcy but did not list the Trust as a creditor.

The Board approved payment of \$45,501.

PITNER, NOEL, #36158 – DISBARRED

Applicant 19-035 - Decision: \$3,000

In June 2017, Applicant hired Pitner to represent her in a family law matter, paying \$3,000. Thereafter, Applicant's only contact with Pitner was over the phone. In October 2017, Pitner's office sent Applicant a Parenting Plan for her review. Pitner tried to talk Applicant into settling with her ex-husband so that it would not go to court. In May 2018, Applicant tried to contact Pitner's office to discuss taking the matter to court, but the phone number was no longer in service. Another client later told Applicant that Pitner closed his office due to health issues. Applicant never received an accounting of her retainer and was not notified of Pitner's office closure. Applicant learned from another attorney that Pitner had been disbarred.

The Board approved payment of \$3,000.

SINDELL, RICHARD, #2194 – DECEASED**Applicant 18-108 – Decision: \$19,500**

In late 2016, Applicant hired Sindell to represent her when a hospital breached confidentiality, paying \$19,500. The span of Sindell's representation of Applicant went from late 2016 to March 2018. When Applicant hired him, Sindell had just started treatment for a brain tumor, which Sindell did not disclose to Applicant. Over the course of the representation, Sindell's illness began to worsen, and he suffered diminished capacity. Sindell's illness began to affect his performance in Applicant's matter. Sindell lost documents, filed incorrect documents with the court, mixed up client cases and files, and ran Applicant's case over the statute of limitation. Applicant alleges that Sindell asked her to assist him with his cases when his paralegals quit his firm. In a letter dated March 1, 2018, Applicant terminated Sindell's representation. Applicant's new counsel had to start her case from scratch as her client files were unavailable. Sindell passed away in June 2018. Sindell's representation was of no value to Applicant.

The Board approved payment of \$19,500.

SMITH, JILL, #41162 – DISBARRED**Applicant 20-004 - Decision: \$10,000**

In May 2018, Applicant hired Smith to represent her in a real estate litigation matter, paying \$10,000. Applicant was pursuing a lawsuit against Chase Bank, her home loan lender, because of their handling of her loan. After Applicant paid Smith, it became difficult for Applicant to contact her. Smith did not respond to any of Applicant's messages. In December 2018, Smith was suspended from the practice of law. In January 2019, Applicant contacted Smith to request a refund of the fee and her client file. Smith agreed to give Applicant her client file and to return the unearned fee, but did not have the money at that time. Applicant filed a WSBA grievance against Smith. Smith did not respond to the grievance, nor did she cooperate with the lawyer discipline process. Applicant never received a refund of the unearned fee. Applicant sued Smith and obtained a judgement for \$10,000, plus additional costs.

The Board approved payment of \$10,000.

THOMMES, ADRIENNE, #43721 – DISABILITY INACTIVE

Applicant 20-040 - Decision: \$31,344

In May 2014, Applicant hired Thommes to represent her in a personal injury matter on a 33-1/3% contingent fee basis. In February 2019, Thommes obtained a settlement for \$47,014.33 on Applicant's behalf. On February 25, 2019, Applicant signed a Settlement Agreement and Release of Claims. In March 2019, Applicant emailed Thommes to check the status of the settlement. Thommes' stated that he would call and check, knowing that he had already received the settlement check. On July 19, 2019, Applicant received a letter from opposing counsel, to inform her of Thommes' suspension from the practice of law. The letter also stated that Applicant needed to seek new counsel to represent her at a settlement conference hearing and advised her of the opposing party's intent to file a motion seeking an order to dismiss the lawsuit and claims. Thommes converted Applicant's settlement proceeds for his own use.

The Board approved payment of \$31,344.

VANCE, TANJA, #41941 – DECEASED

Applicant 20-023 - Decision: \$2,900

In March 2018, Applicant hired Vance to represent him in an immigration matter paying \$2,900. Thereafter, it became difficult to contact Vance. On December 9, 2018, Applicant submitted his documents for German dual citizenship to Vance. On January 3, 2019, Vance confirmed that she received Applicant's documents. Vance told Applicant that she would review the documents and prepare them to send to German authorities. Applicant never heard from Vance again. Applicant never knew whether Vance submitted his documents to the German authorities. He made several more attempts to contact Vance until both her email addresses were no longer active. Tanja Vance passed away on October 21, 2019.

The Board approved payment of \$2,900.

Applicant 20-033 - Decision: \$3,300

In February 2019, Applicant hired Vance to represent her in an immigration matter paying \$3,300. Thereafter it became difficult to contact Vance. She did not perform any work of value and would often ignore communication for months. When Applicant called Vance from a phone number other than her own, Vance answered, but then made excuses and disappeared again. Later, WSBA informed Applicant that Vance passed away.

The Board approved payment of \$3,300.

Applicant 20-039 - Decision: \$3,150

In July 2018, Applicant hired Vance to represent her in an immigration matter paying \$3,150. After the payment, Vance sent Applicant some sample paperwork and a list of documents

needed to petition Germany. Applicant completed the paperwork and sent it back to Vance. In February 2019, Vance sent Applicant an email confirming her receipt of the documents and that she had made corrections and sent the documents to the Consulate. Vance gave Applicant an estimated processing time of 10-12 months. Applicant followed up with Vance in January 2020 and received no response. Applicant later learned that Vance passed away. Applicant contacted the Consulate to check the status of her paperwork and they informed her that there was no file matching her name. Vance never performed any work on her application.

The Board approved payment of \$3,150.

WILLIAMS, CHARLES, #11674 – DECEASED

Applicant 18-081 - Decision: \$9,400

In April 2017, Applicant hired Williams to represent him in a criminal matter, paying a total of \$14,900. Williams passed away suddenly, less than 30 days after Applicant hired him. Williams did not perform any work of value on Olin's case prior to his passing.

The Board approved payment of \$9,400.

QUICK, DANIEL, #26064 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 18-098 - Decision: \$150,000

In December 2009, Applicant hired Quick to provide estate-planning services. Quick knew Applicant suffered from dementia and set up Applicant's estate plan to take total control of her assets. Quick had no supervision in the handling of Applicant's estate matters. Quick prepared a durable power of attorney (DPOA) designating himself as attorney-in-fact and as Applicant's guardian. The DPOA authorized Quick to use Applicant's funds to advance all reasonable and desirable expenses. The DPOA contained an indemnity provision to "hold harmless and indemnify the attorney-in-fact from all liability for acts done in good faith and not in fraud of the principal." Quick prepared Applicant's Last Will and Testament and designated himself as personal representative of Applicant's estate. Applicant never signed a fee agreement detailing Quick's billing rate for non-legal services nor was she ever advised to seek independent counsel. Quick was Applicant's attorney-in-fact under the DPOA from December 9, 2009, to September 9, 2015, during which time Quick paid himself fees without oversight or informed consent in writing from Applicant. In September 2015, the court removed Quick as Applicant's attorney-in-fact in a guardianship case filed by Washington State Department of Social and Health Service (DSHS). During the period Quick acted at Applicant's attorney-in-fact, he charged unreasonable fees and paid himself approximately \$226,000 out of Applicant's funds for the services he provided.

The Board approved payment of \$150,000.

APPENDIX – Fund Balance Sheet

Statement of Financial Position

ASSETS	Audited As of September 30, 2021
Wells Fargo Checking Account	\$310,634
Accrued Interest Receivable	-
Wells Fargo Money Market	4,407,367
Wells Fargo Investments	-
Morgan Stanley Money Market	106,915
TOTAL ASSETS	\$4,824,916
LIABILITIES AND NET ASSETS	
Approved gifts to injured clients payable	612,037
Liability to WSBA general fund	166,633
Net Assets	4,046,246
TOTAL LIABILITIES AND NET ASSETS	\$ 4,824,916

Statement of Activities

REVENUE	Audited As of September 30, 2021
Restitution	137,971
Member Assessment	363,280
Interest	4,890
TOTAL REVENUE	\$506,141
EXPENSES	
Gifts to Injured Clients	\$499,637
CPF Board	61
Misc.	2,211
Indirect (overhead)	151,116
TOTAL EXPENSE	\$653,025
Net Income (Expense)	\$(146,884)

Statement of Changes in Net Assets

Balance on September 30, 2020	\$ 4,193,130
Net Income as of September 30, 2021	(146,884)
Balance on September 30, 2021	\$ 4,046,246

WASHINGTON STATE
BAR ASSOCIATION

TO: Terra Nevitt, Executive Director

FROM: Kevin Plachy, Director of Advancement
Julianne Unite, Member Services and Engagement Manager
Carolyn MacGregor, Sections Program Specialist
Omar Abdulla, Sections Program Coordinator
Chelle Gegax, Member Services and Engagement Administrative Assistant

RE: Updated WSBA Sections 2021 Annual Summary Memo & Family Law Section Annual Report

DATE: February 8, 2022

INFORMATION

Attached are the updated WSBA Sections 2021 Annual Summary Memo & the Family Law Section Annual report. The other 28 sections' annual reports were included as information in the January 2022 Board of Governors meeting material packet.

WASHINGTON STATE BAR ASSOCIATION

TO: Terra Nevitt, Executive Director

FROM: Kevin Plachy, Director of Advancement
Julianne Unite, Member Services and Engagement Manager
Carolyn MacGregor, Sections Program Specialist
Omar Abdulla, Sections Program Coordinator
Chelle Gegax, Member Services and Engagement Administrative Assistant

RE: WSBA Sections 2021 Annual Summary Memo & Section Annual Reports

DATE: February 8, 2022

Washington State Bar Association (“WSBA” or “Bar”) Sections are entities of the Bar created and tasked to carry on the work of the WSBA and further their purposes as defined in individual section bylaws. Approximately one-quarter of all WSBA members belong to one or more of the WSBA’s 29 sections.¹ Each year, section executive committees (also referred to as “section leaders” collectively) and WSBA staff work together to increase and improve the benefits and support available to section members. Sections generally rely on membership dues, CLE registration revenue, and publication royalties to fund their activities. Per the WSBA Bylaws XI.K, each WSBA section is required to submit an annual report to the WSBA Executive Director.

Section Membership Numbers Over The Years²



¹ Based on [December 1, 2021 WSBA Member Demographic Reports](#) and December 21, 2021 data from WSBA Regulatory Services Department.

² Based on December 21, 2021 data from WSBA Regulatory Services Department.

Summary of WSBA Sections for 2021 (January 1, 2021 – December 31, 2021):

- **15,760** section memberships.³
- **Over 370** section leader volunteers across all 29 sections.⁴
- **\$30** average dues amount to join a section in 2021 (range \$20-\$40). Current law student rate is \$18.75⁵ (as of October 1, 2021). Law student rate was \$18.18 (January 1-September 30, 2021).

In FY2021, WSBA sections provided the following member benefits⁶:

- **83** section-sponsored educational programs with WSBA: CLE seminars (22) and mini-CLEs (62).⁷
- **\$57,200** awarded in scholarships donations and/or grants.⁸
- **7-10** law school/student and new lawyer outreach events/benefits.
- **Over 100** legislative bills reviewed/drafted.
- **23** newsletters produced.
- **20** receptions or forums (non-CLE).
- **11** awards given.

Sections Team: Internal Highlights & Goals in 2021

The “Sections Team” is comprised of 2.68 WSBA FTEs dedicated to the support and success of the 29 WSBA Sections through close partnership with section executive committees. In addition, several other staff members/departments throughout WSBA provide section-related support at different times, including staff from finance/accounting, CLE, legislative, and communications.

The Sections Team focused its activities on achieving the following goals:

- Provided guidance on WSBA policies and procedures pertaining to sections.
- Supported activities to foster sustainable sections.
- Provided valuable benefits to members.
- Supported a pipeline of future leaders.
- Facilitated collaboration between sections and other WSBA programs/efforts.
- Assisted with section member recruiting efforts.

The Sections Team highlights during FY2021 include:

- Hosted the first ever virtual-only Fall Section Leaders Orientation in November 2020, which included various speakers including WSBA President Kyle Sciuchetti, Interim Executive Director Terra Nevitt, and other WSBA staff leadership. The orientation also included breakout sessions facilitated by section leaders and staff on a variety of topics in which section leaders indicated interest like CLEs, Mini-CLEs, event planning, and member recruitment.

³ Based on [December 1, 2021 WSBA Member Demographic Reports](#). Section memberships range between 79 – 2,322 members.

⁴ Based on committee member totals pulled from Personify for FY21. Does not include BOG liaisons.

⁵ The law student rate mirrors the per-member charge for a given fiscal year.

⁶ Unless otherwise cited, all information was gathered from the completed FY2021 annual reports received from section executive committees.

⁷ Based on data obtained from WSBA-CLE and accounting team on December 28, 2021.

⁸ Based on year-to-date actual scholarships/donations/grant expense budget line in the September 2021 Monthly Financial Reports.

WASHINGTON STATE BAR ASSOCIATION

- Presented the annual Spring Section Leaders Meeting virtually in April 2021, inviting WSBA staff from various teams to join in presenting on WSBA updates and CLE support for remote programming.
- Assisted sections and provided staff support for sections that held virtual events (e.g., receptions, panels, and roundtables).
- Continued monthly publication of the *Sections Bulletin*. The *Bulletin* is intended to provide section leaders with up-to-date information regarding WSBA matters; best practice tips; supplemental resources regarding leadership, diversity, and educational development; and to connect sections with existing and relevant WSBA programs.
- Provided individualized support to executive committees, including but not limited to: design and implementation of member surveys; virtual and in-person event planning; financial and data analysis; and facilitation of section newsletter review and production.
- Completed a successful budgeting process, including review of budget histories and follow-up with sections before budgets were submitted to the Budget & Audit Committee.
- Engaged in ongoing collaboration with CLE, Legislative, Communications, and Finance staff to update materials and processes related to sections.
- Maintained and updated the online “Volunteer Toolbox,” including section leader meeting recordings/materials, new tools, and resources to help section leaders implement their activities (e.g., templates, meeting tools, and policies).
- Worked closely with IT staff and section officers to administer section executive committee elections for all 29 sections.

Sections Team: Internal Goals for FY2022

The primary foci for the Sections Team in FY2022 will be supporting section member recruitment; using improved communications and tools for virtual meetings and events; continuing to refine the section elections process; exploring innovative member benefit ideas; promoting collaboration among sections; fostering relationships between sections and the Board of Governors; and continuing engagement with section leaders through the annual spring update session and fall orientation programming, with the addition of occasional virtual discussion forums.

WSBA FY2021 Section Annual Reports

Included with this memo are the FY2021 sections annual reports submitted by all 29 section executive committees. Of note, for several years prior to FY2021, section annual reports were submitted based on section membership year (Jan.-Dec.), as opposed to fiscal year. Starting in FY2021 and going forward, section annual reports will be on a fiscal year to be more consistent and in alignment with annual reports submitted by WSBA committees, boards, and other entities.

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: In accordance with 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.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Friday, December 3: please submit by emailing to Sections Program Specialist Carolyn MacGregor carolynm@wsba.org.

Name of Entity:	WSBA FAMILY LAW SECTION
Chair or Co-Chairs:	Jacqueline Jeske
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Sunitha Anjilvel
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
<p>The purpose of the Family Law Section is to involve all interested members of the WSBA in order to benefit its members, their clients, and the general public by:</p> <ul style="list-style-type: none"> • Providing the opportunity and forum for the interchange of ideas in all areas of law affecting families and juveniles; • Initiating and implementing common projects, including but not limited to an annual meeting; • Reviewing pending legislation, providing input and timely responses to pending and proposed legislation and development of proposed statutory enactments to improve and to facilitate the administration of justice within the Section's area of interest and expertise. 	

host CLE's to improve the quality of family law practice; and undertaking such other service and participation of our members as may be of benefit to the members, the legal profession, and the public.

Strategy to Fulfill Purpose:

Legislative Efforts: FLEC has been working assiduously to rebuild our relationship with legislators despite the current WSBA/BOG legislative policy which we have repeatedly stressed poses challenges for FLEC in our ability to perform the section's legislative duties. FLEC's BOG liaison reports monthly to our committee members and this contributes, we believe, to ongoing communication with current BOG members and keeping our membership informed. FLEC strategy is to work collaboratively with a variety of legislative, judicial, other section and bar association or community groups on a variety of legislative and educational issues of interest to our membership.

Education Programming and CLEs: Despite the ongoing pandemic, we continued to present the annual Family Law Midyear program (virtually this year) with the capable assistance of WSBA technical staff. We did not present a Basic Skills seminar this year as we are updating the curriculum to include guidance as to best practice for both in-person and video litigation practices and to include a component that addresses equity/diversity programming concerns.

Workgroups and Collaboration: Two committee members are serving on three committees or workgroups for FLEC (Pattern Forms and a workgroup with Judge Forbes on the proposed revision on CJC Comments Canon 2.2 and 2.6). Also one member has served on the Child Support Guidelines Committee.

Member Engagement: We implemented a member survey in August to canvass our memberships' concerns, priorities and see how to best approach member engagement. We are in the process of evaluating the survey information and planning next steps which include considering whether to partner with other WSBA committees or sections, exploring changing the face of our webpage, partnering with local legal aid organizations and/or the new Small Town and Rural Committee to implement new programming virtually to reach a broader audience throughout the state and to consider scholarships to new practitioners to promote practice in rural deserts of the state. We are also considering whether to implement either a lunchtime CLE series or a quarterly newsletter to our membership.

How does the entity's purpose help further the mission of the WSBA "to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice"?

FLEC keeps our bylaws at the forefront of all that we do. We seek to recruit new members to emphasize diversity, including age and length of time in practice, geographic representation

and encourage lawyers of all ages and backgrounds, ethnicities, and gender identities to participate, to assure that in our service, we can hear and perceive different and diverse perspectives. We work to provide education and scholarship to new members or those who are disadvantaged in our community so that attendance can be broad-based. We are currently in the process of revamping our Basic Skills Seminar to assist new lawyers or those new to family law and to be more comprehensive providing training for both virtual practice/in-person practice and around equity concerns. We provide scholarship grants for this seminar as well as our annual mid-year. We maintain two list serves for section members to discuss legal issues and to build community. This gives practitioners, particularly in a pandemic, a safe way to seek advice and information from other lawyers. Our main list serve is for the discussion of legal issues and procedures. Our second list serve is for discussion of issues in the business side of a legal practice. We have implemented surveys to our membership to gather a wide range of viewpoints and to guide the section's future activity. We provide a civil means of membership engagement at seminars; list serves and at informal settings (pandemic permitting). We believe these efforts contribute to professionalism and collegiality. We also encourage collaboration, have circulated the civil legal needs report and the legal deserts report to read among our activities to be mindful of ways in which we can work in partnership with others in our legal community to assist the public and our members. We worked this past year with the legislature, in virtual workgroups, on the UFLAA, Trial Court Congestion and met with the Family and Juvenile Law Committee of the Superior Court Judge's Association to discuss Judge Janet Helson's exploration of the Section's input on changing the law as to judges retaining jurisdiction in subsequently filed modifications. We also worked with Judge Jennifer Forbes to provide pre-filing feedback as to changes in the comments to the judicial canons. These collaborative activities demonstrate FLEC's efforts to foster professionalism and collegiality. We have conferred with both the ADR Section and the Small Town and Rural Committee of WSBA to collaborate on projects and/or regarding legislative matters. Our committee members also actively participate and respond on the Section list serves and at the Section Leaders monthly meetings and this approach keeps membership educated, engaged in legal discussions in civil forums, up-to-date and interacting with our legislators and trial courts and is an integral collaborative part of contributing to justice.

2020-2021 Entity Accomplishments:

In 2020 and Fall of 2021 FLEC embarked on an exploration of ascertaining the membership's concerns and to improve engagement with Section Members. To that end we sent out a survey to our approximately one thousand members in the fall of 2021 to canvass their concerns, priorities and preferences. We have used this survey to gather information which the Committee is currently using to arrive at our goals to pursue for this year. We have also worked in several pre-legislative workgroups and legislative staff and Senators on new upcoming legislation (UFLAA and UCCTA) and trial court congestion related to Covid. We are currently in the process of revamping our materials and workshop agenda for our Basic Skills seminar to incorporate more diverse perspectives for new practitioners as well as consideration of a video court best practices approach in addition to the in person practicum. We have reached out to the newly created Small Town and Rural Committee Chair to consider whether we can collaborate on a scholarship or project for a rural desert area of the

State to enhance the practice of family law and public service in these areas and this is an ongoing conversation. We are currently planning our annual Family Law Mid-Year seminar with a hopeful return to in-person attendance and to see whether we can also, at the same time, offer virtual programming for those who cannot attend due to Covid – 19 concerns. We successfully presented our annual Midyear CLE and have participated on several legislative workgroups with both the judiciary and legislators to improve the practice of law. We met with the Superior Court Judges Association - FLJC to exchange concerns regarding legislation and practice within the courts and pandemic. We have continued to focus our recruitment efforts to broaden the diversity of our committee membership. We were invited to participate in several legislative or judicial workgroups (House Civil Rights & Judiciary) on HB 1320, Trial Court Congestion and the Superior Courts and currently on GR 39 (Video Trials) along with Informal Trials to provide meaningful guidance and the feedback of our membership. We also reviewed the expected prebill filing version of the Uniform Family Law Arbitration Act (UFLAA) and (UCCTA). We have several members who have participated on various workgroups involving the child support guidelines review and pattern mandatory forms.

Looking Ahead: 2021-2022 Top Goals & Priorities:

1	Improve Member Engagement and Communication
2	Improve legislative relations impacted by WSBA policy. Continue to review, comment and testify regarding family-law related legislation.
3	Collaborative Participation with Judicial and Legislative Workgroups. Work to improve FLEC's relationship with BOG. FLEC's liaison to BOG has worked hard to improve the existing relationship and those efforts will continue.
4	Partnership with organizations (internal and external) to Improve practice opportunities and public service in legal deserts and disadvantaged communities.
5	Revamp current curriculum for Basic Skills to address diversity and equity concerns and consider additional scholarship opportunities to enhance more diverse and broad-based attendance. Continue to present high quality education and seminars to our membership and the legal community. Continue to emphasize equity, diversity and inclusion not only as to FLEC itself but also with respect to all FLEC activities.

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?

We have implemented surveys to our membership to broaden input from a variety of perspectives and circulated both the civil legal needs reports (2003 and 2015 updates) and small town and rural deserts report to members for consideration in our future work. We are currently revamping our CLE curriculum (Basic Skills) for new practitioners to family law to

promote and incorporate consideration of equity concerns. We are exploring the use of scholarship funds to enhance attendance to CLE programming for those from disadvantaged backgrounds to implement in the 2021 year. We have engaged in a concerted effort to engage and recruit committee members of diverse background to our committee and help us to hear a wider range of viewpoints.

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.*

For the most part since the inception of the Family Law Section, FLEC has maintained a regular presence at the Board of Governors meetings. Our current Liaison – Nancy Hawkins – has continued a strong Family Law Section presence at the meetings. We are pleased with the improvements we have seen in our relationship with the BOG; we are dedicated to moving in a positive direction. FLEC works well with WSBA staff and makes payments to WSBA to cover the cost of any staff support we receive. They are routinely helpful in identifying CLE locations, obtaining budget and contract information, and handling administrative issues we otherwise would struggle to navigate. We have had two staff liaisons this past year and both have been professional, knowledgeable and provided consistent and courteous assistance. They are timely in responding to any questions we ask and also help us to understand WSBA policy and navigate our obligations. WSBA staff played a critical role in the success of the Midyear CLE which was managed remotely again this year. They have also been responsive to feedback from our Section regarding WSBA policies and how they impact the Section, membership recruitment and participation. We continue to hold the same concerns regarding BOG support of our Section and how BOG implemented policy may negatively impact our ability to serve our membership. Staff have helped us this year in sending out several surveys to improve member engagement and feedback and guided us in our ability to hear and distill the voice of our thousand members' concerns. FLEC works with WSBA staff and makes payments to WSBA to cover the cost of any staff support we receive.

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

For example:

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

0		Newsletters/publications produced
0		Mini-CLEs produced
1		Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
1		Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
0		Receptions/forums hosted or co-hosted
0		Recognitions/Awards given

	0	New Lawyer Outreach events/benefits
	2	Outreach to Outside Legal Aid organizations to partner on Revamped Basic Skills Seminar for upcoming year and to Small Town and Rural Deserts Committee to consider joint project and scholarship endeavor(please describe):
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	19	
Membership Size: (for Sections Only) <i>(As of September 30, 2021)</i>	990	
Number of Applicants for FY22 <i>(October 1, 2021 – September 30, 2022)</i>	5	
How many current volunteer position vacancies for this entity?	0	
FY21 Revenue (\$): For Sections Only: <i>As of September 30, 2021</i>	\$62, 880	
Direct Expenses: <i>As of September 30, 2021. For Sections, this does not include the Per-Member-Charge.</i>	\$4, 420	

ⁱThe 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.

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors

FROM: Kevin Plachy, Director of Advancement
Julianne Unite, Member Services and Engagement Manager
Carolyn MacGregor, Sections Program Specialist

RE: Creditor Debtor Rights Section Nov. 2021 Bylaws Amendment Revision

DATE: February 10, 2022

FOR INFORMATION

The Creditor Debtor Rights Section Bylaws, including the amendment approved by the WSBA Board of Governors on Nov. 4, 2021, have been edited to correct several minor formatting errors, as recommended by WSBA General Counsel and the Executive Director. As information, the clean and redline versions of the Bylaws that include these corrections accompany this memo.

WASHINGTON STATE BAR ASSOCIATION

CREDITOR DEBTOR RIGHTS SECTION

Bylaws

As last amended and approved by the WSBA Board of Governors on Nov 4, 2021, and including 1992 amendments approved in 1993, 2010 amendments, and 2017 amendments.

ARTICLE 1. IDENTIFICATION

1.1 Creation

The Creditor Debtor Rights Section of the Washington State Bar (the "Section") was established pursuant to the Bylaws of the Washington State Bar Association (the "Bar").

1.2 Purpose

The purpose of the Section shall be to seek the participation of all interested members of the Bar and of the state and local bar associations, in order to benefit the general public, members of the Section and their clients:

- a. By encouraging research and study and initiating proposals for changes and reforms and aiding and educating the bar and the public in the Section's areas of interest;
- b. By review of pending legislation and development of proposed statutory enactments to improve and to facilitate the administration of justice within the Section's area; and
- c. By undertaking such other service as may be of benefit to the public and members and the legal profession.

1.3 Limitations

These bylaws have been adopted subject to the applicable Washington statutes and the Bylaws of the Bar.

1.4 Principal Office

The Principal Office of the Section shall be maintained in the offices of the Bar.

1.5 Fiscal Year

The fiscal year of the Section shall coincide with that of the Bar.

ARTICLE 2. MEMBERSHIP

2.1 Enrollment

Any Active member in good standing of the Bar may be enrolled as a member of the Section upon request and payment of annual Section dues in the amount and for the purpose approved by the Board of Governors of the Bar. Legal professionals who are not Active members of the Bar, law students, and members of the public may be enrolled as a non-voting member ("subscriber") by paying the annual dues established by the Section. Subscribers may not hold a Section office.

2.2 The Membership

Members enrolled as provided in Section 2.1 shall constitute the membership of the Section.

2.3 Dues

Dues in the amount determined by the Section and approved by the Board of Governors of the Bar shall be paid annually in advance. Any person who shall have failed to pay the annual dues shall cease to be a member of the Section. With the exception of law students, the Section dues fee for subscriber members shall be the same amount as that established for voting members. The Section dues fee for law students shall be set at a standard amount annually determined by the Board of Governors.

ARTICLE 3. MEETINGS OF THE MEMBERSHIP

3.1 Meetings

Meetings of the Section membership may be called upon seven days' prior written notice to the members by any officer at such time and place as the officers may determine. Such notice shall state the business to be transacted at the special meeting.

3.2 Controlling Vote

Action of the Section shall be by majority vote of the members present at a duly called meeting.

ARTICLE 4. THE EXECUTIVE COMMITTEE

4.1 Powers ~~a~~And Duties

The executive committee shall be vested with the powers and duties necessary for the administration of the affairs of the Section and shall perform duties assigned to it by the Board of Governors.

4.2 Composition

The executive committee shall be composed of the following persons:

- a. Voting Members
 - i. The four officers; and
 - ii. Nine (9) At-Large members elected to the executive committee.

- b. Non-voting Members
- i. Each Section Newsletter Editor appointed under Section Bylaw §4.5; and
- ii. Young Lawyer Liaison

4.3 Controlling Vote

A majority of the executive committee present in person, by telephone or by videoconference shall constitute a quorum. Action of the executive committee shall be determined by a majority vote once a quorum is established. Executive committee members may vote by email in accordance with the Bar's Bylaws.

4.4 Meetings

The first quarterly meeting of the executive committee shall be held in September of each calendar year. Special meetings shall be held at the time and place as may be designated by the Chair or a majority of the executive committee, provided advance notice of the meeting has been posted on the WSBA Event Calendar. The executive committee shall be expected to conduct a minimum of four meetings annually.

4.5 Section Newsletter Editor

The executive committee is authorized to appoint up to three members of the Section to act as section newsletter editor(s). The term of a section newsletter editor shall be two (2) years.

4.6 Young Lawyer Liaison

The executive committee shall appoint a member of the ~~the~~ Washington Young Lawyers Committee as the Young Lawyer liaison. The term of the Young Lawyer liaison shall be two (2) years. The purpose of this appointment is to authorize the executive committee to appoint to the executive committee a young lawyer who, in the opinion of the executive committee, shall make a unique contribution to the work and activities of the executive committee.

ARTICLE 5. OFFICERS

5.1 Officers

The officers of the Section shall be the Chair, the Chair-elect, the Secretary/Treasurer and the Immediate Past Chair. Each officer shall be appointed initially as the Secretary/Treasurer from among the elected executive committee members and then rotate into the other officer positions as set forth in Article 6.

5.2 The Chair

The Chair shall preside at all meetings of the Section and of the executive committee. The Chair shall formulate and submit an annual report required by the Bar of the work of the Section for the then past year. The Chair shall perform such other duties as usually pertain to that office or as may be delegated by the executive committee.

5.3 Chair-elect

Upon the death, resignation, or during the disability of the Chair, or upon the Chair's refusal to act, the Chair-elect shall perform the duties of the Chair for the remainder of the Chair's term, except in case of the Chair's disability and then only during so much of the term as the disability continues.

5.4 Secretary/Treasurer

The Secretary/Treasurer will take minutes at each meeting of the Section and executive committee, and provide approved minutes to the Bar for publication and record retention. The Secretary/Treasurer will work with the Bar to ensure that the Section complies with Bar fiscal policies and procedures, work with the Bar to prepare the Section's annual budget, and review the Section's monthly financial statements for accuracy and comparison to budget. In conjunction with the Chair and as authorized by the executive committee, the Secretary/Treasurer shall attend generally to the business of the Section.

5.5 The Immediate Past Chair

If asked by the Chair or Chair-elect, the Immediate Past Chair may perform the duties of the Chair at any given time upon request. In addition, the Immediate Past Chair may perform such other duties as are delegated by the Chair or the executive committee.

ARTICLE 6. ELECTIONS AND APPOINTMENTS

6.1 Elected Executive Committee Members

- a. In addition to the officers referenced above, in Article 5, the executive committee shall also include nine (9) elected members representing the State of Washington in nine positions as follows:

Position 1 and Position 2: The Eastern District of Washington;

Position 3: The Western District of Washington, Northern Division, excluding King County;

Positions 4 and 5: King County;

Positions 6 and 7: The Southern Division of the Western District of Washington;

Positions 8 and 9: Can be elected from any area.

A section member who wishes to be elected to a particular position must have his or her office of primary practice in the locale indicated for that particular position unless such member chooses to run for a non-geographically defined position.

Each elected executive committee member shall serve a period of two years. No individual may serve more than two (2) consecutive terms as an elected member of the executive committee.

The Chair shall submit to the nominating committee each year a list of the present executive committee members, the date of their appointment and the expiration of their term so that the nominating committee can put forth those names of qualified members from appropriate geographical locales for the upcoming executive committee vacancies.

- b. Officers

Upon the expiration of the Secretary/Treasurer's two-year term or in the event of a vacancy, a new Secretary/Treasurer shall be appointed by the executive committee to begin his/her term on October 1 or earlier if a vacancy has arisen. As provided below, thereafter, the former Secretary/Treasurer shall proceed to automatically and consecutively serve as Chair-elect, Chair and Immediate Past Chair. The term of office for each officer position shall be two years. In order to ensure continuity and to maintain institutional knowledge, each person appointed initially as Secretary/Treasurer shall be an elected member of the executive committee when first appointed. Upon appointment, the new Secretary/Treasurer shall cease to be an elected member of the executive committee and a new elected member shall be elected for such officer's prior position.

6.2 Chair

Upon completion of the term of office or in the event of a vacancy, the Chair-elect shall automatically succeed to the office of the Chair.

6.3 Chair-elect

Upon completion of the term of office or in the event of a vacancy, the Secretary/Treasurer shall automatically succeed to the office of Chair-elect.

6.3 Immediate Past Chair

Upon completion of the term of office, the Chair shall automatically succeed to the office of the Immediate Past Chair.

6.4 Nominations

The Chair shall annually appoint a nominating committee of not less than three members of the Section, not members of the executive committee, who shall make nominations of not less than two candidates for each open position not less than two months prior to the scheduled election for the members of the executive committee to succeed those whose terms will expire at the close of the fiscal year. The persons nominated for the executive committee may place a statement on the ballot (or in their online application) of not more than 100 words summarizing their qualifications to serve on the executive committee prior to the election. The executive committee will approve a list of nominees for each open position, provided that the ballots for the election shall also contain blanks for "write-in" candidates by the section members.

6.5 Voting

The Bar will administer the elections between March and May each year by electronic means and certify the results, unless the Section develops its own equivalent electronic election process. In the event of a tie, the winner will be determined to be the candidate who chooses the lowest card from a standard deck of cards at the next quarterly executive committee meeting held after the election.

6.6 Term of Office

All executive committee member terms shall commence on October 1 and shall run for two years.

6.7 Interim Appointments

In the event of a vacancy during the interim between annual elections, the executive committee shall appoint, by majority vote, a successor. When a member is appointed to fill a vacancy in an unexpired term, the member will do so until the next annual election when an individual will be elected to serve the remainder of the vacated term.

ARTICLE 7. SUBSTANTIVE RESPONSIBILITIES

7.1 Committees

The Chair may appoint committees to perform such duties and exercise such powers as the executive committee may direct.

ARTICLE 8. AMENDMENTS

These bylaws may be amended at any duly called meeting of the Section by a majority vote of the members of the Section present, or at an executive committee meeting by a majority vote of the voting executive committee members once a quorum is established, provided that no amendment shall become effective until approved by the Board of Governors of the Bar.

I, Thomas S. Linde, as the present Chair of the Creditor Debtor Rights Section of the Washington State Bar Association, attest that the above is a true copy of the bylaws of the Creditor Debtor Rights Section of the Washington State Bar Association as of June 16, 2017.

WASHINGTON STATE BAR ASSOCIATION

CREDITOR DEBTOR RIGHTS SECTION

Bylaws

As last amended and approved by the WSBA Board of Governors on Nov 4, 2021, and including 1992 amendments approved in 1993, 2010 amendments, and 2017 amendments.

ARTICLE 1. IDENTIFICATION

1.1 Creation

The Creditor Debtor Rights Section of the Washington State Bar (the "Section") was established pursuant to the Bylaws of the Washington State Bar Association (the "Bar").

1.2 Purpose

The purpose of the Section shall be to seek the participation of all interested members of the Bar and of the state and local bar associations, in order to benefit the general public, members of the Section and their clients:

- a. By encouraging research and study and initiating proposals for changes and reforms and aiding and educating the bar and the public in the Section's areas of interest;
- b. By review of pending legislation and development of proposed statutory enactments to improve and to facilitate the administration of justice within the Section's area; and
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I, Thomas S. Linde, as the present Chair of the Creditor Debtor Rights Section of the Washington State Bar Association, attest that the above is a true copy of the bylaws of the Creditor Debtor Rights Section of the Washington State Bar Association as of June 16, 2017.

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

Financial Reports

(Audited)

Year to Date September 30, 2021

Prepared by Maggie Yu, Controller
Submitted by
Jorge Perez, Chief Financial Officer
December 3, 2021

Washington State Bar Association

VENDOR TRIAL BALANCE OVER \$10K

YTD AND MOST CURRENT MONTH

100% OF YEAR COMPLETE

VENDOR LISTS	FOR THE MONTH OF SEPTEMBER	YEAR TO DATE	
Washington State Retirement Systems	\$ 203,363.81	\$ 2,541,328.90	Employer and employee retirement contribution
University of Washington	\$ 159,780.16	\$ 1,971,761.81	Rent, leasehold excise tax, facilities maintenance cost and MMP clinic gift
Health Care Authority	\$ 140,720.59	\$ 1,526,268.63	Employee medical coverage
Legal Foundation of WA	\$ -	\$ 349,079.85	License Fee checkoff for donations
WSB Foundation	\$ -	\$ 293,437.00	License Fee checkoff for donations and return of unused funds
Consolidated Press	\$ 25,952.62	\$ 225,939.59	Printing for NWLawyer
Wells Fargo Remittance Center	\$ 28,494.35	\$ 213,068.34	Wells Fargo credit card charges
Arthur J. Gallagher Risk	\$ -	\$ 209,987.27	Annual insurance renewal
CDW Government	\$ 42,388.49	\$ 194,622.14	Backup server annual maintenance, electronic distribution and HP computers
Praxis HR, LLC	\$ -	\$ 138,000.00	Interim HR director, climate assessment and retained services
National Conference of Bar Examiners	\$ 81,761.00	\$ 108,162.00	Standard (UBE) exams for summer, winter and membership dues
Gonzaga University	\$ 26,250.00	\$ 105,000.00	Moderate Means Grant
Fastcase Inc	\$ 10,832.00	\$ 103,810.25	Fastcase member benefit legal research tool
Postmaster	\$ 12,560.62	\$ 89,329.90	Postage, including NW Lawyer, and CLE marketing
Parker Staffing Services LLC	\$ -	\$ 83,788.32	Budgeted temporary staffing (HR,CLE,ATJ)
Thomson Reuters - West	\$ 6,625.28	\$ 72,720.70	Westlaw and law library acquisitions
Personify, Inc	\$ -	\$ 72,568.62	Membership database platform upgrade
Darktrace Holdings Ltd	\$ -	\$ 72,051.49	Darktrace Enterprise Cyber-Defense Platform
King County Finance	\$ -	\$ 64,350.78	Employee Orca Cards
Seattle Univ. - School of Law	\$ 31,848.00	\$ 63,696.00	Moderate Means Program Grant
Kepro	\$ 11,640.00	\$ 51,360.00	Member Wellness Plan (WSBA connects) and Employee Assistance Plan
ILG Exam360, LLC	\$ -	\$ 47,850.00	Admission software, July exam grading
University of Washington.	\$ 46,958.41	\$ 46,958.41	Washington Leadership Institute Grant
ADP, LLC	\$ 3,269.38	\$ 44,990.90	Payroll processing
Limelight Networks, Inc.	\$ 4,033.06	\$ 44,481.14	CLE product online hosting fees
Theresa A Cullen	\$ 6,648.75	\$ 42,018.75	Deskbook editorial work
Skamania Lodge	\$ -	\$ 41,129.35	July BOG meeting facilities costs and retreat
Clark Nuber P.S.	\$ 5,885.00	\$ 40,885.00	WSBA annual audit expenses and professional consulting service
ON24 Inc.	\$ -	\$ 40,675.76	Annual webcasting subscription
Pacifica Law Group	\$ 1,280.00	\$ 39,915.00	Outside counsel services
ILG Admissions	\$ 4,750.00	\$ 39,750.00	Admission software Support & Hosting
Ivoxy Consulting	\$ 19,460.96	\$ 36,238.81	Hardware upgrades, software subscriptions and Cisco Switches Upgrade(capital)
WA State Dept. of Labor & Ind.	\$ -	\$ 33,735.25	L & I quarterly payments
Ripley Law Firm Inc. PS	\$ 3,000.00	\$ 33,000.00	Appointed counsel contract payment
University of Washington	\$ 31,498.50	\$ 32,998.50	Rent, leasehold excise tax, facilities maintenance cost and MMP clinic gift
Fisher Phillips	\$ 3,882.46	\$ 31,526.31	Outside counsel services
UW School of Law	\$ -	\$ 31,498.50	Moderate Means program payment
Magna5 MS LLC	\$ 7,913.85	\$ 30,859.80	Exchange and domain server upgrade and consulting fee
Pacific Office Automation	\$ 208.32	\$ 29,131.49	Printer purchase, cartridges, toner, copier repair, and meter readings
Adaptive Insights, LLC	\$ -	\$ 28,918.91	Budgeting and analysis software
Election-America Inc	\$ -	\$ 28,800.00	Governor, management election processing

Washington State Bar Association
VENDOR TRIAL BALANCE OVER \$10K
YTD AND MOST CURRENT MONTH
100% OF YEAR COMPLETE

VENDOR LISTS	FOR THE MONTH OF SEPTEMBER	YEAR TO DATE	
Randolph O. Petgrave III	\$ 2,500.00	\$ 28,250.00	Chief Hearing Officer contract payment
Shaw - Government Relations	\$ -	\$ 25,999.98	Issue advocacy before Washington State Legislature, legislative workgroups, and governor's staff.
Hilton Vancouver WA	\$ 25,821.47	\$ 25,821.47	July, Sept BOG meeting facilities costs
Interchange Media Art	\$ 25,000.00	\$ 25,213.08	Videography for APEX
Access Information Management	\$ 1,830.37	\$ 24,558.98	Offsite records storage
Gordon, Tilden, Thomas	\$ 8,509.00	\$ 24,468.91	Outside counsel services
Level 3 Communications	\$ 2.51	\$ 24,413.10	Phone line service
Progress Software Corp.	\$ 20,536.62	\$ 23,841.82	Renewal for sitefinity professional edition
Pitney Bowes Reserve Account	\$ 23,448.00	\$ 23,448.00	Prepaid postage
The Historic Davenport Hotel	\$ -	\$ 22,088.47	BOG meeting facilities costs
Epiphanies of Equity LLC	\$ 20,028.00	\$ 21,693.00	BOG leadership and ATJ board training
Lawriter LLC	\$ -	\$ 21,664.00	CaseMaker member benefit legal research tool
Interactive Document	\$ 14,249.00	\$ 20,149.00	PN3 Annual Maintenance
ICS Support, Inc.	\$ 58.50	\$ 19,356.10	Account software (Navision) upgrade
LogMeIn Communications Inc.	\$ -	\$ 18,565.11	Go to connect bundle pro and support
Emerald Search Partners LLC	\$ 3,430.00	\$ 18,417.70	Budgeted temporary staffing (MCLE, DISC, SECT)
Berkley North Pacific	\$ 13,621.00	\$ 16,567.00	Insurance
ERGOMETRICS, Inc	\$ -	\$ 16,537.50	LLLT & LPO summer exam
Miller Nash, Graham & Dunn LLP	\$ 429.40	\$ 16,501.40	Outside counsel services
Unico Properties LLC	\$ -	\$ 15,256.60	Monthly Operating Escalation – NEW 2021 RATE
The Riverside Hotel	\$ 14,482.92	\$ 14,482.92	August BOG meeting lodging
Cornerstone OnDemand	\$ -	\$ 14,094.18	HR performance system module
Puget Sound Reporting	\$ 1,373.05	\$ 13,912.80	Court reporter cost
Revolution Data Systems, LLC	\$ 13,912.78	\$ 13,912.78	AX application, Kofax annual renewal for scanning and reading the licensing form into Personify
Seattle Corporate Search LLC	\$ -	\$ 13,300.00	Recruiting,Advertising
Jackson Lewis, P.C.	\$ -	\$ 12,524.00	Outside counsel services
High Availability Inc.	\$ -	\$ 12,126.62	MS365 Implementation Support
Holiday Inn Express & Suites	\$ -	\$ 11,020.59	February and July bar exam facilities cost
Neil & Neil P.S.	\$ 1,000.00	\$ 11,000.00	Outside counsel services
Morrison & Morrison, Ltd	\$ -	\$ 11,000.00	Budget software consulting fee
Lynnwood Convention Center SMG	\$ 5,334.75	\$ 10,670.00	Bar Exam facility costs
GTxcel	\$ 850.00	\$ 10,300.00	License, domain and hosting fee
Kroll Associates,Inc.	\$ -	\$ 10,000.00	Outside counsel services

**Washington State Bar Association
Analysis of Cash Investments
As of September 30, 2021**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 635,921

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.01%	\$ 7,477,983
UBS Financial Money Market	0.00%	\$ 1,081,110
Morgan Stanley Money Market	0.01%	\$ 3,354,218
Merrill Lynch Money Market	0.01%	\$ 1,983,657

General Fund Total \$ 14,532,889

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 310,634

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.01%	\$ 4,407,367
Morgan Stanley Money Market	0.00%	\$ 106,915

Client Protection Fund Total \$ 4,824,916

Grand Total Cash & Investments \$ 19,357,805

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Maggie Yu, Controller

Re: Key Financial Benchmarks for the Preliminary Fiscal Year to Date (YTD) through September 30, 2021

Date: December 3, 2021

	% of Year	Current Year % YTD	Current Year \$ Difference	Prior Year YTD	Comments
Salaries	100%	100.06%	(\$7,178) Over reforecast	101.49%	Slightly over reforecast due to lower than anticipated capital labor costs
Benefits	100%	98.61%	\$53,082 Under reforecast	93.09%	Under reforecast due to lower than anticipated transportation cost due to COVID 19
Other Indirect Expenses	100%	86.69%	\$557,514 Under reforecast	104.04%	Under reforecast due to legal expenses and other internal indirect savings across all funds
Total Indirect Expenses	100%	96.91%	\$603,418 Under reforecast	100.18%	Under reforecast for the reasons described above

General Fund Revenues	100%	104.08%	\$824,074 Over reforecast	100.45%	Ahead of reforecast due to higher than anticipated payments related to the bar exam, pro hac vice, license fee and MCLE
General Fund Indirect Expenses	100%	97.12%	\$521,597 Under reforecast	76.99%	Under reforecast due to benefit of transportation and legal expenses savings
General Fund Direct Expenses	100%	85.98%	\$312,365 Under reforecast	100%	Under reforecast due to expenses not incurred due to COVID-19
General Fund Net	100%	1,353.61%	\$1,658,032 Over reforecast	927.49%	Ahead of reforecast for the reasons described above

CLE Revenue	100%	117.27%	\$233,698 Over reforecast	84.77%	Ahead of reforecast due to stronger than anticipated seminar attendance
CLE Direct Expenses	100%	65.96%	\$128,246 Under reforecast	62.69%	Under reforecast due to postage, staff travel, supplies, committee expenses savings and reclassification of section CLE split
CLE Indirect Expenses	100%	93.97%	\$74,368 Under reforecast	102.76%	Under reforecast due to planed vacant position
CLE Net	100%	169.93%	\$436,313 Over reforecast	-107.35%	Over reforecast for the reasons described above

Indirects: Temporary salary line item under budget by 52.04%

Budgeted Temps:

Dept Code	Budgeted Temps	FY21 Reforecast	September Actuals	YTD Actuals	Remaining Balance
ADMIN	Licensing Season Temp	25,833		17,655.76	8,177.04
SC	Front Desk Receptionist - Licensing Season	3,221	-	-	3,220.95
DISC	Temp for Scanning and Two Law Student Interns	41,066.67	3,264.01	13,263.02	27,803.65
LICMR	Licensing Temp	7,684.00		7,602.00	82.00
TECH	Developer Temp	30,500	1,848.00	22,848.00	7,652.00
DIV	Work Study Intern	13,000			13,000.00
Total		121,304.42	5,112.01	61,368.78	59,935.64

Unanticipated Temps:

Dept Code	FY21 Unanticipated Reforecast	September Actuals	YTD Actuals	Remaining Balance
	6,667	-	-	6,666.67
		-		
		-		
Total	6,667	-	-	6,666.67

Replacement Temps:

Dept Code	FY21 Open Positions	Salary	September Actuals	YTD Actuals	Variance	Hire Date
HR	HR Specialist, HR Generalist, HR Director, & Praxis HR Invoice	139,266.90		148,550.94	(9,284.04)	HR Specialist- 4/20/21, HR Generalist- 02/19/21, HR Director- 03/01/21, & Praxis HR invoice.
TECH	Network and Systems Administrator	23,750.00		5,001.08	18,748.92	12/14/20
DISC	Temporary Analyst I and Legal Administrative Assistant II-Invest/Pros	28,944.64	6,591.76	21,864.01	7,080.63	Temporary Analyst I- assignment complete 5/31/21 and Administrative Assistant II- Invest/Pros - Open
DIV	Equity and Justice Lead -DEI	45,292.00		11,732.50	33,559.50	7/12/21
PSP	Equity and Justice Lead -DEI	45,292.00		8,272.52	37,019.48	7/12/21
ATJ	Equity and Justice Lead -DEI	45,292.00		6,334.28	38,957.72	7/12/21
CLES	Program Coordinator II-CLE	45,262.50	3,480.00	24,892.00	20,370.50	Open
SECT	Sections Program Specialist II	34,686.96		15,025.50	19,661.46	Open
Total		407,787.00	10,071.76	241,672.83	166,114.17	

Balance Sheet
September, 2021

ASSETS	Prior Year General, CLE, and Sections Funds	Current Year General, CLE, and Sections Funds	Prior Year CPF	Current Year CPF	Current Year TOTAL
Cash & cash equivalents	436,077.27	635,921			635,921
Amex credit card service fee	5,435.84	7,916			7,916
Investments- money market + CDs	11,691,968.70	13,896,968			13,896,968
Restricted Cash		-	659,736	310,634	310,634
Restricted Investments- money market + CDs			4,212,867	4,514,282	4,514,282
Due to/from GF-CPF	142,635.72	166,633	(142,636)	(166,633)	-
Accounts Receivable	56,594.69	17,450			17,450
A/R Misc	13,680.79	102,211			102,211
Allowance for Bad Debt	(994.26)	-	-	-	-
OP Backorders	5,204.07	8,534			8,534
Unapplied receipts	(2,534.20)	-			-
CLE inventory	317,060.71	224,372			224,372
Deferred seminar costs	14,500.00	14,500			14,500
Prepaid expenses	719,144.35	505,381			505,381
Property & equipment, net	338,315.47	298,467			298,467
Software Canned	202,884.33	144,933	-	-	144,933
Software Custom	304,023.91	144,804	-	-	144,804
TOTAL ASSETS	14,243,997.39	16,168,089	4,729,967	4,658,283	20,826,372
LIABILITIES					
Accounts payable	868,577.51	709,171			709,171
Accounts payable-year end/misc	128,354.53	39,341			39,341
Refunds payable	1,110.83	1,111			1,111
CPF committed gifts			536,836	612,037	612,037
Accrued expenses	669,065.98	696,365			696,365
Future rent obligations	1,095,752.49	1,052,809			1,052,809
Unearned seminar/other revenue	28,862.25	11,361			11,361
Deferred licensing fees	4,080,334.24	4,137,202			4,137,202
Amex credit card service fee	5,435.84	7,916			7,916
Other deferred revenue	110,900.00	235,136			235,136
Deferred grant revenue	47,869.89	47,870			47,870
LAW Fund/WSBF Contributions	50.00	-			-
TOTAL LIABILITIES	7,036,313.56	6,938,281	536,836	612,037	7,550,318
RETAINED EARNINGS					
GENERAL FUND BALANCE	5,528,233.61	7,072,174			7,072,174
CLE FUND BALANCE	469,241.00	648,792			648,792
CPF FUND BALANCE			4,193,130	4,046,246	4,046,246
WSBC FUND BALANCE					-
SECTIONS FUND BALANCE	1,210,209.00	1,508,843			1,508,843
TOTAL FUND BALANCE	7,207,683.61	9,229,808	4,193,130	4,046,246	13,276,054
TOTAL LIABILITIES AND RETAINED EARNINGS	14,243,997.17	16,168,089	4,729,966	4,658,283	20,826,372

Note* Total Retained Earnings must equal fund balance

Washington State Bar Association

Statement of Activities

For the Period from September 1, 2021 to September 30, 2021

100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LICENSE FEES									
REVENUE:									
LICENSE FEES	1,289,180	1,405,037	115,857	16,318,268	16,729,236	410,968	16,318,268	(410,968)	102.52%
TOTAL REVENUE:	1,289,180	1,405,037	115,857	16,318,268	16,729,236	410,968	16,318,268	(410,968)	102.52%

Washington State Bar Association
Statement of Activities
For the Period from September 1, 2021 to September 30, 2021
100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ACCESS TO JUSTICE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
ATJ BOARD RETREAT	-	-	-	2,000	1,200	800	2,000	800	60.00%
LEADERSHIP TRAINING	250	-	250	2,000	973	1,027	2,000	1,027	48.65%
ATJ BOARD EXPENSE	2,250	2,840	(590)	18,000	11,906	6,094	18,000	6,094	66.15%
PUBLIC DEFENSE	550	4,000	(3,450)	4,400	4,000	400	4,400	400	90.92%
CONFERENCE/INSTITUTE EXPENSE	3,350	17,804	(14,454)	26,804	18,020	8,784	26,804	8,784	67.23%
RECEPTION/FORUM EXPENSE	-	9,500	(9,500)	-	9,500	(9,500)	-	(9,500)	
TOTAL DIRECT EXPENSES:	6,400	34,144	(27,744)	53,204	45,600	7,604	53,204	7,604	85.71%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.60 FTE)	9,657	9,949	(292)	118,095	130,760	(12,665)	118,095	(12,665)	110.72%
BENEFITS EXPENSE	3,811	3,292	518	44,212	43,167	1,046	44,212	1,046	97.63%
OTHER INDIRECT EXPENSE	6,255	3,780	2,475	50,225	42,123	8,102	50,225	8,102	83.87%
TOTAL INDIRECT EXPENSES:	19,723	17,022	2,701	212,533	216,050	(3,517)	212,533	(3,517)	101.65%
TOTAL ALL EXPENSES:	26,123	51,166	(25,043)	265,737	261,650	4,087	265,737	4,087	98.46%
NET INCOME (LOSS):	(26,123)	(51,166)	(25,043)	(265,737)	(261,650)	4,087	(265,737)	(4,087)	98.46%

Washington State Bar Association

Statement of Activities

For the Period from September 1, 2021 to September 30, 2021

100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADMINISTRATION									
REVENUE:									
INTEREST INCOME	500	(165)	(665)	6,786	4,577	(2,209)	6,786	2,209	67.45%
TOTAL REVENUE:	500	(165)	(665)	6,786	4,577	(2,209)	6,786	2,209	67.45%
DIRECT EXPENSES:									
CONSULTING SERVICES	2,804	4,069	(1,265)	11,000	11,000	0	11,000	-	100.00%
STAFF TRAVEL/PARKING	350	279	71	4,140	1,646	2,494	4,140	2,494	39.75%
TOTAL DIRECT EXPENSES:	3,154	4,348	(1,194)	15,140	12,646	2,495	15,140	2,494	83.52%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.92 FTE)	55,093	51,622	3,471	681,431	678,672	2,759	681,430.99	2,759	99.60%
BENEFITS EXPENSE	17,267	14,956	2,311	200,848	196,478	4,371	200,848	4,371	97.82%
OTHER INDIRECT EXPENSE	27,054	16,425	10,629	217,501	183,017	34,483	217,501	34,483	84.15%
TOTAL INDIRECT EXPENSES:	99,414	83,002	16,411	1,099,780	1,058,167	41,613	1,099,780	41,613	96.22%
TOTAL ALL EXPENSES:	102,568	87,351	15,217	1,114,920	1,070,812	44,108	1,114,920	44,108	96.04%
NET INCOME (LOSS):	(102,068)	(87,516)	14,552	(1,108,134)	(1,066,235)	41,899	(1,108,134)	(41,899)	96.22%

Washington State Bar Association
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100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADMISSIONS									
REVENUE:									
EXAM SOFT REVENUE	-	6,591	6,591	-	6,591	6,591	-	(6,591)	
BAR EXAM FEES	-	(620)	(620)	1,059,321	1,113,661	54,340	1,059,321	(54,340)	105.13%
RULE 9/LEGAL INTERN FEES	-	700	700	11,192	12,400	1,208	11,192	(1,208)	110.79%
RPC BOOKLETS	-	-	-	-	5	5	-	(5)	
SPECIAL ADMISSIONS	-	(320)	(320)	44,783	51,565	6,782	44,783	(6,782)	115.15%
TOTAL REVENUE:	-	6,351	6,351	1,115,296	1,184,222	68,926	1,115,296	(68,926)	106.18%
DIRECT EXPENSES:									
POSTAGE	150	123	27	1,219	529	690	1,219	690	43.43%
STAFF TRAVEL/PARKING	766	-	766	2,500	651	1,849	2,500	1,849	26.03%
STAFF MEMBERSHIP DUES	400	(250)	650	800	400	400	800	400	50.00%
SUPPLIES	83	-	83	1,607	940	667	1,607	667	58.51%
FACILITY, PARKING, FOOD	781	-	781	20,000	18,151	1,849	20,000	1,849	90.76%
EXAMINER FEES	-	-	-	26,000	26,000	-	26,000	-	100.00%
UBE EXMINATIONS	-	81,761	(81,761)	121,000	107,662	13,338	121,000	13,338	88.98%
BAR EXAM PROCTORS	-	-	-	(133)	150	(283)	(133)	(283)	-113.08%
CHARACTER & FITNESS BOARD	-	-	-	1,000	12	988	1,000	988	1.22%
DISABILITY ACCOMMODATIONS	-	-	-	9,491	8,385	1,106	9,491	1,106	88.35%
CHARACTER & FITNESS INVESTIGATIONS	-	-	-	306	242	64	306	64	79.02%
LAW SCHOOL VISITS	750	-	750	750	-	750	750	750	0.00%
ILG EXAM FEES	-	-	-	50,000	43,100	6,900	50,000	6,900	86.20%
COURT REPORTERS	1,250	1,373	(123)	13,711	8,139	5,572	13,711	5,572	59.36%
DEPRECIATION-SOFTWARE	1,898	1,969	(71)	16,950	15,123	1,827	16,950	1,827	89.22%
CONFERENCE CALLS	-	-	-	-	23	(23)	-	(23)	
ONLINE LEGAL RESEARCH	304	615	(311)	3,345	3,678	(333)	3,345	(333)	109.94%
LAW LIBRARY	13	11	2	150	133	17	150	17	88.47%
TOTAL DIRECT EXPENSES:	6,396	85,601	(79,205)	268,696	233,318	35,378	268,696	35,378	86.83%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.55 FTE)	39,774	46,151	(6,377)	463,780	467,496	(3,716)	463,780	(3,716)	100.80%
BENEFITS EXPENSE	14,976	12,911	2,065	172,719	169,139	3,580	172,719	3,580	97.93%
OTHER INDIRECT EXPENSE	25,998	15,512	10,486	206,855	172,850	34,006	206,855	34,005	83.56%
TOTAL INDIRECT EXPENSES:	80,748	74,574	6,174	843,354	809,484	33,869	843,354	33,869	95.98%
TOTAL ALL EXPENSES:	87,145	160,176	(73,031)	1,112,050	1,042,802	69,248	1,112,050	69,248	93.77%
NET INCOME (LOSS):	(87,145)	(153,825)	(66,680)	3,246	141,420	138,173	3,246	(138,173)	4356.53%

Washington State Bar Association

Statement of Activities

For the Period from September 1, 2021 to September 30, 2021

100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADVANCEMENT FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.15 FTE)	13,398	11,879	1,519	161,593	158,214	3,379	161,593	3,379	97.91%
BENEFITS EXPENSE	3,591	3,134	457	41,728	40,797	931	41,728	931	97.77%
OTHER INDIRECT EXPENSE	4,496	2,737	1,758	36,175	30,503	5,672	36,175	5,672	84.32%
TOTAL INDIRECT EXPENSES:	21,485	17,750	3,734	239,496	229,514	9,983	239,496	9,983	95.83%
NET INCOME (LOSS):	(21,485)	(17,750)	3,734	(239,496)	(229,514)	9,983	(239,496)	(9,983)	95.83%

Washington State Bar Association
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100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
BAR NEWS									
REVENUE:									
ROYALTIES	92	-	(92)	2,000	5,064	3,064	2,000	(3,064)	253.19%
DISPLAY ADVERTISING	30,213	37,028	6,815	300,000	353,462	53,462	300,000	(53,462)	117.82%
SUBSCRIPT/SINGLE ISSUES	27	-	(27)	200	72	(128)	200	128	36.06%
CLASSIFIED ADVERTISING	1,093	818	(275)	7,500	2,586	(4,914)	7,500	4,914	34.48%
GEN ANNOUNCEMENTS	1,025	887	(138)	7,500	5,687	(1,813)	7,500	1,813	75.82%
PROF ANNOUNCEMENTS	2,344	2,085	(259)	20,000	18,637	(1,363)	20,000	1,363	93.18%
JOB TARGET ADVERTISING	13,583	15,155	1,573	120,000	197,604	77,604	120,000	(77,604)	164.67%
TOTAL REVENUE:	48,377	55,973	7,597	457,200	583,112	125,912	457,200	(125,912)	127.54%
DIRECT EXPENSES:									
BAD DEBT EXPENSE	63	-	63	500	-	500	500	500	0.00%
POSTAGE	10,710	22,646	(11,937)	95,000	95,962	(962)	95,000	(962)	101.01%
PRINTING, COPYING & MAILING	29,399	24,806	4,594	250,000	222,285	27,714	250,000	27,714	88.91%
DIGITAL/ONLINE DEVELOPMENT	1,044	850	194	11,000	11,114	(114)	11,000	(114)	101.04%
GRAPHICS/ARTWORK	31	-	31	250	-	250	250	250	0.00%
OUTSIDE SALES EXPENSE	8,556	865	7,691	90,000	62,014	27,986	90,000	27,986	68.90%
EDITORIAL ADVISORY COMMITTEE	63	-	63	500	-	500	500	500	0.00%
STAFF MEMBERSHIP DUES	123	-	123	615	-	615	615	615	0.00%
TOTAL DIRECT EXPENSES:	49,987	49,167	820	447,864	391,375	56,489	447,864	56,489	87.39%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.83 FTE)	16,743	15,253	1,490	202,757	201,977	780	202,757	780	99.62%
BENEFITS EXPENSE	5,298	4,539	760	61,402	60,225	1,177	61,402	1,177	98.08%
OTHER INDIRECT EXPENSE	11,051	6,713	4,338	88,860	74,805	14,056	88,860	14,056	84.18%
TOTAL INDIRECT EXPENSES:	33,092	26,505	6,587	353,019	337,006	16,013	353,019	16,012	95.46%
TOTAL ALL EXPENSES:	83,080	75,672	7,408	800,883	728,381	72,502	800,883	72,502	90.95%
NET INCOME (LOSS):	(34,703)	(19,699)	15,004	(343,683)	(145,269)	198,414	(343,683)	(198,414)	42.27%

Washington State Bar Association
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100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
BOARD OF GOVERNOR									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
BOG MEETINGS	16,000	57,416	(41,416)	89,114	152,910	(63,796)	89,114	(63,796)	171.59%
BOG COMMITTEES' EXPENSES	1,500	10	1,490	4,635	538	4,097	4,635	4,097	11.60%
BOG RETREAT	-	1,393	(1,393)	15,253	20,787	(5,534)	15,253	(5,534)	136.28%
BOG CONFERENCE ATTENDANCE	-	-	-	6,988	596	6,392	6,988	6,392	8.53%
BOG TRAVEL & OUTREACH	1,325	159	1,166	11,535	3,914	7,621	11,535	7,621	33.93%
LEADERSHIP TRAINING	4,167	17,988	(13,821)	33,333	20,059	13,274	33,333	13,274	60.18%
BOG ELECTIONS	-	-	-	28,840	29,134	(294)	28,840	(294)	101.02%
PRESIDENT'S DINNER	10,000	-	10,000	10,000	-	10,000	10,000	10,000	0.00%
TOTAL DIRECT EXPENSES:	32,991	76,965	(43,974)	199,698	227,938	(28,240)	199,698	(28,240)	114.14%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.75 FTE)	9,783	10,618	(836)	119,377	124,052	(4,674)	119,377	(4,674)	103.92%
BENEFITS EXPENSE	3,579	3,075	504	41,504	40,631	873	41,504	873	97.90%
OTHER INDIRECT EXPENSE	6,842	4,139	2,703	54,949	46,117	8,831	54,949	8,831	83.93%
TOTAL INDIRECT EXPENSES:	20,203	17,833	2,371	215,830	210,800	5,030	215,830	5,030	97.67%
TOTAL ALL EXPENSES:	53,195	94,798	(41,603)	415,528	438,738	(23,210)	415,528	(23,210)	105.59%
NET INCOME (LOSS):	(53,195)	(94,798)	(41,603)	(415,528)	(438,738)	(23,210)	(415,528)	23,210	105.59%

Washington State Bar Association
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100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
CLE - PRODUCTS									
REVENUE:									
SHIPPING & HANDLING	83	27	(56)	741	281	(460)	741	460	37.96%
COURSEBOOK SALES	362	230	(132)	4,000	3,437	(563)	4,000	563	85.93%
MP3 AND VIDEO SALES	24,868	62,022	37,154	552,390	625,320	72,930	552,390	(72,930)	113.20%
TOTAL REVENUE:	25,313	62,279	36,966	557,131	629,038	71,908	557,131	(71,908)	112.91%
DIRECT EXPENSES:									
BAD DEBT EXPENSE	-	(494)	494	-	(494)	494	-	494	
DEPRECIATION	-	105	(105)	3,188	3,182	6	3,188	6	99.81%
STAFF MEMBERSHIP DUES	50	-	50	973	573	400	973	400	58.87%
TRANSCRIPTION SERVICES	176	-	176	1,500	270	1,230	1,500	1,230	18.01%
COST OF SALES - COURSEBOOKS	125	18	107	1,069	234	835	1,069	835	21.87%
A/V DEVELOP COSTS (RECORDING)	167	-	167	1,333	-	1,333	1,333	1,333	0.00%
ONLINE PRODUCT HOSTING EXPENSES	4,000	4,033	(33)	46,559	46,922	(363)	46,559	(363)	100.78%
POSTAGE & DELIVERY-COURSEBOOKS	42	24	18	405	294	111	405	111	72.68%
TOTAL DIRECT EXPENSES:	4,559	3,686	873	55,027	50,981	4,047	55,027	4,047	92.65%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.45 FTE)	7,855	7,040	815	94,346	92,635	1,711	94,346	1,711	98.19%
BENEFITS EXPENSE	3,214	2,769	445	37,298	36,463	835	37,298	835	97.76%
OTHER INDIRECT EXPENSE	5,669	3,422	2,247	45,501	38,129	7,373	45,501	7,373	83.80%
TOTAL INDIRECT EXPENSES:	16,738	13,231	3,507	177,146	167,227	9,919	177,146	9,919	94.40%
TOTAL ALL EXPENSES:	21,297	16,917	4,380	232,173	218,208	13,966	232,173	13,966	93.98%
NET INCOME (LOSS):	4,017	45,362	41,346	324,958	410,831	85,873	324,958	(85,873)	126.43%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
CLE - SEMINARS									
REVENUE:									
SEMINAR REGISTRATIONS	66,923	95,974	29,050	650,398	819,545	169,147	650,398	(169,147)	126.01%
SEMINAR-EXHIB/SPNSR/ETC	-	55,504	55,504	5,000	61,654	56,654	5,000	(56,654)	1233.08%
SEMINAR SPLITS W/ CLE	-	(101,660)	(101,660)	-	(101,660)	(101,660)	-	101,660	
TOTAL REVENUE:	66,923	49,818	(17,106)	655,398	779,539	124,141	655,398	(124,141)	118.94%
DIRECT EXPENSES:									
BAD DEBT EXPENSE	54	-	54	433	-	433	433	433	0.00%
STAFF TRAVEL/PARKING	1,250	-	1,250	10,073	73	10,000	10,073	10,000	0.73%
STAFF MEMBERSHIP DUES	71	-	71	1,332	763	569	1,332	569	57.31%
SUPPLIES	83	-	83	667	-	667	667	667	0.00%
COURSEBOOK PRODUCTION	63	-	63	500	-	500	500	500	0.00%
POSTAGE - FLIERS/CATALOGS	70	-	70	1,500	-	1,500	1,500	1,500	0.00%
ACCREDITATION FEES	-	476	(476)	2,772	2,756	16	2,772	16	99.42%
FACILITIES	12,000	5,486	6,514	64,700	40,420	24,280	64,700	24,280	62.47%
SPEAKERS & PROGRAM DEVELOP	500	5	495	6,026	2,798	3,229	6,026	3,229	46.42%
SPLITS TO SECTIONS	-	-	-	115,000	3,611	111,389	115,000	111,389	3.14%
HONORARIA	838	11,820	(10,983)	6,700	14,999	(8,299)	6,700	(8,299)	223.87%
TRANSCRIPTION SERVICES	-	-	-	-	2,667	(2,667)	-	(2,667)	
CLE SEMINAR COMMITTEE	13	-	13	100	-	100	100	100	0.00%
SUBSCRIPTIONS	-	-	-	-	334	(334)	-	(334)	
CONFERENCE CALLS	4	-	4	33	-	33	33	33	0.00%
TOTAL DIRECT EXPENSES:	14,946	17,787	(2,841)	209,837	68,420	141,417	209,837	141,417	32.61%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.97 FTE)	38,017	30,028	7,989	456,936	424,344	32,593	456,936	32,593	92.87%
BENEFITS EXPENSE	15,125	13,078	2,047	173,323	172,051	1,272	173,323	1,272	99.27%
OTHER INDIRECT EXPENSE	25,624	16,523	9,101	205,393	184,107	21,286	205,393	21,286	89.64%
TOTAL INDIRECT EXPENSES:	78,767	59,628	19,138	835,652	780,501	55,151	835,652	55,151	93.40%
TOTAL ALL EXPENSES:	93,712	77,415	16,297	1,045,489	848,922	196,567	1,045,489	196,567	81.20%
NET INCOME (LOSS):	(26,789)	(27,598)	(809)	(390,091)	(69,383)	320,708.24	(390,091)	(320,708.24)	17.79%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
CONTINUING LEGAL EDUCATION (CLE)									
REVENUE:									
SEMINAR REGISTRATIONS	66,923	95,974	29,050	650,398	819,545	169,147	650,398	(169,147)	126.01%
SEMINAR-EXHIB/SPNSR/ETC	-	55,504	55,504	5,000	61,654	56,654	5,000	(56,654)	1233.08%
SHIPPING & HANDLING	83	27	(56)	741	281	(460)	741	460	37.96%
SEMINAR SPLITS W/ CLE	-	(101,660)	(101,660)	-	(101,660)	(101,660)	-	101,660	
COURSEBOOK SALES	362	230	(132)	4,000	3,437	(563)	4,000	563	85.93%
MP3 AND VIDEO SALES	24,868	62,022	37,154	552,390	625,320	72,930	552,390	(72,930)	113.20%
TOTAL REVENUE:	92,237	112,097	19,860	1,212,529	1,408,577	196,048	1,212,529	(196,048)	116.17%
DIRECT EXPENSES:									
COURSEBOOK PRODUCTION	63	-	63	500	-	500	500	500	0.00%
POSTAGE - FLIERS/CATALOGS	70	-	70	1,500	-	1,500	1,500	1,500	0.00%
DEPRECIATION	-	105	(105)	3,188	3,182	6	3,188	6	99.81%
ONLINE EXPENSES	4,000	4,033	(33)	46,559	46,922	(363)	46,559	(363)	100.78%
ACCREDITATION FEES	-	476	(476)	2,772	2,756	16	2,772	16	99.42%
FACILITIES	12,000	5,486	6,514	64,700	40,420	24,280	64,700	24,280	62.47%
TRANSACTION SERVICES	176	-	176	1,500	2,937	(1,437)	1,500	(1,437)	195.76%
SPEAKERS & PROGRAM DEVELOP	500	5	495	6,026	2,798	3,229	6,026	3,229	46.42%
SPLITS TO SECTIONS	-	-	-	115,000	3,611	111,389	115,000	111,389	3.14%
HONORARIA	838	11,820	(10,983)	6,700	14,999	(8,299)	6,700	(8,299)	223.87%
CLE SEMINAR COMMITTEE	13	-	13	100	-	100	100	100	0.00%
BAD DEBT EXPENSE	54	(494)	548	433	(494)	928	433	928	-114.06%
STAFF TRAVEL/PARKING	1,250	-	1,250	10,073	73	10,000	10,073	10,000	0.73%
STAFF MEMBERSHIP DUES	121	-	121	2,305	1,336	969	2,305	969	57.97%
SUBSCRIPTIONS	-	-	-	-	334	(334)	-	(334)	
SUPPLIES	83	-	83	667	-	667	667	667	0.00%
CONFERENCE CALLS	4	-	4	33	-	33	33	33	0.00%
COST OF SALES - COURSEBOOKS	125	18	107	1,069	234	835	1,069	835	21.87%
A/V DEVELOP COSTS (RECORDING)	167	-	167	1,333	-	1,333	1,333	1,333	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	42	24	18	405	294	111	405	111	72.68%
TOTAL DIRECT EXPENSES:	19,505	21,473	(1,968)	264,864	119,401	145,463	264,864	145,463	45.08%
INDIRECT EXPENSES:									
SALARY EXPENSE (8.42 FTE)	45,871.65	37,068	8,804	551,283	516,979	34,304	551,283	34,304	93.78%
BENEFITS EXPENSE	18,340	15,847	2,492	210,621	208,514	2,106	210,621	2,106	99.00%
OTHER INDIRECT EXPENSE	31,293	19,945	11,348	250,895	222,235	28,659	250,895	28,659	88.58%
TOTAL INDIRECT EXPENSES:	95,504	72,859	22,645	1,012,798	947,728	65,070	1,012,798	65,070	93.58%
TOTAL ALL EXPENSES:	115,009	94,332	20,677	1,277,662	1,067,129	210,533	1,277,662	210,533	83.52%
NET INCOME (LOSS):	(22,772)	17,765	40,537	(65,133)	341,448	406,582	(65,133)	(406,581)	-524.23%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
COMMUNICATION STRATEGIES									
REVENUE:									
50 YEAR MEMBER TRIBUTE LUNCH	-	-	-	-	500	500	-	(500)	
WSBA LOGO MERCHANDISE SALES	-	113	113	-	2,308	2,308	-	(2,308)	
TOTAL REVENUE:	-	113	113	-	2,808	2,808	-	(2,808)	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	392	225	167	4,123	3,255	869	4,123	869	78.94%
STAFF MEMBERSHIP DUES	99	-	99	1,169	515	654	1,169	654	44.07%
SUBSCRIPTIONS	254	256	(2)	2,751	3,441	(690)	2,751	(690)	125.07%
DIGITAL/ONLINE DEVELOPMENT	67	-	67	533	545	(12)	533	(12)	102.20%
APEX DINNER	1,933	37,530	(35,597)	25,000	38,367	(13,367)	25,000	(13,367)	153.47%
50 YEAR MEMBER TRIBUTE LUNCH	1,875	(797)	2,672	15,000	10,438	4,562	15,000	4,562	69.59%
COMMUNICATIONS OUTREACH	2,083	1,747	337	18,632	12,258	6,374	18,632	6,374	65.79%
TELEPHONE	25	88	(63)	559	932	(373)	559	(373)	166.80%
CONFERENCE CALLS	25	-	25	201	-	201	201	201	0.00%
MISCELLANEOUS	417	-	417	3,333	260	3,073	3,333	3,073	7.80%
TOTAL DIRECT EXPENSES:	7,169	39,049	(31,879)	71,302	70,011	1,290	71,302	1,290	98.19%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.80 FTE)	21,354	19,453	1,901	260,171	258,405	1,766	260,171	1,766	99.32%
BENEFITS EXPENSE	7,088	6,069	1,020	82,285	80,768	1,517	82,285	1,517	98.16%
OTHER INDIRECT EXPENSE	14,869	8,995	5,875	119,420	100,224	19,196	119,420	19,196	83.93%
TOTAL INDIRECT EXPENSES:	43,312	34,516	8,796	461,876	439,397	22,479	461,876	22,479	95.13%
TOTAL ALL EXPENSES:	50,481	73,565	(23,083)	533,177	509,408	23,769	533,177	23,769	95.54%
NET INCOME (LOSS):	(50,481)	(73,452)	(22,970)	(533,177)	(506,600)	26,577	(533,177)	(26,577)	95.02%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
COMMUNICATION STRATEGIES FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	12,462	11,359	1,103	149,913	148,975	937	149912.82	937	99.37%
BENEFITS EXPENSE	3,695	3,236	458	42,790	41,793	997	42,790	997	97.67%
OTHER INDIRECT EXPENSE	3,910	2,379	1,531	31,451	26,508	4,942	31,451	4,942	84.29%
TOTAL INDIRECT EXPENSES:	20,067	16,975	3,092	224,154	217,277	6,877	224,154	6,877	96.93%
NET INCOME (LOSS):	(20,067)	(16,975)	3,092	(224,154)	(217,277)	6,877	(224,154)	(6,877)	96.93%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
CLIENT PROTECTION FUND									
REVENUE:									
CPF RESTITUTION	92	1,244	1,152	9,662	137,971	128,309	9,662	(128,309)	1427.99%
CPF MEMBER ASSESSMENTS	24,700	4,320	(20,380)	515,540	363,280	(152,260)	515,540	152,260	70.47%
INTEREST INCOME	833	381	(453)	8,200	4,890	(3,310)	8,200	3,311	59.63%
TOTAL REVENUE:	25,625	5,945	(19,680)	533,402	506,141	(27,261)	533,402	27,261	94.89%
DIRECT EXPENSES:									
BANK FEES - WELLS FARGO	26	148	(122)	1,395	2,011	(616)	1,395	(616)	144.14%
GIFTS TO INJURED CLIENTS	102,907	430,272	(327,366)	490,880	499,637	(8,757)	490,880	(8,757)	101.78%
CPF BOARD EXPENSES	71	7	64	877	61	817	877	817	6.91%
STAFF MEMBERSHIP DUES	-	200	(200)	200	200	-	200	-	100.00%
TOTAL DIRECT EXPENSES:	103,003	430,627	(327,624)	493,352	501,909	(8,556)	493,353	(8,556)	101.73%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.23 FTE)	7,091	6,460	631	85,746	85,357	389	85,746	389	99.55%
BENEFITS EXPENSE	2,953	2,551	401	34,234	33,441	794	34,234	794	97.68%
OTHER INDIRECT EXPENSE	4,809	2,900	1,908	38,589	32,318	6,271	38,589	6,271	83.75%
TOTAL INDIRECT EXPENSES:	14,853	11,912	2,941	158,569	151,116	7,453	158,569	7,453	95.30%
TOTAL ALL EXPENSES:	117,856	442,539	(324,683)	651,922	653,025	(1,103)	651,922	(1,103)	100.17%
NET INCOME (LOSS):	(92,231)	(436,594)	(344,363)	(118,520)	(146,884)	(28,364)	(118,520)	28,364	123.93%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
DESKBOOKS									
REVENUE:									
LEXIS/NEXIS ROYALTIES	1,500	9,396	7,896	12,000 #	9,396 #	(2,604)	12,000	2,604	78.30%
FASTCASE ROYALTIES	250	-	(250)	2,000 #	- #	(2,000)	2,000	2,000	0.00%
SHIPPING & HANDLING	97	-	(97)	2,500	2,122	(378)	2,500	378	84.87%
DESKBOOK SALES	1,812	16,705	14,892	74,000	100,363	26,363	74,000	(26,363)	135.63%
SECTION PUBLICATION SALES	189	-	(189)	10,000	9,890	(110)	10,000	110	98.90%
CASEMAKER ROYALTIES	2,335	16,608	14,272	40,000	56,379	16,379	40,000	(16,379)	140.95%
TOTAL REVENUE:	6,183	42,708	36,525	140,500	178,150	37,650	140,500	(37,650)	126.80%
DIRECT EXPENSES:									
COST OF SALES - DESKBOOKS	2,226	11,768	(9,542)	48,875	67,685	(18,810)	48,875	(18,810)	138.49%
COST OF SALES - SECTION PUBLICATION	36	553	(517)	2,800	4,008	(1,208)	2,800	(1,208)	143.15%
SPLITS TO SECTIONS	715	182	533	7,500	4,026	3,474	7,500	3,474	53.68%
DESKBOOK ROYALTIES	45	-	45	500	199	301	500	301	39.87%
POSTAGE & DELIVER-DESKBOOKS	127	-	127	3,000	3,167	(167)	3,000	(167)	105.55%
FLIERS/CATALOGS	(0)	-	(0)	2,507	2,507	(0)	2,507	(0)	100.01%
ONLINE LEGAL RESEARCH	171	307	(137)	1,672	1,839	(167)	1,672	(167)	109.98%
POSTAGE - FLIERS/CATALOGS	117	-	117	937	936	1	937	1	99.92%
OBSOLETE INVENTORY	2,945	(1,451)	4,396	35,343	33,073	2,270	35,343	2,270	93.58%
BAD DEBT EXPENSE	13	-	13	100	-	100	100	100	0.00%
RECORDS STORAGE - OFF SITE	625	-	625	8,100	11,500	(3,400)	8,100	(3,400)	141.98%
STAFF MEMBERSHIP DUES	44	-	44	220	30	190	220	190	13.64%
MISCELLANEOUS	25	-	25	200	-	200	200	200	0.00%
SUBSCRIPTIONS	-	-	-	185	185	-	185	0	99.98%
TOTAL DIRECT EXPENSES:	7,088	11,360	(4,271)	111,939	129,156	(17,217)	111,939	(17,217)	115.38%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.52 FTE)	10,472	9,542	931	127,744	126,954	790	127,743.6	790	99.38%
BENEFITS EXPENSE	3,834	3,320	514	44,636	43,630	1,006	44,636	1,006	97.75%
OTHER INDIRECT EXPENSE	5,943	3,617	2,325	47,810	40,307	7,503	47,810	7,503	84.31%
TOTAL INDIRECT EXPENSES:	20,248	16,479	3,769	220,190	210,891	9,299	220,190	9,299	95.78%
TOTAL ALL EXPENSES:	27,337	27,839	(502)	332,129	340,047	(7,918)	332,129	(7,918)	102.38%
NET INCOME (LOSS):	(21,153)	14,870	36,023	(191,629)	(161,897)	29,732	(191,629)	(29,732)	84.48%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
DISCIPLINE									
REVENUE:									
COPY FEES	-	-	-	60	-	(60)	60	60	0.00%
AUDIT REVENUE	107	-	(107)	1,277	1,275	(2)	1,277	2	99.84%
RECOVERY OF DISCIPLINE COSTS	6,278	6,585	307	80,000	107,513	27,513	80,000	(27,513)	134.39%
DISCIPLINE HISTORY SUMMARY	1,166	1,290	1,290	15,000	19,087	4,087	15,000	(4,087)	127.24%
TOTAL REVENUE:	7,551	7,875	1,491	96,337	127,875	31,538	96,337	(31,538)	132.74%
DIRECT EXPENSES:									
PUBLICATIONS PRODUCTION	31	-	31	250	181	69	250	69	72.24%
STAFF TRAVEL/PARKING	2,917	1,027	1,890	20,587	11,138	9,449	20,587	9,449	54.10%
STAFF MEMBERSHIP DUES	250	553	(303)	5,080	4,893	187	5,080	187	96.32%
TELEPHONE	185	165	21	2,200	2,203	(3)	2,200	(3)	100.16%
COURT REPORTERS	2,765	-	2,765	27,500	19,144	8,356	27,500	8,356	69.62%
OUTSIDE COUNSEL/AIC	375	-	375	3,000	500	2,500	3,000	2,500	16.67%
LITIGATION EXPENSES	1,972	2,021	(49)	17,500	10,674	6,826	17,500	6,826	60.99%
DISABILITY EXPENSES	938	-	938	7,500	4,900	2,600	7,500	2,600	65.33%
ONLINE LEGAL RESEARCH	5,006	8,912	(3,906)	53,288	53,367	(79)	53,288	(79)	100.15%
LAW LIBRARY	1,138	45	1,094	12,000	5,007	6,993	12,000	6,993	41.72%
TRANSLATION SERVICES	94	-	94	750	500	250	750	250	66.67%
TOTAL DIRECT EXPENSES:	15,671	12,722	2,949	149,655	112,507	37,148	149,655	37,148	75.18%
INDIRECT EXPENSES:									
SALARY EXPENSE (37.00 FTE)	307,373	258,025	49,348	3,571,125	3,570,835	290	3,571,125	290	99.99%
BENEFITS EXPENSE	94,240	81,688	12,552	1,057,652	1,042,667	14,984	1,057,652	14,984	98.58%
OTHER INDIRECT EXPENSE	144,653	87,730	56,923	1,129,195	977,545	151,651	1,129,195	151,651	86.57%
TOTAL INDIRECT EXPENSES:	546,266	427,443	118,823	5,757,972	5,591,047	166,925	5,757,972	166,925	97.10%
TOTAL ALL EXPENSES:	561,937	440,165	121,772	5,907,627	5,703,554	204,073	5,907,627	204,073	96.55%
NET INCOME (LOSS):	(554,386)	(432,290)	122,096	(5,811,290)	(5,575,679)	235,611	(5,811,290)	(235,611)	95.95%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
DIVERSITY									
REVENUE:									
DONATIONS	(1,250)	-	1,250	125,000	135,000	10,000	125,000	(10,000)	108.00%
WORK STUDY GRANTS	1,297	-	(1,297)	10,374	-	(10,374)	10,374	10,374	0.00%
TOTAL REVENUE:	47	-	(47)	135,374	135,000	(374)	135,374	374	99.72%
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	58	-	58	290	-	290	290	290	0.00%
COMMITTEE FOR DIVERSITY	610	152	458	4,900	454	4,446	4,900	4,446	9.27%
DIVERSITY EVENTS & PROJECTS	2,063	1,070	992	17,250	2,621	14,629	17,250	14,629	15.20%
TOTAL DIRECT EXPENSES:	2,731	1,222	1,509	22,440	3,076	19,364	22,440	19,364	13.71%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.46 FTE)	15,483	16,728	(1,245)	150,814	164,848	(14,034)	150,814	(14,034)	109.31%
BENEFITS EXPENSE	5,747	4,974	774	59,610	60,869	(1,260)	59,610	(1,260)	102.11%
OTHER INDIRECT EXPENSE	9,227	5,833	3,393	68,326	65,000	3,326	68,326	3,326	95.13%
TOTAL INDIRECT EXPENSES:	30,457	27,535	2,921	278,750	290,717	(11,968)	278,750	(11,968)	104.29%
TOTAL ALL EXPENSES:	33,188	28,758	4,430	301,190	293,793	7,397	301,190	7,397	97.54%
NET INCOME (LOSS):	(33,141)	(28,758)	4,383	(165,816)	(158,793)	7,023	(165,816)	(7,023)	95.76%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
FOUNDATION									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
CONSULTING SERVICES	-	-	-	3,000	3,000	-	3,000	-	100.00%
PRINTING & COPYING	450	-	450	450	-	450	450	450	0.00%
STAFF TRAVEL/PARKING	100	-	100	100	-	100	100	100	0.00%
SUPPLIES	-	-	-	150	-	150	150	150	0.00%
SPECIAL EVENTS	-	-	-	-	50	(50)	-	(50)	
BOARD OF TRUSTEES	-	17	(17)	1,000	181	819	1,000	819	18.13%
POSTAGE	300	111	189	300	111	189	300	189	36.87%
TOTAL DIRECT EXPENSES:	850	127	723	5,000	3,342	1,658	5,000	1,658	66.84%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,443	5,870	573	77,954	77,443	511	77,954	511	99.34%
BENEFITS EXPENSE	1,369	1,155	213	15,805	15,610	195	15,805	195	98.77%
OTHER INDIRECT EXPENSE	3,910	2,379	1,531	31,451	26,509	4,942	31,451	4,942	84.29%
TOTAL INDIRECT EXPENSES:	11,721	9,405	2,317	125,210	119,562	5,648	125,210	5,648	95.49%
TOTAL ALL EXPENSES:	12,571	9,532	3,039	130,210	122,904	7,306	130,210	7,306	94.39%
NET INCOME (LOSS):	(12,571)	(9,532)	3,039	(130,210)	(122,904)	7,306	(130,210)	(7,306)	94.39%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
HUMAN RESOURCES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	26	32	(6)	697	50	647	697	647	7.11%
STAFF MEMBERSHIP DUES	48	-	48	193	-	193	193	193	0.00%
SUBSCRIPTIONS	245	-	245	3,399	610	2,788	3,399	2,788	17.96%
STAFF TRAINING- GENERAL	24,791	-	24,791	25,000	1,524	23,476	25,000	23,476	6.10%
RECRUITING AND ADVERTISING	583	48	535	18,580	17,965	615	18,580	615	96.69%
PAYROLL PROCESSING	4,081	3,269	812	49,000	44,991	4,009	49,000	4,009	91.82%
SALARY SURVEYS	242	-	242	1,933	-	1,933	1,933	1,933	0.00%
CONSULTING SERVICES	89,300	35,915	53,385	112,500	98,448	14,052	112,500	14,052	87.51%
CONFERENCE CALLS	-	-	-	-	13	(13)	-	(13)	
TRANSFER TO INDIRECT EXPENSE	(119,316)	(39,264)	(80,053)	(211,302)	(163,602)	(47,700)	(211,302)	(47,700)	77.43%
TOTAL DIRECT EXPENSES:	-	-	-	0	-	0	-	-	
INDIRECT EXPENSES:									
SALARY EXPENSE (3.00 FTE)	22,351	21,831	521	219,525	301,481	(81,956)	219,525	(81,956)	137.33%
BENEFITS EXPENSE	8,607	7,482	1,125	86,960	90,406	(3,446)	86,960	(3,446)	103.96%
OTHER INDIRECT EXPENSE	9,225	7,104	2,121	79,450	79,162	287	79,450	287	99.64%
TOTAL INDIRECT EXPENSES:	40,183	36,417	3,767	385,934	471,049	(85,115)	385,934	(85,115)	122.05%
TOTAL ALL EXPENSES:	40,183	36,417	3,767	385,934	471,049	(85,115)	385,934	(85,115)	122.05%
NET INCOME (LOSS):	(40,183)	(36,417)	3,767	(385,934)	(471,049)	(85,115)	(385,934)	85,115	122.05%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LAW CLERK PROGRAM									
REVENUE:									
LAW CLERK FEES	6,285	-	(6,285)	209,637	183,001	(26,636)	209,637	26,636	87.29%
LAW CLERK APPLICATION FEES	231	700	469	4,031	3,800	(231)	4,031	231	94.27%
TOTAL REVENUE:	6,516	700	(5,816)	213,668	186,801	(26,867)	213,668	26,867	87.43%
DIRECT EXPENSES:									
SUBSCRIPTIONS	-	-	-	250	-	250	250	250	0.00%
CHARACTER & FITNESS INVESTIGATIONS	20	-	20	100	-	100	100	100	0.00%
LAW CLERK BOARD EXPENSE	-	-	-	624	279	344	624	344	44.78%
STAFF TRAVEL/PARKING	52	-	52	300	-	300	300	300	0.00%
LAW CLERK OUTREACH	100	-	100	100	-	100	100	100	0.00%
TOTAL DIRECT EXPENSES:	172	-	172	1,374	279	1,094	1,374	1,094	20.33%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.90 FTE)	5,282	5,238	44	60,364	57,457	2,908	60,364	2,908	95.18%
BENEFITS EXPENSE	1,896	1,631	265	20,663	19,926	737	20,663	737	96.43%
OTHER INDIRECT EXPENSE	3,519	2,118	1,400	27,837	23,603	4,233	27,837	4,233	84.79%
TOTAL INDIRECT EXPENSES:	10,697	8,988	1,709	108,864	100,986	7,878	108,864	7,878	92.76%
TOTAL ALL EXPENSES:	10,869	8,988	1,882	110,238	101,265	8,972	110,238	8,972	91.86%
NET INCOME (LOSS):	(4,354)	(8,288)	(3,934)	103,430	85,536	(17,895)	103,430	17,895	82.70%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LEGISLATIVE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	-	377	(377)	400	377	23	400	23	94.20%
STAFF MEMBERSHIP DUES	-	-	-	-	40	(40)	-	(40)	
SUBSCRIPTIONS	-	-	-	1,982	1,982	-	1,982	-	100.00%
CONTRACT LOBBYIST	-	-	-	26,000	26,000	-	26,000	-	100.00%
LEGISLATIVE COMMITTEE	250	-	250	260	10	250	260	250	3.77%
BOG LEGISLATIVE COMMITTEE	25	-	25	125	-	125	125	125	0.00%
TOTAL DIRECT EXPENSES:	275	377	(102)	28,767	28,408	358	28,767	358	98.75%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,212	11,920	(5,708)	66,209	79,156	(12,948)	66,209	(12,948)	119.56%
BENEFITS EXPENSE	2,632	2,281	351	26,705	28,063	(1,359)	26,705	(1,359)	105.09%
OTHER INDIRECT EXPENSE	3,910	2,379	1,531	28,353	26,509	1,844	28,353	1,844	93.50%
TOTAL INDIRECT EXPENSES:	12,754	16,581	(3,827)	121,266	133,728	(12,462)	121,266	(12,462)	110.28%
TOTAL ALL EXPENSES:	13,029	16,957	(3,929)	150,033	162,136	(12,104)	150,033	(12,104)	108.07%
NET INCOME (LOSS):	(13,029)	(16,957)	(3,929)	(150,033)	(162,136)	(12,104)	(150,033)	12,104	108.07%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LICENSING & MEMBERSHIP RECORDS									
REVENUE:									
STATUS CERTIFICATE FEES	1,700	2,125	425	26,115	29,729	3,614	26,115	(3,614)	113.84%
INVESTIGATION FEES	1,986	3,200	1,214	22,399	22,600	201	22,399	(201)	100.90%
PRO HAC VICE	22,900	25,190	2,290	299,074	403,956	104,882	299,074	(104,882)	135.07%
MEMBER CONTACT INFORMATION	589	-	(589)	4,211	5,328	1,116	4,211	(1,116)	126.51%
PHOTO BAR CARD SALES	33	48	15	286	312	26	286	(26)	109.04%
TOTAL REVENUE:	27,209	30,563	3,354	352,086	461,925	109,839	352,086	(109,839)	131.20%
DIRECT EXPENSES:									
DEPRECIATION	-	-	-	1,151	1,151	-	1,151	0	99.98%
POSTAGE	1,168	(38)	1,206	19,913	18,061	1,852	19,913	1,852	90.70%
LICENSING FORMS	-	-	-	2,845	2,845	-	2,845	-	100.00%
TOTAL DIRECT EXPENSES:	1,168	(38)	1,206	23,909	22,057	1,852	23,909	1,852	92.25%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.80 FTE)	27,862	25,387	2,475	346,778	345,258	1,520	346,778	1,520	99.56%
BENEFITS EXPENSE	10,588	9,383	1,205	125,888	122,883	3,005	125,888	3,005	97.61%
OTHER INDIRECT EXPENSE	9,958	8,995	963	119,345	100,224	19,121	119,345	19,121	83.98%
TOTAL INDIRECT EXPENSES:	48,408	43,765	4,643	592,011	568,364	23,646	592,011	23,647	96.01%
TOTAL ALL EXPENSES:	49,575	43,726	5,849	615,919	590,421	25,499	615,920	25,499	95.86%
NET INCOME (LOSS):	(22,366)	(13,163)	9,203	(263,834)	(128,496)	135,338	(263,834)	(135,338)	48.70%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM									
REVENUE:									
SEMINAR REGISTRATIONS	282	-	(282)	2,319	796	(1,523)	2,319	1,523	34.33%
LLLT LICENSE FEES	858	1,060	202	9,985	9,508	(477)	9,985	477	95.22%
LLLT LATE LICENSE FEES	-	-	-	-	275	275	-	(275)	
INVESTIGATION FEES	20	-	(20)	100	-	(100)	100	100	0.00%
LLLT EXAM FEES	-	-	-	15,650	19,950	4,300	15,650	(4,300)	127.48%
LLLT WAIVER FEES	-	-	-	-	300	300	-	(300)	
TOTAL REVENUE:	1,160	1,060	(100)	28,054	30,828	2,775	28,054	(2,775)	109.89%
DIRECT EXPENSES:									
LLLT BOARD	817	-	817	2,450	-	2,450	2,450	2,450	0.00%
LLLT EXAM WRITING	-	-	-	5,375	6,788	(1,413)	5,375	(1,413)	126.28%
TOTAL DIRECT EXPENSES:	817	-	817	7,825	6,788	1,038	7,825	1,038	86.74%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	7,126	6,020	1,105	71,517	58,150	13,366	71,517	13,366	81.31%
BENEFITS EXPENSE	2,666	2,318	347	27,070	26,581	489	27,070	489	98.19%
OTHER INDIRECT EXPENSE	3,714	2,379	1,335	28,009	26,508	1,500	28,009	1,500	94.64%
TOTAL INDIRECT EXPENSES:	13,505	10,718	2,788	126,595	111,240	15,355	126,595	15,355	87.87%
TOTAL ALL EXPENSES:	14,322	10,718	3,604	134,420	118,027	16,393	134,420	16,393	87.80%
NET INCOME (LOSS):	(13,162)	(9,658)	3,504	(106,367)	(87,199)	19,168	(106,367)	(19,168)	81.98%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
LIMITED PRACTICE OFFICERS									
REVENUE:									
INVESTIGATION FEES	80	200	120	1,000	1,400	400	1,000	(400)	140.00%
LPO EXAMINATION FEES	-	-	-	23,700	25,900	2,200	23,700	(2,200)	109.28%
LPO LICENSE FEES	14,279	14,518	239	172,435	169,835	(2,600)	172,435	2,600	98.49%
LPO LATE LICENSE FEES	727	-	(727)	3,635	3,840	205	3,635	(205)	105.65%
TOTAL REVENUE:	15,086	14,718	(368)	200,770	200,975	206	200,770	(206)	100.10%
DIRECT EXPENSES:									
EXAM WRITING	-	-	-	9,750	9,750	-	9,750	-	100.00%
ONLINE LEGAL RESEARCH	171	307	(137)	1,672	1,839	(167)	1,672	(167)	109.98%
LAW LIBRARY	439	268	170	3,663	3,231	432	3,663	432	88.21%
LPO BOARD	-	-	-	4	4	-	4	-	100.00%
TOTAL DIRECT EXPENSES:	609	576	34	15,089	14,824	265	15,089	265	98.24%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.50 FTE)	4,305	4,875	(570)	42,705	39,197	3,508	42,705	3,508	91.78%
BENEFITS EXPENSE	1,750	1,498	251	16,426	15,112	1,314	16,426	1,314	92.00%
OTHER INDIRECT EXPENSE	2,932	1,173	1,759	19,789	13,073	6,716	19,789	6,716	66.06%
TOTAL INDIRECT EXPENSES:	8,986	7,546	1,440	78,920	67,381	11,539	78,920	11,539	85.38%
TOTAL ALL EXPENSES:	9,596	8,122	1,474	94,010	82,206	11,804	94,010	11,804	87.44%
NET INCOME (LOSS):	5,490	6,596	1,106	106,760	118,770	12,010	106,760	(12,010)	111.25%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MEMBER ASSISTANCE PROGRAM									
REVENUE:									
DIVERSIONS	-	1,500	1,500	9,000	11,301	2,301	9,000	(2,301)	125.57%
TOTAL REVENUE:	-	1,500	1,500	9,000	11,301	2,301	9,000	(2,301)	125.57%
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	-	-	-	225	226	(1)	225	(1)	100.44%
PROF LIAB INSURANCE	106	-	106	850	825	25	850	25	97.06%
TOTAL DIRECT EXPENSES:	106	-	106	1,075	1,051	24	1,075	24	97.77%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.50 FTE)	10,233	3,490	6,743	70,680	52,309	18,371	70,680	18,371	74.01%
BENEFITS EXPENSE	4,641	3,993	648	31,862	30,182	1,680	31,862	1,680	94.73%
OTHER INDIRECT EXPENSE	5,864	1,173	4,691	24,459	13,073	11,386	24,459	11,386	53.45%
TOTAL INDIRECT EXPENSES:	20,739	8,657	12,082	127,000	95,563	31,437	127,000	31,437	75.25%
TOTAL ALL EXPENSES:	20,845	8,657	12,188	128,075	96,614	31,461	128,075	31,461	75.44%
NET INCOME (LOSS):	(20,845)	(7,157)	13,688	(119,075)	(85,313)	33,762	(119,075)	(33,762)	71.65%

Washington State Bar Association

Statement of Activities

For the Period from September 1, 2021 to September 30, 2021

100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MEMBERSHIP BENEFITS									
REVENUE:									
SPONSORSHIPS	375	5,500	5,125	3,000	5,500	2,500	3,000	(2,500)	183.33%
INTERNET SALES	539	1,054	514	6,667	7,865	1,197	6,667	(1,198)	117.96%
MP3 SALES	288	147	(141)	3,333	2,793	(540)	3,333	540	83.80%
TOTAL REVENUE:	1,202	6,701	5,498	13,000	16,158	3,157	13,000	(3,158)	124.29%
DIRECT EXPENSES:									
TRANSCRIPTION SERVICES	300	-	300	1,500	-	1,500	1,500	1,500	0.00%
CONFERENCE CALLS	63	-	63	500	-	500	500	500	0.00%
LEGAL LUNCHBOX SPEAKERS & PROGRAM	125	-	125	1,000	1,321	(321)	1,000	(321)	132.12%
WSBA CONNECTS	3,395	4,280	(885)	46,560	46,960	(400)	46,560	(400)	100.86%
CASEMAKER & FASTCASE	5,432	10,832	(5,400)	136,436	130,890	5,546	136,436	5,546	95.94%
TOTAL DIRECT EXPENSES:	9,315	15,112	(5,797)	185,996	179,171	6,825	185,996	6,825	96.33%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.16 FTE)	7,505	6,346	1,159	80,368	78,090	2,278	80,368	2,278	97.17%
BENEFITS EXPENSE	2,452	2,092	359	24,064	23,266	798	24,064	798	96.68%
OTHER INDIRECT EXPENSE	5,122	2,738	2,384	36,999	30,503	6,497	36,999	6,497	82.44%
TOTAL INDIRECT EXPENSES:	15,078	11,176	3,902	141,432	131,860	9,573	141,432	9,573	93.23%
TOTAL ALL EXPENSES:	24,393	26,288	(1,895)	327,428	311,031	16,397	327,428	16,397	94.99%
NET INCOME (LOSS):	(23,191)	(19,587)	3,603	(314,428)	(294,873)	19,555	(314,428)	(19,555)	93.78%

Washington State Bar Association
Statement of Activities
For the Period from September 1, 2021 to September 30, 2021
100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MANDATORY CONTINUING LEGAL EDUCATION									
REVENUE:									
ACCREDITED PROGRAM FEES	40,000	43,800	3,800	497,600	559,700	62,100	497,600	(62,100)	112.48%
FORM 1 LATE FEES	17,000	13,805	(3,195)	190,200	221,455	31,255	190,200	(31,255)	116.43%
MEMBER LATE FEES	150	(300)	(450)	2,700	6,196	3,496	2,700	(3,496)	229.49%
ANNUAL ACCREDITED SPONSOR FEES	(63)	-	63	41,750	42,250	500	41,750	(500)	101.20%
ATTENDANCE LATE FEES	6,500	6,471	(29)	94,000	115,221	21,221	94,000	(21,221)	122.58%
COMITY CERTIFICATES	105	(50)	(155)	13,000	16,187	3,187	13,000	(3,187)	124.52%
TOTAL REVENUE:	63,693	63,726	33	839,250	961,010	121,759	839,250	(121,759)	114.51%
DIRECT EXPENSES:									
DEPRECIATION	7,447	5,346	2,101	143,045	142,864	181	143,045	181	99.87%
STAFF MEMBERSHIP DUES	-	-	-	500	-	500	500	500	0.00%
ONLINE LEGAL RESEARCH	152	307	(155)	1,672	1,839	(167)	1,672	(167)	109.98%
LAW LIBRARY	13	11	2	150	133	17	150	17	88.47%
MCLE BOARD	-	-	-	650	-	650	650	650	0.00%
STAFF TRAVEL/PARKING	6	-	6	50	-	50	50	50	0.00%
STAFF TRAINING	-	-	-	1,170	-	1,170	1,170	1,170	0.00%
TOTAL DIRECT EXPENSES:	7,619	5,664	1,954	147,237	144,835	2,402	147,237	2,402	98.37%
INDIRECT EXPENSES:									
SALARY EXPENSE (4.80 FTE)	24,131	24,650	(519)	269,761	251,982	17,779	269,761	17,779	93.41%
BENEFITS EXPENSE	10,255	8,775	1,480	106,179	102,873	3,306	106,179	3,306	96.89%
OTHER INDIRECT EXPENSE	18,766	8,995	9,771	135,803	100,224	35,579	135,803	35,579	73.80%
TOTAL INDIRECT EXPENSES:	53,151	42,420	10,732	511,743	455,078	56,664	511,743	56,664	88.93%
TOTAL ALL EXPENSES:	60,770	48,084	12,686	658,980	599,914	59,066	658,980	59,066	91.04%
NET INCOME (LOSS):	2,923	15,642	12,719	180,271	361,096	180,825	180,271	(180,825)	200.31%

Washington State Bar Association
 Statement of Activities
 For the Period from September 1, 2021 to September 30, 2021
100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
MEMBER SERVICES & ENGAGEMENT									
REVENUE:									
ROYALTIES	3,940.01	900.00	(3,040.01)	49,249.99	68,276.26	19,026.27	49,250.00	(19,026.26)	138.63%
NMP PRODUCT SALES	1,435	1,311	(124)	18,000	30,476	12,476	18,000	(12,476)	169.31%
SEMINAR REGISTRATIONS	(910)	-	910	(0)	25	25	-	(25)	
TOTAL REVENUE:	4,465	2,211	(2,254)	67,250	98,777	31,527	67,250	(31,527)	146.88%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	-	-	-	1,000	1,037	(37)	1,000	(37)	103.71%
SUBSCRIPTIONS	24	17	7	250	191	59	250	59	76.30%
TRANSCRIPTION SERVICES	188	-	188	1,500	750	750	1,500	750	50.00%
CONFERENCE CALLS	13	-	13	100	-	100	100	100	0.00%
YLL SECTION PROGRAM	695	-	695	1,500	800	700	1,500	700	53.33%
WYLC CLE COMPS	250	-	250	1,000	-	1,000	1,000	1,000	0.00%
WYLC OUTREACH EVENTS	500	207	293	1,500	397	1,103	1,500	1,103	26.46%
WYL COMMITTEE	-	544	(544)	8,000	3,716	4,284	8,000	4,284	46.46%
TRIAL ADVOCACY EXPENSES	-	-	-	900	-	900	900	900	0.00%
RECEPTION/FORUM EXPENSE	300	-	300	667	67	600	667	600	9.99%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	5,000	-	5,000	5,000	4,977	23	5,000	23	99.54%
STAFF MEMBERSHIP DUES	61	-	61	490	225	265	490	265	45.92%
LENDING LIBRARY	910	76	834	2,000	186	1,814	2,000	1,814	9.28%
TOTAL DIRECT EXPENSES:	7,940	843	7,097	23,907	12,345	11,561	23,907	11,561	51.64%
INDIRECT EXPENSES:									
SALARY EXPENSE (4.13 FTE)	25,689	20,311	5,379	250,160	239,105	11,055	250,160	11,055	95.58%
BENEFITS EXPENSE	9,405	8,079	1,326	90,502	90,144	358	90,502	358	99.60%
OTHER INDIRECT EXPENSE	17,319	9,777	7,542	122,207	108,939	13,268	122,207	13,268	89.14%
TOTAL INDIRECT EXPENSES:	52,414	38,167	14,247	462,869	438,188	24,681	462,869	24,681	94.67%
TOTAL ALL EXPENSES:	60,354	39,009	21,344	486,776	450,534	36,242	486,776	36,242	92.55%
NET INCOME (LOSS):	(55,888)	(36,798)	19,090	(419,526)	(351,757)	67,769	(419,526)	(67,769)	83.85%

Washington State Bar Association
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For the Period from September 1, 2021 to September 30, 2021
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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OFFICE OF THE EXECUTIVE DIRECTOR									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
WASHINGTON LEADERSHIP INSTITUTE	11,000	46,958	(35,958)	88,000	46,958	41,042	88,000	41,042	53.36%
ABA DELEGATES	417	1,600	(1,183)	3,334	2,474	859	3,334	859	74.22%
SECTION/COMMITTEE CHAIR MTGS	500	-	500	500	-	500	500	500	0.00%
VOLUNTEER SUPPORT	5,000	-	5,000	5,000	1,969	3,031	5,000	3,031	39.38%
ED TRAVEL & OUTREACH	417	-	417	3,333	36	3,297	3,333	3,297	1.08%
LAW LIBRARY	-	11	(11)	150	133	17	150	17	88.47%
STAFF TRAVEL/PARKING	-	-	-	98	53	45	98	45	53.86%
STAFF MEMBERSHIP DUES	-	-	-	50	67	(17)	50	(17)	133.34%
TOTAL DIRECT EXPENSES:	17,333	48,569	(31,236)	100,465	51,690	48,775	100,465	48,775	51.45%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.00 FTE)	34,907	32,867	2,040	418,546	416,670	1,875	418,546	1,875	99.55%
BENEFITS EXPENSE	10,043	9,552	491	125,070	128,202	(3,132)	125,070	(3,132)	102.50%
OTHER INDIRECT EXPENSE	11,729	7,104	4,624	94,232	79,162	15,070	94,232	15,070	84.01%
TOTAL INDIRECT EXPENSES:	56,678	49,523	7,156	637,848	624,034	13,814	637,848	13,814	97.83%
TOTAL ALL EXPENSES:	74,012	98,092	(24,081)	738,313	675,724	62,589	738,313	62,589	91.52%
NET INCOME (LOSS):	(74,012)	(98,092)	(24,081)	(738,313)	(675,724)	62,589	(738,313)	(62,589)	91.52%

Washington State Bar Association
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For the Period from September 1, 2021 to September 30, 2021
100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OFFICE OF GENERAL COUNSEL									
REVENUE:									
COPY FEES	-	-	-	27	117	90	27	(90)	432.78%
RECORDS REQUEST FEES	-	-	-	-	630	630	-	(630)	
TOTAL REVENUE:	-	-	-	27	747	720	27	(720)	100.00%
DIRECT EXPENSES:									
DEPRECIATION	139	-	139	1,112	-	1,112	1,112	1,112	0.00%
STAFF TRAVEL/PARKING	8	-	8	417	-	417	417	417	0.00%
STAFF MEMBERSHIP DUES	-	(200)	200	1,525	525	1,000	1,525	1,000	34.43%
ONLINE LEGAL RESEARCH	912	1,844	(932)	10,034	11,033	(999)	10,034	(999)	109.95%
LAW LIBRARY	-	22	(22)	1,780	1,958	(178)	1,780	(178)	110.02%
COURT RULES COMMITTEE	296	-	296	1,195	56	1,139	1,195	1,139	4.68%
DISCIPLINE ADVISORY ROUNDTABLE	94	-	94	375	-	375	375	375	0.00%
CUSTODIANSHIPS	584	-	584	7,209	10,094	(2,885)	7,209	(2,885)	140.02%
LITIGATION EXPENSES	21	-	21	167	-	167	167	167	0.00%
TOTAL DIRECT EXPENSES:	2,054	1,666	388	23,814	23,666	148	23,814	148	99.38%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.38 FTE)	48,745	44,419	4,326	547,919	520,833	27,087	547,919	27,087	95.06%
BENEFITS EXPENSE	16,382	14,240	2,142	172,844	169,636	3,208	172,844	3,208	98.14%
OTHER INDIRECT EXPENSE	23,630	15,121	8,509	185,545	168,492	17,052	185,545	17,052	90.81%
TOTAL INDIRECT EXPENSES:	88,757	73,781	14,977	906,308	858,961	47,347	906,308	47,347	94.78%
TOTAL ALL EXPENSES:	90,811	75,447	15,364	930,122	882,627	47,495	930,122	47,495	94.89%
NET INCOME (LOSS):	(90,811)	(75,447)	15,364	(930,095)	(881,880)	48,215	(930,095)	(48,215)	94.82%

Washington State Bar Association
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100.00% OF YEAR COMPLETE

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	-	-	-	100	21	79	100	79	20.83%
LAW LIBRARY	81	67	14	909	802	107	909	107	88.22%
DISCIPLINARY BOARD EXPENSES	259	-	259	1,274	485	789	1,274	789	38.10%
CHIEF HEARING OFFICER	3,012	2,500	512	32,524	30,000	2,524	32,524	2,524	92.24%
HEARING OFFICER EXPENSES	5,715	-	5,715	40,005	-	40,005	40,005	40,005	0.00%
HEARING OFFICER TRAINING	80	-	80	321	-	321	321	321	0.00%
OUTSIDE COUNSEL	5,321	4,000	1,321	55,000	48,000	7,000	55,000	7,000	87.27%
TOTAL DIRECT EXPENSES:	14,467	6,567	7,901	130,133	79,308	50,824	130,133	50,824	60.94%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.30 FTE)	7,840	7,142	698	95,676	96,048	(373)	95,676	(373)	100.39%
BENEFITS EXPENSE	2,787	2,400	387	32,235	31,556	679	32,235	679	97.89%
OTHER INDIRECT EXPENSE	5,082	3,096	1,986	40,898	34,497	6,401	40,898	6,401	84.35%
TOTAL INDIRECT EXPENSES:	15,709	12,638	3,071	168,809	162,102	6,707	168,809	6,707	96.03%
TOTAL ALL EXPENSES:	30,177	19,205	10,972	298,942	241,410	57,532	298,942	57,532	80.75%
NET INCOME (LOSS):	(30,177)	(19,205)	10,972	(298,942)	(241,410)	57,532	(298,942)	(57,532)	80.75%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
OUTREACH & ENGAGEMENT									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	117	-	117	700	-	700	700	700	0.00%
STAFF MEMBERSHIP DUES	230	-	230	1,152	-	1,152	1,152	1,152	0.00%
ABA DELEGATES	741	-	741	5,600	-	5,600	5,600	5,600	0.00%
ANNUAL CHAIR MEETINGS	40	-	40	200	-	200	200	200	0.00%
JUDICIAL RECOMMENDATIONS COMMITTEE	438	-	438	3,500	-	3,500	3,500	3,500	0.00%
BAR OUTREACH	2,723	156	2,567	22,302	2,395	19,907	22,302	19,907	10.74%
TOTAL DIRECT EXPENSES:	4,288	156	4,132	33,454	2,395	31,059	33,454	31,059	7.16%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.00 FTE)	12,859	2,501	10,358	146,626	114,061	32,565	146,626	32,565	77.79%
BENEFITS EXPENSE	4,776	4,128	648	51,627	52,459	(832)	51,627	(832)	101.61%
OTHER INDIRECT EXPENSE	7,819	4,725	3,094	59,683	52,654	7,029	59,683	7,029	88.22%
TOTAL INDIRECT EXPENSES:	25,455	11,355	14,100	257,936	219,174	38,763	257,936	38,763	84.97%
TOTAL ALL EXPENSES:	29,743	11,510	18,232	291,390	221,569	69,821	291,390	69,821	76.04%
NET INCOME (LOSS):	(29,743)	(11,510)	18,232	(291,390)	(221,569)	69,821	(291,390)	(69,821)	76.04%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PRACTICE OF LAW BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
PRACTICE OF LAW BOARD	1,538	-	1,538	7,825	-	7,825	7,825	7,825	0.00%
TOTAL DIRECT EXPENSES:	<u>1,538</u>	<u>-</u>	<u>1,538</u>	<u>7,825</u>	<u>-</u>	<u>7,825</u>	<u>7,825</u>	<u>7,825</u>	<u>0.00%</u>
INDIRECT EXPENSES:									
SALARY EXPENSE (0.48 FTE)	3,746	3,414	333	38,767	44,579	(5,811)	38,767	(5,811)	114.99%
BENEFITS EXPENSE	1,139	969	170	10,782	9,066	1,716	10,782	1,716	84.08%
OTHER INDIRECT EXPENSE	1,889	358	1,531	12,274	3,994	8,280	12,274	8,280	32.54%
TOTAL INDIRECT EXPENSES:	<u>6,775</u>	<u>4,741</u>	<u>2,034</u>	<u>61,823</u>	<u>57,639</u>	<u>4,184</u>	<u>61,823</u>	<u>4,184</u>	<u>93.23%</u>
TOTAL ALL EXPENSES:	<u>8,313</u>	<u>4,741</u>	<u>3,572</u>	<u>69,649</u>	<u>57,639</u>	<u>12,010</u>	<u>69,649</u>	<u>12,010</u>	<u>82.76%</u>
NET INCOME (LOSS):	<u>(8,313)</u>	<u>(4,741)</u>	<u>3,572</u>	<u>(69,649)</u>	<u>(57,639)</u>	<u>12,010</u>	<u>(69,649)</u>	<u>(12,010)</u>	<u>82.76%</u>

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PROFESSIONAL RESPONSIBILITY PROGRAM									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	250	-	250	2,000	-	2,000	2,000	2,000	0.00%
STAFF MEMBERSHIP DUES	31	-	31	500	500	-	500	-	100.00%
LAW LIBRARY	54	45	9	608	537	72	608	72	88.23%
CPE COMMITTEE	424	-	424	2,627	60	2,568	2,627	2,568	2.27%
TOTAL DIRECT EXPENSES:	759	45	714	5,736	1,096	4,640	5,736	4,640	19.11%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.69 FTE)	14,269	13,003	1,266	172,521	172,738	(217)	172,521	(217)	100.13%
BENEFITS EXPENSE	5,682	4,959	722	65,754	63,812	1,942	65,754	1,942	97.05%
OTHER INDIRECT EXPENSE	6,617	4,008	2,608	53,164	44,665	8,499	53,164	8,499	84.01%
TOTAL INDIRECT EXPENSES:	26,567	21,971	4,597	291,439	281,215	10,224	291,439	10,224	96.49%
TOTAL ALL EXPENSES:	27,326	22,015	5,311	297,175	282,311	14,864	297,175	14,864	95.00%
NET INCOME (LOSS):	(27,326)	(22,015)	5,311	(297,175)	(282,311)	14,864	(297,175)	(14,864)	95.00%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PUBLIC SERVICE PROGRAMS									
REVENUE:									
DONATIONS & GRANTS	-	-	-	103,000.00	103,000.00	-	103,000.00	-	100.00%
TOTAL REVENUE:	-	-	-	103,000	103,000	-	103,000	-	100.00%
DIRECT EXPENSES:									
DONATIONS/SPONSORSHIPS/GRANTS	29,024	89,597	(60,572)	232,193	231,693	500	232,193	500	99.78%
PRO BONO & PUBLIC SERVICE COMMITTEE	246	178	68	2,000	224	1,776	2,000	1,776	11.22%
PRO BONO CERTIFICATES	475	-	475	3,800	-	3,800	3,800	3,800	0.00%
TOTAL DIRECT EXPENSES:	29,746	89,775	(60,029)	237,993	231,917	6,076	237,993	6,076	97.45%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,704	8,258	(1,554)	76,345	81,645	(5,301)	76,345	(5,301)	106.94%
BENEFITS EXPENSE	2,658	2,294	365	27,845	27,363	482	27,845	482	98.27%
OTHER INDIRECT EXPENSE	4,300	2,379	1,922	31,792	26,508	5,283	31,792	5,283	83.38%
TOTAL INDIRECT EXPENSES:	13,662	12,931	732	135,981	135,517	464	135,981	464	99.66%
TOTAL ALL EXPENSES:	43,408	102,705	(59,297)	373,974	367,434	6,540	373,974	6,540	98.25%
NET INCOME (LOSS):	(43,408)	(102,705)	(59,297)	(270,974)	(264,434)	6,540	(270,974)	(6,540)	97.59%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
PUBLICATION & DESIGN SERVICES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
EQUIPMENT, HARDWARE & SOFTWARE	25	-	25	200	-	200	200	200	0.00%
SUBSCRIPTIONS	17	-	17	333	200	133	333	133	60.00%
SUPPLIES	13	-	13	100	-	100	100	100	0.00%
IMAGE LIBRARY	84	-	84	4,436	4,100	336	4,436	336	92.43%
TOTAL DIRECT EXPENSES:	138	-	138	5,069	4,300	769	5,069	769	84.83%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.87 FTE)	4,529	4,142	386	54,789	54,795	(6)	54,789	(6)	100.01%
BENEFITS EXPENSE	1,625	1,391	234	18,811	18,432	379	18,811	379	97.98%
OTHER INDIRECT EXPENSE	3,401	2,053	1,348	27,301	22,877	4,424	27,301	4,424	83.80%
TOTAL INDIRECT EXPENSES:	9,555	7,587	1,969	100,900	96,104	4,797	100,900	4,797	95.25%
TOTAL ALL EXPENSES:	9,694	7,587	2,107	105,969	100,404	5,565	105,969	5,565	94.75%
NET INCOME (LOSS):	(9,694)	(7,587)	2,107	(105,969)	(100,404)	5,565	(105,969)	(5,565)	94.75%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
REGULATORY SERVICES FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (2.70 FTE)	21,863	19,769	2,094	246,007	227,339	18,668	246007.48	18,668	92.41%
BENEFITS EXPENSE	6,970	6,080	890	83,964	86,034	(2,070)	83,964	(2,070)	102.47%
OTHER INDIRECT EXPENSE	9,383	6,387	2,995	75,679	71,173	4,506	75,679	4,506	94.05%
TOTAL INDIRECT EXPENSES:	38,216	32,237	5,979	405,650	384,547	21,103	405,650	21,104	94.80%
NET INCOME (LOSS):	(38,216)	(32,237)	5,979	(405,650)	(384,547)	21,103	(405,650)	(21,104)	94.80%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
SERVICE CENTER									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
TRANSLATION SERVICES	801	1,586	(785)	8,500	7,069	1,431	8,500	1,431	83.16%
TOTAL DIRECT EXPENSES:	801	1,586	(785)	8,500	7,069	1,431	8,500	1,431	83.16%
INDIRECT EXPENSES:									
SALARY EXPENSE (5.71 FTE)	27,735	26,002	1,733	344,039	341,158	2,881	344,039	2,881	99.16%
BENEFITS EXPENSE	11,778	10,166	1,612	141,933	142,850	(917)	141,933	(917)	100.65%
OTHER INDIRECT EXPENSE	22,323	15,904	6,420	188,161	177,207	10,954	188,161	10,954	94.18%
TOTAL INDIRECT EXPENSES:	61,837	52,072	9,765	674,133	661,215	12,918	674,133	12,918	98.08%
TOTAL ALL EXPENSES:	62,638	53,658	8,980	682,633	668,284	14,349	682,633	14,349	97.90%
NET INCOME (LOSS):	(62,638)	(53,658)	8,980	(682,633)	(668,284)	14,349	(682,633)	(14,349)	97.90%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
SECTIONS ADMINISTRATION									
REVENUE:									
REIMBURSEMENTS FROM SECTIONS	3,385	(70,429)	(73,814)	272,000	213,088	(58,912)	272,000	58,912	78.34%
TOTAL REVENUE:	3,385	(70,429)	(73,814)	272,000	213,088	(58,912)	272,000	58,912	78.34%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	167	-	167	500	-	500	500	500	0.00%
SUBSCRIPTIONS	-	-	-	410	410	-	410	-	100.00%
CONFERENCE CALLS	11	-	11	100	8	92	100	92	8.42%
MISCELLANEOUS	60	-	60	300	-	300	300	300	0.00%
SECTION/COMMITTEE CHAIR MTGS	-	-	-	250	-	250	250	250	0.00%
DUES STATEMENTS	-	-	-	5,935	5,935	-	5,935	-	100.00%
STAFF MEMBERSHIP DUES	25	-	25	125	-	125	125	125	0.00%
TOTAL DIRECT EXPENSES:	263	-	263	7,620	6,353	1,267	7,620	1,267	83.38%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.68 FTE)	13,309	7,434	5,875	157,225	143,712	13,513	157,225	13,513	91.41%
BENEFITS EXPENSE	5,233	4,486	746	53,672	52,284	1,388	53,672	1,388	97.41%
OTHER INDIRECT EXPENSE	10,478	6,355	4,123	81,049	70,810	10,239	81,049	10,239	87.37%
TOTAL INDIRECT EXPENSES:	29,019	18,276	10,743	291,946	266,806	25,140	291,946	25,140	91.39%
TOTAL ALL EXPENSES:	29,283	18,276	11,007	299,566	273,159	26,407	299,566	26,407	91.19%
NET INCOME (LOSS):	(25,898)	(88,705)	(62,807)	(27,566)	(60,071)	(32,506)	(27,566)	32,506	217.92%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
SECTIONS OPERATIONS									
REVENUE:									
SECTION DUES	8,993	(110,257)	(119,250)	439,445	333,786	(105,660)	439,445	105,659	75.96%
SEMINAR PROFIT SHARE	6,473	-	(6,473)	98,364	125,087	26,723	98,364	(26,723)	127.17%
CLE SECTIONS SPLITS PROJECTION	-	101,660	101,660	-	101,660	101,660	-	(101,660)	
INTEREST INCOME	341	422	82	1,470	422	(1,048)	1,470	1,048	28.73%
PUBLICATIONS REVENUE	981	182	(799)	6,000	5,375	(625)	6,000	625	89.59%
OTHER	4,116	185	(3,931)	40,500	41,607	1,107	40,500	(1,107)	102.73%
TOTAL REVENUE:	20,904	(7,807)	(28,712)	585,779	607,937	22,158	585,779	(22,158)	103.78%
DIRECT EXPENSES:									
DIRECT EXPENSES OF SECTION ACTIVITIES	103,426	19,574	83,852	584,594	96,216	488,379	584,594	488,378	16.46%
REIMBURSEMENT TO WSBA FOR INDIRECT I	5,631	(70,429)	76,061	280,573	213,088	67,485	280,573	67,485	75.95%
TOTAL DIRECT EXPENSES:	109,057	(50,856)	159,913	865,167	309,304	555,864	865,167	555,863	35.75%
NET INCOME (LOSS):	(88,153)	43,048	131,201	(279,388)	298,634	578,022	(279,388)	(578,022)	-106.89%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
TECHNOLOGY									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
CONSULTING SERVICES	10,905	8,816	2,089	110,000	86,417	23,583	110,000	23,583	78.56%
STAFF TRAVEL/PARKING	208	105	103	1,667	154	1,513	1,667	1,513	9.24%
STAFF MEMBERSHIP DUES	-	-	-	450	-	450	450	450	0.00%
TELEPHONE	2,320	1,538	782	22,000	20,548	1,452	22,000	1,452	93.40%
COMPUTER HARDWARE	7,465	18,533	(11,068)	60,000	62,233	(2,233)	60,000	(2,233)	103.72%
COMPUTER SOFTWARE	6,978	482	6,496	80,000	66,643	13,356	80,000	13,357	83.30%
HARDWARE SERVICE & WARRANTIES	4,257	7,538	(3,281)	40,000	38,632	1,368	40,000	1,368	96.58%
SOFTWARE MAINTENANCE & LICENSING	25,620	22,172	3,448	366,000	319,212	46,788	366,000	46,788	87.22%
TELEPHONE HARDWARE & MAINTENANCE	1,382	-	1,382	7,000	2,003	4,997	7,000	4,997	28.61%
COMPUTER SUPPLIES	1,127	185	942	10,000	2,673	7,327	10,000	7,327	26.73%
THIRD PARTY SERVICES	14,010	6,319	7,691	130,000	102,280	27,720	130,000	27,720	78.68%
TRANSFER TO INDIRECT EXPENSES	(74,272)	(65,688)	(8,584)	(827,117)	(700,797)	(126,320)	(827,117)	(126,320)	84.73%
TOTAL DIRECT EXPENSES:	-	-	-	(0)	-	(0)	-	-	-
INDIRECT EXPENSES:									
SALARY EXPENSE (12.00 FTE)	102,320	82,785	19,535	1,118,256	1,053,258	64,999	1,118,256	64,999	94.19%
BENEFITS EXPENSE	34,149	29,573	4,576	366,046	360,253	5,792	366,046	5,792	98.42%
CAPITAL LABOR & OVERHEAD	(28,681)	(6,469)	(22,212)	(130,000)	20,420	(150,420)	(130,000)	(150,420)	-15.71%
OTHER INDIRECT EXPENSE	39,976	28,483	11,493	356,988	317,375	39,613	356,988	39,613	88.90%
TOTAL INDIRECT EXPENSES:	147,765	134,372	13,393	1,711,290	1,751,307	(40,016)	1,711,290	(40,017)	102.34%
TOTAL ALL EXPENSES:	147,765	134,372	13,393	1,711,290	1,751,307	(40,016)	1,711,290	(40,017)	102.34%
NET INCOME (LOSS):	(147,765)	(134,372)	13,393	(1,711,290)	(1,751,307)	(40,016)	(1,711,290)	40,017	102.34%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
INDIRECT EXPENSES:									
SALARIES	995,780.44	889,935	105,846	11,495,260	11,418,620	76,641	11,495,260	76,640	99.33%
TEMPORARY SALARIES	15,575	1,848	13,727	127,971	61,369	66,602	127,971	66,602	47.96%
CAPITAL LABOR & OVERHEAD	(28,681)	(6,469)	(22,212)	(130,000)	20,420	(150,420)	(130,000)	(150,420)	-15.71%
EMPLOYEE ASSISTANCE PLAN	472	1,607	(1,135)	5,376	6,432	(1,056)	5,376	(1,056)	119.63%
EMPLOYEE SERVICE AWARDS	228	820	(593)	1,820	2,745	(925)	1,820	(925)	150.82%
FICA (EMPLOYER PORTION)	60,548	72,159	(11,611)	741,809	825,019	(83,210)	741,809	(83,210)	111.22%
L&I INSURANCE	13,240	-	13,240	50,169	33,735	16,433	50,169	16,433	67.24%
WA STATE FAMILY MEDICAL LEAVE (EMPLC	1,464	1,407	57	16,871	16,268	603	16,871	603	96.43%
FCRA LEAVE (EMPLOYER PORTION)	-	-	-	-	3,410	(3,410)	-	(3,410)	-
MEDICAL (EMPLOYER PORTION)	135,753	121,006	14,746	1,473,510	1,423,444	50,066	1,473,510	50,066	96.60%
PARKING BENEFITS	-	-	-	24,112	17,672	6,440	24,112	6,440	73.29%
RETIREMENT (EMPLOYER PORTION)	129,045	98,825	30,219	1,459,748	1,350,056	109,691	1,459,748	109,691	92.49%
TRANSPORTATION ALLOWANCE	-	(1,400)	1,400	(23,777)	24,486	(48,263)	(23,777)	(48,263)	-102.98%
UNEMPLOYMENT INSURANCE	3,358	4,095	(737)	68,766	65,843	2,922	68,766	2,922	95.75%
STAFF DEVELOPMENT-GENERAL	525	-	525	4,200	414	3,786	4,200	3,786	9.86%
TOTAL SALARY & BENEFITS EXPENSE:	1,327,307	1,183,833	143,474	15,315,834	15,269,933	45,901	15,315,834	45,901	99.70%
WORKPLACE BENEFITS	3,250	9,491	(6,241)	27,748	19,748	8,000	27,748	8,000	71.17%
HUMAN RESOURCES POOLED EXP	120,620	39,264	81,357	219,125	163,602	55,523	219,125	55,523	74.66%
MEETING SUPPORT EXPENSES	1,250	298	952	5,485	2,822	2,664	5,485	2,664	51.44%
RENT	150,669	149,945	724	1,975,334	1,906,721	68,613	1,975,334	68,613	96.53%
PERSONAL PROP TAXES-WSBA	534	527	7	9,121	6,550	2,571	9,121	2,571	71.81%
FURNITURE, MAINT, LH IMP	8,421	5,846	2,575	30,000	18,362	11,638	30,000	11,638	61.21%
OFFICE SUPPLIES & EQUIPMENT	5,031	2,481	2,550	44,000	17,567	26,433	44,000	26,433	39.93%
FURN & OFFICE EQUIP DEPRECIATION	4,294	4,095	199	52,285	53,015	(730)	52,285	(730)	101.40%
COMPUTER HARDWARE DEPRECIATION	4,315	2,850	1,465	46,773	35,748	11,026	46,773	11,026	76.43%
COMPUTER SOFTWARE DEPRECIATION	11,091	9,072	2,019	131,925	117,168	14,757	131,925	14,757	88.81%
INSURANCE	18,810	19,762	(952)	225,718	227,553	(1,835)	225,718	(1,835)	100.81%
PROFESSIONAL FEES-AUDIT	-	5,885	(5,885)	32,000	37,885	(5,885)	32,000	(5,885)	118.39%
PROFESSIONAL FEES-LEGAL	23,183	(7,548)	30,730	250,000	115,050	134,950	250,000	134,950	46.02%
TELEPHONE & INTERNET	5,428	11,337	(5,909)	63,000	87,931	(24,931)	63,000	(24,931)	139.57%
POSTAGE - GENERAL	2,333	1,316	1,017	23,586	13,531	10,055	23,586	10,055	57.37%
RECORDS STORAGE	2,500	1,830	670	26,504	22,651	3,853	26,504	3,853	85.46%
STAFF TRAINING	3,074	427	2,647	45,772	22,082	23,690	45,772	23,690	48.24%
BANK FEES	4,708	2,703	2,006	62,251	48,391	13,860	62,251	13,860	77.74%
PRODUCTION MAINTENANCE & SUPPLIES	1,696	624	1,072	18,056	9,709	8,347	18,056	8,347	53.77%
COMPUTER POOLED EXPENSES	83,685	65,688	17,997	899,711	704,796	194,915	899,711	194,915	78.34%
TOTAL OTHER INDIRECT EXPENSES:	454,892	325,893	128,999	4,188,395	3,630,881	557,514	4,188,395	557,514	86.69%
TOTAL INDIRECT EXPENSES:	1,782,199	1,509,725	272,474	19,504,229	18,900,814	603,415	19,504,229	603,415	96.91%

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
COVID 19									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
COVID 19	-	-	-	-	(945)	945	-	945	
TOTAL DIRECT EXPENSES:	-	-	-	-	(945)	945	-	945	
INDIRECT EXPENSES:									
TOTAL INDIRECT EXPENSES:	-	-	-	-	-	-	-	-	
TOTAL ALL EXPENSES:	-	-	-	-	(945)	945	-	945	
NET INCOME (LOSS):	-	-	-	-	945	945	-	(945)	

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON	
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR
ACCESS TO JUSTICE	(26,123)	(51,166)	(25,043)	(265,737)	(261,650)	4,087	(265,737)	(4,087)
ADMINISTRATION	(102,068)	(87,516)	14,552	(1,108,134)	(1,066,235)	41,899	(1,108,134)	(41,899)
ADMISSIONS/BAR EXAM	(87,145)	(153,825)	(66,680)	3,246	141,420	138,173	3,246	(138,173)
ADVANCEMENT FTE	(21,485)	(17,750)	3,734	(239,496)	(229,514)	9,983	(239,496)	(9,983)
BAR NEWS	(34,703)	(19,699)	15,004	(343,683)	(145,269)	198,414	(343,683)	(198,414)
BOARD OF GOVERNORS	(53,195)	(94,798)	(41,603)	(415,528)	(438,738)	(23,210)	(415,528)	23,210
CLE - PRODUCTS	4,017	45,362	41,346	324,958	410,831	85,873	324,958	(85,873)
CLE - SEMINARS	(26,789)	(27,598)	(809)	(390,091)	(69,383)	320,708	(390,091)	(320,708)
CLIENT PROTECTION FUND	(92,231)	(436,594)	(344,363)	(118,520)	(146,884)	(28,364)	(118,520)	28,364
COMMUNICATIONS	(50,481)	(73,452)	(22,970)	(533,177)	(506,600)	26,577	(533,177)	(26,577)
COMMUNICATIONS FTE	(20,067)	(16,975)	3,092	(224,154)	(217,277)	6,877	(224,154)	(6,877)
DESKBOOKS	(21,153)	14,870	36,023	(191,629)	(161,897)	29,732	(191,629)	(29,732)
DISCIPLINE	(554,386)	(432,290)	122,096	(5,811,290)	(5,575,679)	235,611	(5,811,290)	(235,611)
DIVERSITY	(33,141)	(28,758)	4,383	(165,816)	(158,793)	7,023	(165,816)	(7,023)
FOUNDATION	(12,571)	(9,532)	3,039	(130,210)	(122,904)	7,306	(130,210)	(7,306)
HUMAN RESOURCES	(40,183)	(36,417)	3,767	(385,934)	(471,049)	(85,115)	(385,934)	85,115
LAW CLERK PROGRAM	(4,354)	(8,288)	(3,934)	103,430	85,536	17,895	103,430	(17,895)
LEGISLATIVE	(13,029)	(16,957)	(3,929)	(150,033)	(162,136)	(12,104)	(150,033)	12,104
LICENSE FEES	1,289,180	1,405,037	115,857	16,318,268	16,729,236	410,968	16,318,268	(410,968)
LICENSING AND MEMBERSHIP	(22,366)	(13,163)	9,203	(263,834)	(128,496)	135,338	(263,834)	(135,338)
LIMITED LICENSE LEGAL TECHNICIAN	(13,162)	(9,658)	3,504	(106,367)	(87,199)	19,168	(106,367)	(19,168)
LIMITED PRACTICE OFFICERS	5,490	6,596	1,106	106,760	118,770	12,010	106,760	(12,010)
MANDATORY CLE ADMINISTRATION	2,923	15,642	12,719	180,271	361,096	180,825	180,271	(180,825)
MEMBER ASSISTANCE PROGRAM	(20,845)	(7,157)	13,688	(119,075)	(85,313)	33,762	(119,075)	(33,762)
MEMBER BENEFITS	(23,191)	(19,587)	3,603	(314,428)	(294,873)	19,555	(314,428)	(19,555)
MEMBER SERVICES & ENGAGEMENT	(55,888)	(36,798)	19,090	(419,526)	(351,757)	67,769	(419,526)	(67,769)
OFFICE OF GENERAL COUNSEL	(90,811)	(75,447)	15,364	(930,095)	(881,880)	48,215	(930,095)	(48,215)
OFFICE OF THE EXECUTIVE DIRECTOR	(74,012)	(98,092)	(24,081)	(738,313)	(675,724)	62,589	(738,313)	(62,589)
OGC-DISCIPLINARY BOARD	(30,177)	(19,205)	10,972	(298,942)	(241,410)	57,532	(298,942)	(57,532)
OUTREACH & ENGAGEMENT	(29,743)	(11,510)	18,232	(291,390)	(221,569)	69,821	(291,390)	(69,821)
PRACTICE OF LAW BOARD	(8,313)	(4,741)	3,572	(69,649)	(57,639)	12,010	(69,649)	(12,010)
PROFESSIONAL RESPONSIBILITY PROGRAM	(27,326)	(22,015)	5,311	(297,175)	(282,311)	14,864	(297,175)	(14,864)
PUBLIC SERVICE PROGRAMS	(43,408)	(102,705)	(59,297)	(270,974)	(264,434)	6,540	(270,974)	(6,540)
PUBLICATION & DESIGN SERVICES	(9,694)	(7,587)	2,107	(105,969)	(100,404)	5,565	(105,969)	(5,565)
REGULATORY SERVICES FTE	(38,216)	(32,237)	5,979	(405,650)	(384,547)	21,103	(405,650)	(21,104)
SECTIONS ADMINISTRATION	(25,898)	(88,705)	(62,807)	(27,566)	(60,071)	(32,506)	(27,566)	32,506
SECTIONS OPERATIONS	(88,153)	43,048	131,201	(279,388)	298,634	578,022	(279,388)	(578,022)
SERVICE CENTER	(62,638)	(53,658)	8,980	(682,633)	(668,284)	14,349	(682,633)	(14,349)
TECHNOLOGY	(147,765)	(134,372)	13,393	(1,711,290)	(1,751,307)	(40,016)	(1,711,290)	40,017
COVID 19	-	-	-	-	945	945	-	(945)
INDIRECT EXPENSES	(1,782,199)	(1,509,725)	272,474	(19,504,229)	(18,900,814)	603,415	(19,504,229)	(603,415)
TOTAL OF ALL	(2,485,297)	(2,227,421)	257,877	(20,272,991)	(17,025,574)	3,247,418	(20,272,990)	(3,247,416)
NET INCOME (LOSS)	(703,098)	(717,695)	(14,597)	(768,762)	1,875,240	2,644,002	(768,761)	(2,644,002)

Washington State Bar Association Financial Summary
Compared to Fiscal Year 2021 Budget
For the Period from September 1, 2021 to September 30, 2021

Category	Actual Revenues	Reforecasted Revenues	Actual Indirect Expenses	Reforecasted Indirect Expenses	Actual Direct Expenses	Reforecasted Direct Expenses	Actual Total Expenses	Reforecasted Total Expenses	Actual Net Result	Reforecasted Net Result
Access to Justice	-	-	216,050	212,533	45,600	53,204	261,650	265,737	(261,650)	(265,737)
Administration	4,577	6,786	1,058,167	1,099,780	12,646	15,140	1,070,812	1,114,920	(1,066,235)	(1,108,134)
Admissions/Bar Exam	1,184,222	1,115,296	809,484	843,354	233,318	268,696	1,042,802	1,112,050	141,420	3,246
Advancement FTE	-	-	229,514	239,496	-	-	229,514	239,496	(229,514)	(239,496)
Bar News	583,112	457,200	337,006	353,019	391,375	447,864	728,381	800,883	(145,269)	(343,683)
Board of Governors	-	-	210,800	215,830	227,938	199,698	438,738	415,528	(438,738)	(415,528)
Communications Strategies	2,808	-	439,397	461,876	70,011	71,302	509,408	533,177	(506,600)	(533,177)
Communications Strategies FTE	-	-	217,277	224,154	-	-	217,277	224,154	(217,277)	(224,154)
Covid 19	-	-	-	-	(945)	-	(945)	-	945	-
Discipline	127,875	96,337	5,591,047	5,757,972	112,507	149,655	5,703,554	5,907,627	(5,575,679)	(5,811,290)
Diversity	135,000	135,374	290,717	278,750	3,076	22,440	293,793	301,190	(158,793)	(165,816)
Foundation	-	-	119,562	125,210	3,341,89	5,000	122,904	130,210	(122,904)	(130,210)
Human Resources	-	-	471,049	385,934	-	-	471,049	385,934	(471,049)	(385,934)
Law Clerk Program	186,801	213,668	100,986	108,864	279	1,374	101,265	110,238	85,536	103,430
Legislative	-	-	133,728	121,266	28,408	28,767	162,136	150,033	(162,136)	(150,033)
Licensing and Membership Records	461,925	352,086	568,364	592,011	22,057	23,909	590,421	615,920	(128,496)	(263,834)
Licensing Fees	16,729,236	16,318,268	-	-	-	-	-	-	16,729,236	16,318,268
Limited License Legal Technician	30,828	28,054	111,240	126,595	6,787,50	7,825	118,027	134,420	(87,199)	(106,367)
Limited Practice Officers	200,975	200,770	67,381	78,920	14,824	15,089	82,206	94,010	118,770	106,760
Mandatory CLE	961,010	839,250	455,078	511,743	144,835	147,237	599,914	658,980	361,096	180,271
Member Assistance Program	11,301	9,000	95,563	127,000	1,051,00	1,075	96,614	128,075	(85,313)	(119,075)
Member Benefits	16,158	13,000	131,860	141,432	179,171	185,996	311,031	327,428	(294,873)	(314,428)
Member Services & Engagement	98,777	67,250	438,188	462,869	12,345	23,907	450,534	486,776	(351,757)	(419,526)
Office of General Counsel	747	27,00	858,960,71	906,308	23,666,15	23,813,82	882,626,86	930,122	(881,880)	(930,095)
Office of the Executive Director	-	-	624,034	637,848	51,690	100,465	675,724	738,313	(675,724)	(738,313)
OGC-Disciplinary Board	-	-	162,102	168,809	79,308	130,133	241,410	298,942	(241,410)	(298,942)
Outreach and Engagement	-	-	219,174	257,936	2,395	33,454	221,569	291,390	(221,569)	(291,390)
Practice of Law Board	-	-	57,639	61,823	-	7,825	57,639	69,649	(67,639)	(69,649)
Professional Responsibility Program	-	-	281,215	291,439	1,096	5,736	282,311	297,175	(282,311)	(297,175)
Public Service Programs	103,000	103,000	135,517	135,981	231,917	237,993	367,434	373,974	(264,434)	(270,974)
Publication and Design Services	-	-	96,104	100,900	4,300	5,069	100,404	105,969	(100,404)	(105,969)
Regulatory Services FTE	-	-	384,547	405,650	-	-	384,547	405,650	(384,547)	(405,650)
Sections Administration	213,088	272,000	266,806	291,946	6,353	7,620	273,159	299,566	(60,071)	(27,566)
Service Center	-	-	661,215	674,133	7,069	8,500	668,284	682,633	(668,284)	(682,633)
Technology	-	-	1,751,307	1,711,290	-	-	1,751,307	1,711,290	(1,751,307)	(1,711,290)
Subtotal General Fund	21,051,439	20,227,365	17,591,078	18,112,672	1,916,420	2,228,785	19,507,499	20,341,457	1,543,939.80	(114,092)
Expenses using reserve funds	-	-	-	-	-	-	19,507,499	-	-	-
Total General Fund - Net Result from Operations									1,543,939.80	(114,092)
Percentage of Budget	104.07%		97.12%		85.98%		95.90%			
CLE-Seminars and Products	1,408,577	1,212,529	947,728	1,012,798	119,401	264,864	1,067,129	1,277,662	341,448	(65,133)
CLE- Deskbooks	178,150	140,500	210,891	220,190	129,156	111,939	340,047	332,129	(161,897)	(191,629)
Total CLE	1,586,727	1,353,029	1,158,620	1,232,988	248,557	376,803	1,407,176	1,609,791	179,551	(256,762)
Percentage of Budget	117.27%		93.97%		65.96%		87.41%			
Total All Sections	607,937	585,779	-	-	309,304	865,167	309,304	865,167	298,634	(279,388)
Client Protection Fund-Restricted	506,141	533,402	151,116	158,569	501,909	493,353	653,025	651,922	(146,884)	(118,520)
Totals	23,752,244	22,699,575	18,900,814	19,504,229	2,976,189	3,964,108	21,877,003	23,468,336	1,875,240	(768,761)
Percentage of Budget	104.64%		96.91%		75.08%		93.22%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2020	2021 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	4,193,130	4,074,610	4,046,246
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	469,241	212,479	648,792
Section Funds	1,210,209	930,821	1,508,843
Board-Designated Funds (General Fund):			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	550,000	550,000	1,050,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	3,478,234	3,364,142	4,522,174
Total General Fund Balance	5,528,234	5,414,142	7,072,174
Net Change in general Fund Balance		(114,092)	1,543,940
Total Fund Balance	11,400,814.00	10,632,053	13,276,054
Net Change In Fund Balance		(768,761)	1,875,240

General Fund Cost Centers	Month of September		YTD
General Fund Net Income	\$	(356,784)	\$ 1,543,940
CLE - PRODUCTS	\$	45,362	\$ 410,831
CLE - SEMINARS	\$	(27,598)	\$ (69,383)
DESKBOOKS	\$	14,870	\$ (161,897)
CLE Fund Net Income	\$	32,634	\$ 179,551
CPF Net Income	\$	(436,594)	\$ (146,884)
Section Net Income	\$	43,048	\$ 298,634
Total	\$	(717,695)	\$ 1,875,240
		Fund Balance as of August	Fund Balance as of September
Total General Fund	\$	7,428,958	\$ 7,072,174
CLE Fund	\$	616,158	\$ 648,792
CPF Fund	\$	4,482,840	\$ 4,046,246
Section Fund	\$	1,465,794	\$ 1,508,843

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

Financial Reports

(Unaudited)

Year to Date January 31, 2022

Prepared by

Maggie Yu, Interim Finance Director & Darshita Patel, Accountant

Submitted by

Maggie Yu, Interim Finance Director & Elizabeth Wick, Budget & Finance Manager

February 22, 2022

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Terra Nevitt, ED; Maggie Yu, Interim Finance Director

Re: Key Financial Benchmarks for the Preliminary Fiscal Year to Date (YTD) through January 31, 2022
As % of Completion to Annual Budget

	% of Year	Current Year % YTD	Current Year \$ Difference Favorable/(Unfavorable)	Prior Year YTD	Comments
Total Salaries & Benefits	33.33%	33.82%	(\$79,318)	32.82%	Unfavorable to budget due to seasonal temps.
Other Indirect Expenses*	33.33%	28.81%	\$182,730	29.49%	Favorable to budget due to expenses for legal and meeting support, telephone, internet and workplace benefits being lower than planned
Total Indirect Expenses	33.33%	32.82%	\$103,412	31.99%	Favorable to budget for the reasons described above

General Fund Revenues	33.33%	35.30%	\$421,176	34.30%	Favorable to budget due to higher than anticipated revenues related to Pro Hac Vice, legal lunchbox MP3/video sales and MCLE
General Fund Indirect Expenses	33.33%	32.86%	\$89,283	31.66%	Favorable to budget due to other indirect lower than planned
General Fund Direct Expenses	33.33%	13.26%	\$528,345	18.29%	Favorable to budget due to the timing of payments
General Fund Net	33.33%	1,126.53%	\$1,038,805	407.16%	Favorable to budget for the reasons described above

CLE Revenue	33.33%	54.83%	\$445,592	16.96%	Favorable to budget due to higher than anticipated product sales
CLE Direct Expenses	33.33%	6.28%	\$144,772	12.94%	Favorable to budget due to the timing of payments
CLE Indirect Expenses	33.33%	32.17%	\$14,313	32.52%	Favorable to budget due to other indirect savings
CLE Net	33.33%	228.10%	\$604,677	289.12%	Favorable to budget for the reasons described above

*Workplace benefits, Human Resources, meeting support, rent, taxes, furniture & maintenance, office supplies, depreciation, insurance, equipment, professional fees (legal & audit), internet & telephone, postage, storage, bank fees, Technology

Washington State Bar Association

VENDOR TRIAL BALANCE OVER \$10K

YTD AND MOST CURRENT MONTH

33% OF YEAR COMPLETE

VENDOR LISTS	FOR THE MONTH OF JANUARY	YEAR TO DATE	
Washington State Retirement Systems	\$ 223,647	\$ 837,306	Employer and employee retirement contribution
University of Washington	\$ 165,756	\$ 669,349	Rent, facilities, and maintenance costs
Health Care Authority	\$ 153,181	\$ 595,790	Employee medical coverage
Legal Foundation of WA	\$ -	\$ 142,116	Donations collected to Legal Foundation - Pass through account
WSB Foundation	\$ -	\$ 128,531	Donations collected to WSB Foundation - Pass through account
Emerald Search Partners LLC	\$ 27,205	\$ 99,314	Temporary staffing (MCLE, ADMISS, CLE)
Litify Inc.	\$ -	\$ 91,294	Annual payment for discipline software
Consolidated Press	\$ -	\$ 70,992	Printing for Bar News
Wells Fargo Remittance Center	\$ 3,342	\$ 55,308	Wells Fargo credit card charges
Ivoxy Consulting	\$ 12,035	\$ 41,751	Hardware and Software maintenance
CDW Government	\$ 4,325	\$ 41,321	Backup server annual hardware maintenance and HP computers
Cloud Mentor	\$ 19,417	\$ 38,833	Discipline software implementation
Postmaster	\$ 1,019	\$ 35,771	Postage, including Bar News
Clark Nuber P.S.	\$ 2,000	\$ 30,000	WSBA annual audit expenses and professional consulting service
Gonzaga University	\$ 29,338	\$ 29,338	Moderate Means Grant
Gallagher Benefit Serv, Inc.	\$ 1,275	\$ 28,431	Consulting fees for compensation study
Thomson Reuters - West	\$ 6,834	\$ 26,942	Westlaw and law library acquisitions
WA State Dept. of Labor & Ind.	\$ 12,461	\$ 24,139	L & I quarterly payments
Higher Logic LLC	\$ -	\$ 22,427	Marketing platform software license
ADP, Inc	\$ 4,231	\$ 19,205	Payroll processing
ILG Admissions	\$ 4,750	\$ 19,000	Admission software Support & Hosting
Limelight Networks, Inc.	\$ 6,096	\$ 18,643	CLE product online hosting fees
Cornerstone OnDemand	\$ -	14748.47	HR performance system module software license
King County Finance	\$ 6,666.63	13333.26	Employee Orca Cards
Lynnwood Convention Center	\$ 7,656.00	12990.75	Bar Exam facility costs
Fisher Phillips	\$ -	12799.5	Outside counsel services
Election-America Inc	\$ 12,720.00	12720	Governor, management election processing
Berkley North Pacific	\$ 3,034.00	12188	Insurance
LogMeIn Communications Inc.	\$ (429.97)	12053.65	Web-based phone system support
Ripley Law Firm Inc. PS	\$ 3,000.00	12000	Appointed counsel contract payment
Seattle Deposition Reporters	\$ 11,833.00	11833	Court reporters
cloudPWR, LLC	\$ -	11267.55	Box enterprise edition software license
Gordon & Rees	\$ -	11010	Outside counsel fees
Silver Cloud Tacoma at Point Ruston Waterfi	\$ -	10206.45	November BOG meeting venue and lodging
Randolph O. Petgrave III	\$ 2,500.00	10000	Chief Hearing Officer contract payment

**Washington State Bar Association
Analysis of Cash Investments
As of January 31, 2022**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 8,828,238

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.00%	\$ 10,678,734
UBS Financial Money Market	0.00%	\$ 1,080,918
Morgan Stanley Money Market	0.01%	\$ 3,354,501
Merrill Lynch Money Market	0.01%	\$ 1,983,296

General Fund Total \$ 25,925,687

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 207,106

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.01%	\$ 4,207,883
Morgan Stanley Money Market	0.00%	\$ 106,918

Client Protection Fund Total \$ 4,521,907

Grand Total Cash & Investments \$ 30,447,594

Budgeted Temps:

Dept Code	Budgeted Temps	FY22 Budget	January Actuals	YTD Actuals	Remaining Balance	Comments
ADMIN	Licensing Season Temp	24,236	3,210.38	7,106	17,130	
MCLE	Licensing Season Temp	91,840	16,714.98	61,973	29,867	
DISC	Temp for Scanning and Two Law Student Ir	95,040		-	95,040	
LICMR	Licensing Temp	11,640	1,407.00	1,407	10,233	
TECH	Developer		252.00	2,100	(2,100)	
Total		222,756	21,584.36	72,586	150,170	

Unanticipated Temps:

Dept Code	Unanticipated Temps	FY22 Unanticipated Budget	January Actuals	YTD Actuals	Remaining Balance	Comments
		10,000	5,040.00	23,830	(13,830)	Temp for Disciplinary Counsel II Position.
			-			
			-			
Total		10,000	5,040.00	23,830	(13,830)	

Replacement Temps:

Dept Code	FY22 Open Positions	Salary	January Actuals	YTD Actuals	Variance	Comments
TECH	Network and Systems Administrator		5,200.00	30,250		Additional Staff
CLES	Program Coordinator II-CLE	13,579	4,917.50	20,913	(7,334)	Open position
ADMISS	Admissions Specialist II	13,091	5,572.80	16,428	(3,337)	Temp end date 01/31/22
Total		26,670	15,690.30	67,591	(7,334)	

Balance Sheet
January, 2022

ASSETS	Prior Year General, CLE, and Sections Funds	Current Year General, CLE, and Sections Funds	Prior Year CPF	Current Year CPF	Current Year TOTAL
Cash & cash equivalents	7,437,160	8,828,238			8,828,238
Amex credit card service fee	20,623	22,100			22,100
Investments- money market + CDs	15,192,755	17,097,448			17,097,448
Restricted Cash		-	251,275	207,106	207,106
Restricted Investments- money market + CDs			4,213,152	4,314,801	4,314,801
Due to/from GF-CPF	(207,564)	(339,121)	207,564	339,121	-
Accounts Receivable	(2,045)	27,828			27,828
A/R Misc	12,981	37,840			37,840
Allowance for Bad Debt	(994)	-	-	-	-
Allowance for Deskbooks	(11,781)	-	-	-	-
OP Backorders	7,168	8,534			8,534
Unapplied receipts	(200)	-			-
CLE inventory	295,622	224,372			224,372
Deferred seminar costs	14,500	14,500			14,500
Prepaid expenses	330,973	456,516			456,516
Other inventory	(281)	-			-
Property & equipment, net	330,120	281,314			281,314
Software Canned	164,655	113,450	-	-	113,450
Software Custom	212,672	250,873	-	-	250,873
TOTAL ASSETS	23,796,364	27,023,892	4,671,991	4,861,028	31,884,919
LIABILITIES					
Accounts payable	569,853	264,800			264,800
Accounts payable-year end/misc	113,846	-			-
Refunds payable	1,111	1,111			1,111
CPF committed gifts			208,624	218,230	218,230
Accrued expenses	760,706	734,776			734,776
Future rent obligations	1,091,275	1,031,468			1,031,468
Unearned seminar/other revenue	62,207	6,673			6,673
Deferred licensing fees	13,113,587	13,492,762			13,492,762
Amex credit card service fee	20,623	22,100			22,100
Other deferred revenue	15,219	29,151			29,151
Deferred grant revenue	47,870	47,870			47,870
LAW Fund/WSBF Contributions	1,050	308,616			308,616
TOTAL LIABILITIES	15,797,348	15,939,327	208,624	218,230	16,157,557
RETAINED EARNINGS					
GENERAL FUND BALANCE	6,353,882	8,081,125			8,081,125
CLE FUND BALANCE	289,530	1,356,954			1,356,954
CPF FUND BALANCE			4,463,366	4,642,797	4,642,797
WSBC FUND BALANCE					-
SECTIONS FUND BALANCE	1,355,604	1,646,486			1,646,486
TOTAL FUND BALANCE	7,999,016	11,084,565	4,463,366	4,642,797	15,727,362
TOTAL LIABILITIES AND RETAINED EARNINGS	23,796,364	27,023,891	4,671,991	4,861,027	31,884,919

Note* Total Retained Earnings must equal fund balance

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2022 to January 31, 2022

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LICENSE FEES									
REVENUE:									
LICENSE FEES	1,466,394	1,231,666	(234,729)	5,475,176	5,308,709	(166,468)	16,579,802	11,271,093	32.02%
TOTAL REVENUE:	1,466,394	1,231,666	(234,729)	5,475,176	5,308,709	(166,468)	16,579,802	11,271,093	32.02%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
ACCESS TO JUSTICE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
SURVEYS	-	-	-	100	-	100	100	100	0.00%
ATJ BOARD RETREAT	167	-	167	667	-	667	2,000	2,000	0.00%
LEADERSHIP TRAINING	167	-	167	667	-	667	2,000	2,000	0.00%
ATJ BOARD EXPENSE	2,000	0	2,000	8,000	224	7,776	24,000	23,776	0.93%
STAFF TRAVEL/PARKING	-	-	-	2,700	-	2,700	2,700	2,700	0.00%
STAFF TRAINING	140	-	140	1,758	150	1,608	2,875	2,725	5.22%
STAFF MEMBERSHIP DUES	-	-	-	120	-	120	120	120	0.00%
PUBLIC DEFENSE	500	-	500	2,000	-	2,000	6,000	6,000	0.00%
RECEPTION/FORUM EXPENSE	-	-	-	9,500	-	9,500	9,500	9,500	0.00%
TOTAL DIRECT EXPENSES:	2,973	0	2,973	25,512	374	25,138	49,295	48,921	0.76%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.30 FTE)	7,392	7,614	(222)	29,568	29,031	537	88,704	59,672	32.73%
BENEFITS EXPENSE	2,684	2,969	(285)	10,887	10,912	(25)	32,556	21,644	33.52%
OTHER INDIRECT EXPENSE	3,083	2,458	625	12,695	10,824	1,871	38,065	27,241	28.44%
TOTAL INDIRECT EXPENSES:	13,159	13,042	117	53,150	50,767	2,383	159,324	108,558	31.86%
TOTAL ALL EXPENSES:	16,132	13,042	3,090	78,662	51,141	27,520	208,619	157,478	24.51%
NET INCOME (LOSS):	(16,132)	(13,042)	3,090	(78,662)	(51,141)	27,520	(208,619)	(157,478)	24.51%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
ADMINISTRATION									
REVENUE:									
INTEREST INCOME	430	130	(300)	1,720	479	(1,241)	5,160	4,681	9.29%
MISCELLANEOUS	-	2,360	2,360	-	2,360	2,360	-	(2,360)	
TOTAL REVENUE:	430	2,490	2,060	1,720	2,839	1,119	5,160	2,321	55.03%
DIRECT EXPENSES:									
CONSULTING SERVICES	-	-	-	2,655	-	2,655	12,000	12,000	0.00%
STAFF TRAVEL/PARKING	350	-	350	1,400	-	1,400	4,200	4,200	0.00%
STAFF TRAINING	29	-	29	117	-	117	350	350	0.00%
TOTAL DIRECT EXPENSES:	379	-	379	4,171	-	4,171	16,550	16,550	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.92 FTE)	62,246	80,004	(17,758)	238,210	244,008	(5,797)	686,355	442,348	35.55%
BENEFITS EXPENSE	15,498	17,534	(2,036)	62,137	63,346	(1,209)	187,178	123,832	33.84%
OTHER INDIRECT EXPENSE	16,410	13,032	3,378	67,576	57,380	10,197	202,623	145,244	28.32%
TOTAL INDIRECT EXPENSES:	94,154	110,570	(16,416)	367,924	364,733	3,191	1,076,157	711,424	33.89%
TOTAL ALL EXPENSES:	94,534	110,570	(16,037)	372,096	364,733	7,362	1,092,707	727,974	33.38%
NET INCOME (LOSS):	(94,104)	(108,080)	(13,977)	(370,376)	(361,894)	8,482	(1,087,547)	(725,653)	33.28%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
ADMISSIONS									
REVENUE:									
BAR EXAM FEES	58,421	35,480	(22,941)	491,129	401,505	(89,624)	1,242,000	840,495	32.33%
RULE 9/LEGAL INTERN FEES	671	750	79	2,758	2,000	(758)	12,000	10,000	16.67%
SPECIAL ADMISSIONS	7,928	5,225	(2,703)	25,021	23,115	(1,906)	47,640	24,525	48.52%
TOTAL REVENUE:	67,020	41,455	(25,565)	518,907	426,620	(92,287)	1,301,640	875,020	32.78%
DIRECT EXPENSES:									
POSTAGE	150	-	150	600	-	600	1,800	1,800	0.00%
STAFF TRAVEL/PARKING	500	-	500	2,000	136	1,864	14,000	13,864	0.97%
STAFF MEMBERSHIP DUES	-	-	-	800	-	800	1,600	1,600	0.00%
SUPPLIES	83	-	83	333	-	333	1,000	1,000	0.00%
FACILITY, PARKING, FOOD	-	38	(38)	-	38	(38)	99,500	99,462	0.04%
EXAMINER FEES	-	-	-	-	-	-	36,000	36,000	0.00%
UBE EXMINATIONS	-	-	-	-	-	-	126,900	126,900	0.00%
BOARD OF BAR EXAMINERS	-	-	-	-	-	-	23,000	23,000	0.00%
BAR EXAM PROCTORS	-	-	-	-	-	-	27,000	27,000	0.00%
DISABILITY ACCOMMODATIONS	-	375	(375)	-	500	(500)	20,000	19,500	2.50%
CHARACTER & FITNESS INVESTIGATIONS	100	-	100	200	35	165	1,000	965	3.50%
LAW SCHOOL VISITS	500	-	500	600	-	600	1,450	1,450	0.00%
DEPRECIATION-SOFTWARE	1,627	2,038	(411)	6,508	8,219	(1,711)	19,524	11,305	42.10%
STAFF TRAINING	-	-	-	3,000	1,380	1,620	15,000	13,620	9.20%
ONLINE LEGAL RESEARCH	316	317	(1)	1,263	940	323	3,790	2,849	24.81%
LAW LIBRARY	13	12	2	53	46	7	158	112	29.02%
TOTAL DIRECT EXPENSES:	3,289	2,779	510	15,357	11,294	4,063	391,721	380,427	2.88%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.90 FTE)	43,757	46,087	(2,330)	175,028	180,519	(5,491)	525,082	344,563	34.38%
BENEFITS EXPENSE	13,905	15,615	(1,709)	56,401	57,106	(706)	168,696	111,590	33.85%
OTHER INDIRECT EXPENSE	16,363	13,006	3,357	67,381	57,263	10,118	202,038	144,775	28.34%
TOTAL INDIRECT EXPENSES:	74,025	74,707	(682)	298,809	294,888	3,921	895,816	600,928	32.92%
TOTAL ALL EXPENSES:	77,315	77,486	(171)	314,167	306,182	7,984	1,287,537	981,355	23.78%
NET INCOME (LOSS):	(10,295)	(36,031)	(25,736)	204,741	120,438	(84,303)	14,103	(106,335)	853.99%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
BAR NEWS									
REVENUE:									
ROYALTIES	167	-	(167)	667	1,247	580	2,000	753	62.34%
DISPLAY ADVERTISING	-	1,881	1,881	164,755	114,645	(50,110)	450,000	335,355	25.48%
SUBSCRIPT/SINGLE ISSUES	-	-	-	40	36	(4)	200	164	18.00%
CLASSIFIED ADVERTISING	147	50	(97)	866	207	(659)	5,000	4,793	4.14%
GEN ANNOUNCEMENTS	-	9	9	2,621	584	(2,037)	14,000	13,416	4.17%
PROF ANNOUNCEMENTS	-	109	109	6,472	6,770	298	22,500	15,730	30.09%
JOB TARGET ADVERTISING	12,500	31,607	19,107	50,000	82,949	32,949	150,000	67,052	55.30%
TOTAL REVENUE:	12,814	33,657	20,842	225,420	206,438	(18,982)	643,700	437,262	32.07%
DIRECT EXPENSES:									
POSTAGE	-	-	-	32,467	34,757	(2,289)	100,000	65,243	34.76%
PRINTING, COPYING & MAILING	-	-	-	70,331	70,992	(661)	230,000	159,008	30.87%
DIGITAL/ONLINE DEVELOPMENT	125	-	125	500	-	500	1,500	1,500	0.00%
GRAPHICS/ARTWORK	-	-	-	-	-	-	200	200	0.00%
OUTSIDE SALES EXPENSE	-	(865)	865	40,844	1,730	39,114	98,000	96,270	1.77%
EDITORIAL ADVISORY COMMITTEE	42	-	42	167	-	167	500	500	0.00%
STAFF TRAINING	29	-	29	117	-	117	350	350	0.00%
STAFF MEMBERSHIP DUES	11	-	11	45	-	45	135	135	0.00%
SUBSCRIPTIONS	15	179	(164)	62	90	(28)	185	95	48.69%
TOTAL DIRECT EXPENSES:	223	(686)	909	144,533	107,569	36,964	430,870	323,301	24.97%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.76 FTE)	16,970	18,795	(1,825)	67,880	67,982	(102)	203,639	135,657	33.38%
BENEFITS EXPENSE	4,467	5,209	(742)	18,143	18,684	(540)	54,298	35,615	34.41%
OTHER INDIRECT EXPENSE	6,545	5,208	1,338	26,952	22,929	4,024	80,815	57,887	28.37%
TOTAL INDIRECT EXPENSES:	27,982	29,211	(1,229)	112,975	109,594	3,381	338,752	229,158	32.35%
TOTAL ALL EXPENSES:	28,204	28,525	(320)	257,509	217,163	40,345	769,622	552,459	28.22%
NET INCOME (LOSS):	(15,390)	5,132	20,522	(32,088)	(10,725)	21,363	(125,922)	(115,197)	8.52%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
BOARD OF GOVERNOR									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
BOG MEETINGS	9,935	(3,185)	13,120	39,923	19,612	20,311	143,000	123,388	13.71%
BOG COMMITTEES' EXPENSES	-	0	(0)	-	201	(201)	20,000	19,799	1.00%
BOG RETREAT	-	-	-	246	42	205	15,000	14,958	0.28%
BOG CONFERENCE ATTENDANCE	834	(120)	954	2,072	1,666	406	25,000	23,334	6.66%
BOG TRAVEL & OUTREACH	-	209	(209)	2,369	6,477	(4,108)	25,000	18,523	25.91%
LEADERSHIP TRAINING	3,083	-	3,083	12,333	1,000	11,333	37,000	36,000	2.70%
BOG ELECTIONS	-	12,720	(12,720)	-	12,720	(12,720)	26,900	14,180	47.29%
MEMBER OUTREACH/TOWN MTGS	-	22	(22)	-	22	(22)	-	(22)	
PRESIDENT'S DINNER	-	-	-	-	-	-	10,000	10,000	0.00%
TOTAL DIRECT EXPENSES:	13,852	9,646	4,207	56,943	41,739	15,204	301,900	260,161	13.83%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.40 FTE)	8,463	9,933	(1,470)	33,852	35,600	(1,748)	101,557	65,957	35.05%
BENEFITS EXPENSE	2,661	3,004	(343)	10,805	10,956	(150)	32,303	21,347	33.91%
OTHER INDIRECT EXPENSE	3,320	2,643	677	13,672	11,639	2,033	40,993	29,354	28.39%
TOTAL INDIRECT EXPENSES:	14,444	15,580	(1,136)	58,329	58,195	134	174,853	116,658	33.28%
TOTAL ALL EXPENSES:	28,296	25,226	3,070	115,273	99,934	15,339	476,753	376,820	20.96%
NET INCOME (LOSS):	(28,296)	(25,226)	3,070	(115,273)	(99,934)	15,339	(476,753)	(376,820)	20.96%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
CHARACTER & FITNESS BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
CHARACTER & FITNESS BOARD EXP	-	-	-	4,700	-	4,700	5,700	5,700	0.00%
COURT REPORTERS	1,250	-	1,250	5,000	-	5,000	15,000	15,000	0.00%
TOTAL DIRECT EXPENSES:	1,250	-	1,250	9,700	-	9,700	20,700	20,700	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.05 FTE)	563	657	(94)	2,252	2,293	(41)	6,757	4,464	33.93%
BENEFITS EXPENSE	185	202	(17)	745	754	(10)	2,230	1,476	33.83%
OTHER INDIRECT EXPENSE	119	106	13	488	466	23	1,464	999	31.80%
TOTAL INDIRECT EXPENSES:	866	965	(99)	3,485	3,513	(27)	10,451	6,939	33.61%
TOTAL ALL EXPENSES:	2,116	965	1,151	13,185	3,513	9,673	31,151	27,639	11.28%
NET INCOME (LOSS):	(2,116)	(965)	1,151	(13,185)	(3,513)	9,673	(31,151)	(27,639)	11.28%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
ADVANCEMENT FTE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF CONFERENCE & TRAINING	533	-	533	2,133	-	2,133	6,400	6,400	33.33%
TOTAL DIRECT EXPENSES:	533	-	533	2,133	-	2,133	6,400	6,400	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.90 FTE)	18,670	20,351	(1,681)	74,682	74,640	42	224,045	149,406	33.31%
BENEFITS EXPENSE	5,396	6,014	(618)	21,162	21,353	(191)	64,623	43,270	33.04%
OTHER INDIRECT EXPENSE	4,494	3,569	925	18,505	15,713	2,793	55,487	39,775	28.32%
TOTAL INDIRECT EXPENSES:	28,561	29,934	(1,374)	114,349	111,705	2,644	344,155	232,450	32.46%
TOTAL ALL EXPENSES:	29,094	29,934	(840)	116,483	111,705	4,777	350,555	238,850	31.87%
NET INCOME (LOSS):	(29,094)	(29,934)	(840)	(116,483)	(111,705)	4,777	(350,555)	(238,850)	31.87%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
CLE - SEMINARS									
REVENUE:									
SEMINAR REGISTRATIONS	70,833	-	(70,833)	283,333	215,204	(68,130)	850,000	634,797	25.32%
SEMINAR-EXHIB/SPNSR/ETC	1,667	-	(1,667)	6,667	-	(6,667)	20,000	20,000	0.00%
TOTAL REVENUE:	72,500	-	(72,500)	290,000	215,204	(74,797)	870,000	654,797	24.74%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	1,154	-	1,154	4,904	-	4,904	15,000	15,000	0.00%
STAFF MEMBERSHIP DUES	-	-	-	491	-	491	765	765	0.00%
POSTAGE - FLIERS/CATALOGS	667	-	667	2,667	-	2,667	8,000	8,000	0.00%
ACCREDITATION FEES	-	(60)	60	3,000	2,022	978	3,000	978	67.40%
SEMINAR BROCHURES	1,667	-	1,667	6,667	-	6,667	20,000	20,000	0.00%
FACILITIES	15,092	-	15,092	64,142	8,400	55,742	196,200	187,800	4.28%
SPEAKERS & PROGRAM DEVELOP	3,846	23	3,824	16,346	799	15,547	50,000	49,201	1.60%
SPLITS TO SECTIONS	-	-	-	-	-	-	110,000	110,000	0.00%
HONORARIA	125	-	125	500	2,700	(2,200)	1,500	(1,200)	180.00%
CLE SEMINAR COMMITTEE	21	-	21	83	-	83	250	250	0.00%
SURVEYS	-	-	-	300	-	300	300	300	0.00%
DISABILITY ACCOMMODATIONS	83	-	83	333	-	333	1,000	1,000	0.00%
STAFF TRAINING	58	-	58	233	-	233	700	700	0.00%
TOTAL DIRECT EXPENSES:	22,713	(37)	22,751	99,666	13,921	85,745	406,715	392,794	3.42%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.82 FTE)	39,641	45,161	(5,520)	158,567	158,339	228	475,698	317,360	33.29%
BENEFITS EXPENSE	14,808	16,287	(1,479)	60,007	59,998	9	179,508	119,510	33.42%
OTHER INDIRECT EXPENSE	16,282	12,847	3,434	67,033	56,565	10,468	200,995	144,430	28.14%
TOTAL INDIRECT EXPENSES:	70,731	74,295	(3,564)	285,606	274,902	10,705	856,202	581,300	32.11%
TOTAL ALL EXPENSES:	93,444	74,258	19,186	385,273	288,823	96,450	1,262,917	974,093	22.87%
NET INCOME (LOSS):	(20,944)	(74,258)	(53,314)	(95,273)	(73,620)	21,653.01	(392,917)	(319,296.85)	18.74%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
CLE - PRODUCTS									
REVENUE:									
SHIPPING & HANDLING	-	9	9	-	81	81	-	(81)	
COURSEBOOK SALES	833	70	(763)	3,333	560	(2,773)	10,000	9,440	5.60%
MP3 AND VIDEO SALES	85,415	91,606	6,191	341,662	902,212	560,550	1,024,985	122,773	88.02%
TOTAL REVENUE:	86,249	91,685	5,436	344,995	902,853	557,858	1,034,985	132,132	87.23%
DIRECT EXPENSES:									
DEPRECIATION	109	109	-	436	440	(4)	1,308	868	33.64%
STAFF MEMBERSHIP DUES	-	-	-	376	-	376	573	573	0.00%
COST OF SALES - COURSEBOOKS	125	9	116	500	54	446	1,500	1,446	3.57%
A/V DEVELOP COSTS (RECORDING)	167	-	167	667	-	667	2,000	2,000	0.00%
ONLINE PRODUCT HOSTING EXPENSES	4,167	6,096	(1,930)	16,667	18,643	(1,976)	50,000	31,357	37.29%
POSTAGE & DELIVERY-COURSEBOOKS	-	8	(8)	-	58	(58)	-	(58)	
DISABILITY ACCOMMODATIONS	83	-	83	333	-	333	1,000	1,000	0.00%
STAFF TRAINING	25	-	25	100	-	100	300	300	0.00%
TOTAL DIRECT EXPENSES:	4,676	6,223	(1,547)	19,079	19,195	(116)	56,681	37,486	33.86%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.30 FTE)	7,338	8,204	(866)	29,353	29,111	242	88,059	58,948	33.06%
BENEFITS EXPENSE	2,790	3,067	(277)	11,310	11,300	11	33,825	22,526	33.41%
OTHER INDIRECT EXPENSE	3,078	2,458	620	12,675	10,824	1,851	38,007	27,182	28.48%
TOTAL INDIRECT EXPENSES:	13,206	13,730	(524)	53,339	51,235	2,104	159,891	108,656	32.04%
TOTAL ALL EXPENSES:	17,882	19,952	(2,071)	72,417	70,430	1,988	216,572	146,143	32.52%
NET INCOME (LOSS):	68,367	71,733	3,366	272,578	832,423	559,845	818,413	(14,010)	101.71%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
CONTINUING LEGAL EDUCATION (CLE)									
REVENUE:									
SEMINAR REGISTRATIONS	70,833	-	(70,833)	283,333	215,204	(68,130)	850,000	634,797	25.32%
SEMINAR-EXHIB/SPNSR/ETC	1,667	-	(1,667)	6,667	-	(6,667)	20,000	20,000	0.00%
SHIPPING & HANDLING	-	9	9	-	81	81	-	(81)	
COURSEBOOK SALES	833	70	(763)	3,333	560	(2,773)	10,000	9,440	5.60%
MP3 AND VIDEO SALES	85,415	91,606	6,191	341,662	902,212	560,550	1,024,985	122,773	88.02%
TOTAL REVENUE:	158,749	91,685	(67,064)	634,995	1,118,056	483,061	1,904,985	786,929	58.69%
DIRECT EXPENSES:									
POSTAGE - FLIERS/CATALOGS	667	-	667	2,667	-	2,667	8,000	8,000	0.00%
DISABILITY ACCOMMODATIONS	167	-	167	667	-	667	2,000	2,000	0.00%
SURVEYS	-	-	-	300	-	300	300	300	0.00%
DEPRECIATION	109	109	-	436	440	(4)	1,308	868	33.64%
ONLINE EXPENSES	4,167	6,096	(1,930)	16,667	18,643	(1,976)	50,000	31,357	37.29%
ACCREDITATION FEES	-	(60)	60	3,000	2,022	978	3,000	978	67.40%
SEMINAR BROCHURES	1,667	-	1,667	6,667	-	6,667	20,000	20,000	0.00%
FACILITIES	15,092	-	15,092	64,142	8,400	55,742	196,200	187,800	4.28%
SPEAKERS & PROGRAM DEVELOP	3,846	23	3,824	16,346	799	15,547	50,000	49,201	1.60%
SPLITS TO SECTIONS	-	-	-	-	-	-	110,000	110,000	0.00%
HONORARIA	125	-	125	500	2,700	(2,200)	1,500	(1,200)	180.00%
CLE SEMINAR COMMITTEE	21	-	21	83	-	83	250	250	0.00%
STAFF TRAVEL/PARKING	1,154	-	1,154	4,904	-	4,904	15,000	15,000	0.00%
STAFF TRAINING	58	-	58	233	-	233	700	700	0.00%
STAFF MEMBERSHIP DUES	-	-	-	867	-	867	1,338	1,338	0.00%
COST OF SALES - COURSEBOOKS	125	9	116	500	54	446	1,500	1,446	3.57%
A/V DEVELOP COSTS (RECORDING)	167	-	167	667	-	667	2,000	2,000	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	-	8	(8)	-	58	(58)	-	(58)	
STAFF TRAVEL/PARKING	25	-	25	100	-	100	300	300	0.00%
TOTAL DIRECT EXPENSES:	27,389	6,185	21,204	118,745	33,116	85,629	463,396	430,280	7.15%
INDIRECT EXPENSES:									
SALARY EXPENSE (8.42 FTE)	46,980	53,366	(6,386)	187,920	187,450	470	563,758	376,308	33.25%
BENEFITS EXPENSE	17,597	19,354	(1,756)	71,317	71,298	19	213,333	142,036	33.42%
OTHER INDIRECT EXPENSE	19,360	15,306	4,054	79,709	67,389	12,319	239,002	171,613	28.20%
TOTAL INDIRECT EXPENSES:	83,937	88,025	(4,088)	338,945	326,137	12,808	1,016,093	689,956	32.10%
TOTAL ALL EXPENSES:	111,326	94,210	17,116	457,690	359,253	98,437	1,479,489	1,120,236	24.28%
NET INCOME (LOSS):	47,423	(2,525)	(49,948)	177,305	758,803	581,498	425,496	(333,307)	178.33%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LAW CLERK PROGRAM									
REVENUE:									
LAW CLERK FEES	95,278	91,810	(3,468)	120,456	118,793	(1,663)	220,000	101,207	54.00%
LAW CLERK APPLICATION FEES	208	-	(208)	833	800	(33)	2,500	1,700	32.00%
TOTAL REVENUE:	95,486	91,810	(3,676)	121,289	119,593	(1,697)	222,500	102,907	53.75%
DIRECT EXPENSES:									
SUBSCRIPTIONS	-	-	-	-	-	-	250	250	0.00%
CHARACTER & FITNESS INVESTIGATIONS	-	-	-	-	-	-	100	100	0.00%
LAW CLERK BOARD EXPENSE	583	-	583	2,333	-	2,333	7,000	7,000	0.00%
LAW CLERK OUTREACH	83	-	83	333	-	333	1,000	1,000	0.00%
TOTAL DIRECT EXPENSES:	667	-	667	2,667	-	2,667	8,350	8,350	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.93 FTE)	5,533	7,674	(2,141)	22,131	23,709	(1,578)	66,394	42,685	35.71%
BENEFITS EXPENSE	1,698	1,927	(229)	6,887	6,992	(105)	20,614	13,621	33.92%
OTHER INDIRECT EXPENSE	2,194	1,745	449	9,033	7,682	1,351	27,085	19,403	28.36%
TOTAL INDIRECT EXPENSES:	9,425	11,346	(1,921)	38,052	38,383	(331)	114,093	75,710	33.64%
TOTAL ALL EXPENSES:	10,091	11,346	(1,254)	40,719	38,383	2,336	122,443	84,060	31.35%
NET INCOME (LOSS):	85,395	80,464	(4,931)	80,571	81,210	639	100,057	18,848	81.16%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
COMMUNICATION STRATEGIES									
REVENUE:									
SPONSORSHIPS	-	-	-	-	1,000	1,000	-	(1,000)	
WSBA LOGO MERCHANDISE SALES	-	-	-	-	113	113	-	(113)	
TOTAL REVENUE:	-	-	-	-	1,113	1,113	-	(1,113)	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	324	198	126	1,296	803	493	3,888	3,085	20.65%
STAFF MEMBERSHIP DUES	81	380	(299)	324	380	(56)	972	592	39.09%
SURVEYS	-	-	-	300	-	300	300	300	0.00%
SUBSCRIPTIONS	285	256	28	1,139	1,358	(219)	3,416	2,058	39.75%
DIGITAL/ONLINE DEVELOPMENT	51	-	51	205	-	205	614	614	0.00%
APEX DINNER	2,083	295	1,789	8,333	6,916	1,417	25,000	18,084	27.67%
50 YEAR MEMBER TRIBUTE LUNCH	933	105	829	3,733	10,507	(6,773)	11,200	693	93.81%
BAR OUTREACH	1,333	27	1,307	5,333	1,015	4,319	16,000	14,985	6.34%
COMMUNICATIONS OUTREACH	1,250	-	1,250	5,000	680	4,320	15,000	14,320	4.53%
STAFF TRAINING	-	-	-	5,000	-	5,000	5,000	5,000	0.00%
TELEPHONE	88	88	-	352	352	0	1,056	704	33.33%
CONFERENCE CALLS	13	-	13	50	-	50	151	151	0.00%
TOTAL DIRECT EXPENSES:	6,441	1,348	5,093	31,066	22,010	9,056	82,597	60,587	26.65%
INDIRECT EXPENSES:									
SALARY EXPENSE (5.17 FTE)	30,633	34,018	(3,385)	122,533	114,888	7,645	367,597	252,709	31.25%
BENEFITS EXPENSE	10,278	11,486	(1,208)	41,715	42,058	(343)	124,727	82,669	33.72%
OTHER INDIRECT EXPENSE	12,260	9,728	2,533	50,487	42,831	7,656	151,382	108,551	28.29%
TOTAL INDIRECT EXPENSES:	53,171	55,232	(2,060)	214,735	199,777	14,958	643,706	443,929	31.04%
TOTAL ALL EXPENSES:	59,613	56,580	3,033	245,800	221,787	24,014	726,303	504,516	30.54%
NET INCOME (LOSS):	(59,613)	(56,580)	3,033	(245,800)	(220,674)	25,127	(726,303)	(505,629)	30.38%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
COMMUNICATION FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	12,860	13,951	(1,091)	51,440	51,321	119	154,319	102,998	33.26%
BENEFITS EXPENSE	3,351	3,753	(402)	12,719	12,807	(88)	39,675	26,868	32.28%
OTHER INDIRECT EXPENSE	2,371	1,877	495	9,765	8,264	1,502	29,281	21,017	28.22%
TOTAL INDIRECT EXPENSES:	18,582	19,581	(999)	73,924	72,392	1,532	223,276	150,884	32.42%
NET INCOME (LOSS):	(18,582)	(19,581)	(999)	(73,924)	(72,392)	1,532	(223,276)	(150,884)	32.42%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
CLIENT PROTECTION FUND									
REVENUE:									
CPF RESTITUTION	2,500	1,013	(1,487)	10,000	3,227	(6,773)	30,000	26,773	10.76%
CPF MEMBER ASSESSMENTS	368,071	389,980	21,909	573,174	613,180	40,006	795,753	182,573	77.06%
INTEREST INCOME	375	983	608	1,500	2,816	1,316	4,500	1,684	62.58%
TOTAL REVENUE:	370,946	391,976	21,030	584,674	619,223	34,549	830,253	211,030	74.58%
DIRECT EXPENSES:									
BANK FEES - WELLS FARGO	180	179	1	720	627	93	2,160	1,533	29.04%
GIFTS TO INJURED CLIENTS	10,000	-	10,000	40,000	(30,484)	70,484	500,000	530,484	-6.10%
CPF BOARD EXPENSES	-	-	-	90	73	16	1,500	1,427	4.89%
STAFF MEMBERSHIP DUES	17	-	17	67	-	67	200	200	0.00%
TOTAL DIRECT EXPENSES:	10,197	179	10,018	40,876	(29,784)	70,660	503,860	533,644	-5.91%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.23 FTE)	7,333	10,054	(2,721)	29,333	31,306	(1,973)	88,000	56,693	35.58%
BENEFITS EXPENSE	2,712	2,984	(272)	10,917	10,907	10	32,800	21,893	33.25%
OTHER INDIRECT EXPENSE	2,917	2,326	591	12,011	10,242	1,769	36,015	25,773	28.44%
TOTAL INDIRECT EXPENSES:	12,962	15,364	(2,402)	52,262	52,456	(194)	156,815	104,359	33.45%
TOTAL ALL EXPENSES:	23,159	15,543	7,616	93,138	22,672	70,467	660,675	638,003	3.43%
NET INCOME (LOSS):	347,787	376,433	28,646	491,536	596,552	105,016	169,578	(426,973)	351.79%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
DESKBOOKS									
REVENUE:									
LEXIS/NEXIS ROYALTIES	2,633	-	(2,633)	10,533	-	(10,533)	31,600	31,600	0.00%
DESKBOOK SALES	6,833	-	(6,833)	27,333	-	(27,333)	82,000	82,000	0.00%
SECTION PUBLICATION SALES	750	-	(750)	3,000	-	(3,000)	9,000	9,000	0.00%
CASEMAKER ROYALTIES	3,750	14,696	10,946	15,000	18,397	3,397	45,000	26,603	40.88%
TOTAL REVENUE:	13,967	14,696	729	55,867	18,397	(37,469)	167,600	149,203	10.98%
DIRECT EXPENSES:									
COST OF SALES - DESKBOOKS	5,333	-	5,333	21,333	-	21,333	64,000	64,000	0.00%
COST OF SALES - SECTION PUBLICATION	167	-	167	667	-	667	2,000	2,000	0.00%
SPLITS TO SECTIONS	263	-	263	1,050	-	1,050	3,150	3,150	0.00%
STAFF CONFERENCE & TRAINING	29	-	29	117	-	117	350	350	0.00%
DESKBOOK ROYALTIES	17	-	17	67	45	21	200	155	22.67%
ONLINE LEGAL RESEARCH	158	158	(0)	632	470	161	1,895	1,425	24.81%
STAFF MEMBERSHIP DUES	18	-	18	73	-	73	220	220	0.00%
TOTAL DIRECT EXPENSES:	5,985	158	5,826	23,938	516	23,423	71,815	71,299	0.72%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.50 FTE)	10,663	11,966	(1,304)	42,651	42,893	(242)	127,954	85,061	33.52%
BENEFITS EXPENSE	3,218	3,620	(403)	12,980	13,177	(196)	38,951	25,774	33.83%
OTHER INDIRECT EXPENSE	3,557	2,828	729	14,648	12,454	2,194	43,921	31,468	28.35%
TOTAL INDIRECT EXPENSES:	17,438	18,415	(977)	70,280	68,523	1,756	210,826	142,303	32.50%
TOTAL ALL EXPENSES:	23,422	18,573	4,849	94,218	69,039	25,179	282,641	213,602	24.43%
NET INCOME (LOSS):	(9,456)	(3,877)	5,579	(38,351)	(50,641)	(12,290)	(115,041)	(64,400)	44.02%

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DISCIPLINE									
REVENUE:									
COPY FEES	-	-	-	-	36	36	-	(36)	
AUDIT REVENUE	156	149	(8)	626	149	(477)	1,877	1,728	7.92%
RECOVERY OF DISCIPLINE COSTS	7,083	9,197	2,113	28,333	36,119	7,786	85,000	48,881	42.49%
DISCIPLINE HISTORY SUMMARY	1,250	2,130	1,797	5,000	6,325	1,325	15,000	8,675	42.17%
PRACTICE MONITOR FEES	333	-	-	1,333	-	(1,333)	4,000	4,000	0.00%
TOTAL REVENUE:	8,823	11,475	3,902	35,292	42,629	7,337	105,877	63,248	40.26%
DIRECT EXPENSES:									
PUBLICATIONS PRODUCTION	21	-	21	83	-	83	250	250	0.00%
STAFF TRAVEL/PARKING	2,333	1,010	1,323	9,333	5,201	4,132	28,000	22,799	18.58%
STAFF MEMBERSHIP DUES	429	-	429	1,715	3,070	(1,355)	5,145	2,075	59.67%
TELEPHONE	213	165	48	850	659	191	2,550	1,891	25.84%
COURT REPORTERS	2,604	12,013	(9,409)	10,417	17,691	(7,274)	31,250	13,559	56.61%
OUTSIDE COUNSEL/AIC	167	-	167	667	-	667	2,000	2,000	0.00%
LITIGATION EXPENSES	2,188	764	1,423	8,750	3,226	5,524	26,250	23,024	12.29%
DISABILITY EXPENSES	750	-	750	3,000	-	3,000	9,000	9,000	0.00%
ONLINE LEGAL RESEARCH	4,600	4,582	18	18,400	13,627	4,773	55,201	41,574	24.69%
LAW LIBRARY	300	47	254	1,202	3,264	(2,062)	3,606	342	90.51%
TRANSLATION SERVICES	75	-	75	300	190	110	900	710	21.11%
DEPARTMENT/STAFF DEVELOPMENT	-	96	(96)	-	96	(96)	-	(96)	
STAFF TRAINING	3,314	1,750	1,564	13,256	2,008	11,248	48,569	46,561	4.13%
PRACTICE MONITOR EXPENSE	333	-	333	1,333	-	1,333	4,000	4,000	0.00%
TOTAL DIRECT EXPENSES:	17,327	20,426	(3,100)	69,307	49,032	20,275	216,721	167,689	22.62%
INDIRECT EXPENSES:									
SALARY EXPENSE (37.00 FTE)	303,931	325,341	(21,410)	1,211,046	1,198,512	12,534	3,658,487	2,459,974	32.76%
BENEFITS EXPENSE	87,818	98,418	(10,600)	346,281	351,318	(5,036)	1,054,328	703,010	33.32%
OTHER INDIRECT EXPENSE	87,151	69,232	17,919	357,926	304,822	53,103	1,075,119	770,296	28.35%
TOTAL INDIRECT EXPENSES:	478,900	492,991	(14,091)	1,915,253	1,854,653	60,600	5,787,933	3,933,281	32.04%
TOTAL ALL EXPENSES:	496,227	513,417	(17,191)	1,984,560	1,903,685	80,875	6,004,654	4,100,969	31.70%
NET INCOME (LOSS):	(487,404)	(501,942)	(14,538)	(1,949,267)	(1,861,055)	88,212	(5,898,777)	(4,037,722)	31.55%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
DIVERSITY									
REVENUE:									
DONATIONS	-	135,000	135,000	135,000	135,000	-	135,000	-	100.00%
WORK STUDY GRANTS	865	-	(865)	3,458	-	(3,458)	10,374	10,374	0.00%
TOTAL REVENUE:	865	135,000	134,136	138,458	135,000	(3,458)	145,374	10,374	92.86%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	-	-	-	4,000	-	4,000	4,000	4,000	0.00%
STAFF MEMBERSHIP DUES	-	-	-	640	-	640	640	640	0.00%
SURVEYS	-	-	-	50,100	-	50,100	50,100	50,100	0.00%
COMMITTEE FOR DIVERSITY	500	160	340	2,000	160	1,840	6,000	5,840	2.67%
DIVERSITY EVENTS & PROJECTS	1,500	528	972	6,000	1,281	4,719	18,000	16,719	7.12%
STAFF TRAINING	1,283	-	1,283	4,733	562	4,172	5,400	4,838	10.40%
CONSULTING SERVICES	5,531	1,650	3,881	22,125	1,650	20,475	66,375	64,725	2.49%
TOTAL DIRECT EXPENSES:	8,815	2,338	6,476	89,598	3,653	85,945	150,515	146,862	2.43%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.40 FTE)	13,953	13,981	(28)	55,812	54,413	1,399	167,436	113,024	32.50%
BENEFITS EXPENSE	4,153	4,748	(595)	16,894	17,210	(316)	50,486	33,277	34.09%
OTHER INDIRECT EXPENSE	5,691	4,520	1,171	23,437	19,902	3,534	70,274	50,372	28.32%
TOTAL INDIRECT EXPENSES:	23,798	23,250	548	96,143	91,525	4,617	288,197	196,672	31.76%
TOTAL ALL EXPENSES:	32,612	25,588	7,025	185,741	95,178	90,563	438,712	343,534	21.69%
NET INCOME (LOSS):	(31,748)	109,412	141,160	(47,283)	39,822	87,105	(293,338)	(333,160)	-13.58%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
EJD FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.01 FTE)	11,860	13,399	(1,539)	47,441	47,944	(503)	142,324	94,379	33.69%
BENEFITS EXPENSE	3,107	3,578	(471)	12,394	13,219	(825)	37,253	24,034	35.48%
OTHER INDIRECT EXPENSE	143	1,903	(1,761)	571	8,380	(7,809)	1,735	(6,645)	482.99%
TOTAL INDIRECT EXPENSES:	15,110	18,881	(3,771)	60,406	69,543	(9,138)	181,312	111,768	38.36%
NET INCOME (LOSS):	(15,110)	(18,881)	(3,771)	(60,406)	(69,543)	(9,138)	(181,312)	(111,768)	38.36%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
FOUNDATION									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
CONSULTING SERVICES	-	-	-	-	-	-	3,000	3,000	0.00%
PRINTING & COPYING	35	-	35	147	-	147	450	450	0.00%
STAFF TRAVEL/PARKING	-	-	-	-	-	-	100	100	0.00%
SUPPLIES	-	-	-	-	-	-	150	150	0.00%
BOARD OF TRUSTEES	-	-	-	-	590	(590)	1,000	410	58.97%
POSTAGE	-	-	-	-	-	-	300	300	0.00%
TOTAL DIRECT EXPENSES:	35	-	35	147	590	(443)	5,000	4,410	11.79%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.00 FTE)	6,660	7,502	(841)	26,642	26,814	(172)	79,925	53,111	33.55%
BENEFITS EXPENSE	1,183	1,500	(318)	4,847	5,233	(386)	14,461	9,228	36.19%
OTHER INDIRECT EXPENSE	2,371	1,877	495	9,765	8,264	1,502	29,281	21,017	28.22%
TOTAL INDIRECT EXPENSES:	10,215	10,879	(664)	41,254	40,311	944	123,667	83,356	32.60%
TOTAL ALL EXPENSES:	10,249	10,879	(630)	41,401	40,900	501	128,667	87,766	31.79%
NET INCOME (LOSS):	(10,249)	(10,879)	(630)	(41,401)	(40,900)	501	(128,667)	(87,766)	31.79%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
HUMAN RESOURCES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	83	-	83	333	-	333	1,000	1,000	0.00%
STAFF MEMBERSHIP DUES	83	-	83	333	219	114	1,000	781	21.90%
SUBSCRIPTIONS	292	-	292	1,167	-	1,167	3,500	3,500	0.00%
STAFF TRAINING- GENERAL	1,667	585	1,082	6,667	585	6,082	20,000	19,415	2.93%
RECRUITING AND ADVERTISING	250	226	24	1,000	466	534	3,000	2,534	15.52%
PAYROLL PROCESSING	4,167	4,231	(65)	16,667	19,205	(2,538)	50,000	30,795	38.41%
SALARY SURVEYS	250	-	250	1,000	-	1,000	3,000	3,000	0.00%
CONSULTING SERVICES	-	1,275	(1,275)	-	1,275	(1,275)	-	(1,275)	
CONFERENCE CALLS	-	-	-	-	-	-	20	20	0.00%
TRANSFER TO INDIRECT EXPENSE	(6,792)	(6,317)	(475)	(27,167)	(21,749)	(5,417)	(81,520)	(59,771)	26.68%
TOTAL DIRECT EXPENSES:	-	-	(0.00)	0	-	0	-	-	
INDIRECT EXPENSES:									
SALARY EXPENSE (3.00 FTE)	22,948	24,972	(2,024)	91,793	91,974	(181)	275,378	183,404	33.40%
BENEFITS EXPENSE	8,379	9,110	(731)	33,866	33,905	(40)	101,354	67,449	33.45%
OTHER INDIRECT EXPENSE	6,691	5,657	1,034	27,601	24,907	2,694	82,689	57,782	30.12%
TOTAL INDIRECT EXPENSES:	38,018	39,739	(1,721)	153,260	150,786	2,473	459,421	308,635	32.82%
TOTAL ALL EXPENSES:	38,018	39,739	(1,721)	153,260	150,786	2,473	459,421	308,635	32.82%
NET INCOME (LOSS):	(38,018)	(39,739)	(1,721)	(153,260)	(150,786)	2,473	(459,421)	(308,635)	32.82%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LEGISLATIVE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	392	-	392	1,567	-	1,567	4,700	4,700	0.00%
STAFF MEMBERSHIP DUES	-	-	-	450	-	450	450	450	0.00%
SUBSCRIPTIONS	-	1,985	(1,985)	2,000	1,985	16	2,000	16	99.23%
OLYMPIA RENT	-	-	-	2,500	-	2,500	2,500	2,500	0.00%
CONTRACT LOBBYIST	5,000	2,000	3,000	10,000	2,000	8,000	10,000	8,000	20.00%
LOBBYIST CONTACT COSTS	83	-	83	333	-	333	1,000	1,000	0.00%
LEGISLATIVE COMMITTEE	-	-	-	2,500	-	2,500	2,500	2,500	0.00%
JUD RECOMMEND COMMITTEE	-	-	-	-	-	-	4,500	4,500	0.00%
BOG LEGISLATIVE COMMITTEE	100	-	100	100	-	100	300	300	0.00%
STAFF TRAINING	167	-	167	667	-	667	2,000	2,000	0.00%
TOTAL DIRECT EXPENSES:	5,742	3,985	1,757	20,117	3,985	16,132	29,950	25,966	13.30%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.70 FTE)	11,706	13,311	(1,605)	46,826	44,482	2,344	140,478	95,995	31.67%
BENEFITS EXPENSE	4,273	4,670	(397)	17,289	17,312	(23)	51,730	34,418	33.47%
OTHER INDIRECT EXPENSE	4,031	3,199	833	16,601	14,083	2,518	49,777	35,694	28.29%
TOTAL INDIRECT EXPENSES:	20,011	21,179	(1,169)	80,716	75,877	4,839	241,985	166,108	31.36%
TOTAL ALL EXPENSES:	25,752	25,164	589	100,833	79,862	20,971	271,935	192,074	29.37%
NET INCOME (LOSS):	(25,752)	(25,164)	589	(100,833)	(79,862)	20,971	(271,935)	(192,074)	29.37%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LICENSING & MEMBERSHIP RECORDS									
REVENUE:									
STATUS CERTIFICATE FEES	3,624	2,950	(674)	11,340	9,101	(2,239)	26,300	17,199	34.60%
INVESTIGATION FEES	2,551	1,900	(651)	7,841	7,200	(641)	22,400	15,200	32.14%
PRO HAC VICE	27,083	53,586	26,503	108,333	145,644	37,311	325,000	179,356	44.81%
MEMBER CONTACT INFORMATION	350	-	(350)	1,400	325	(1,075)	4,200	3,875	7.74%
PHOTO BAR CARD SALES	23	12	(11)	93	60	(33)	280	220	21.43%
TOTAL REVENUE:	33,631	58,448	24,817	129,007	162,330	33,323	378,180	215,850	42.92%
DIRECT EXPENSES:									
DEPRECIATION	96	-	96	384	-	384	384	384	0.00%
POSTAGE	-	373	(373)	7,000	7,641	(641)	17,000	9,359	44.95%
LICENSING FORMS	-	-	-	1,900	1,977	(77)	1,900	(77)	104.07%
TOTAL DIRECT EXPENSES:	96	373	(277)	9,284	9,618	(335)	19,284	9,666	49.88%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.83 FTE)	32,380	36,148	(3,768)	122,959	122,837	123	360,838	238,001	34.04%
BENEFITS EXPENSE	9,431	10,445	(1,014)	38,157	38,561	(404)	114,188	75,627	33.77%
OTHER INDIRECT EXPENSE	9,071	7,217	1,854	37,352	31,774	5,578	111,999	80,225	28.37%
TOTAL INDIRECT EXPENSES:	50,882	53,810	(2,928)	198,469	193,172	5,297	587,026	393,854	32.91%
TOTAL ALL EXPENSES:	50,978	54,182	(3,205)	207,753	202,790	4,962	606,309	403,519	33.45%
NET INCOME (LOSS):	(17,347)	4,266	21,612	(78,746)	(40,460)	38,285	(228,129)	(187,669)	17.74%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LEGAL LUNCHBOX									
REVENUE:									
SPONSORSHIPS	666.67	-	(666.67)	2,666.68	-	(2,666.68)	8,000.00	8,000.00	0.00%
MP3 SALES	385	784	399	1,540	6,566	5,026	4,620	(1,946)	142.12%
DIGITAL VIDEO SALES	782	2,989	2,207	3,127	22,197	19,070	9,380	(12,817)	236.64%
TOTAL REVENUE:	1,833	3,773	1,940	7,333	28,763	21,430	22,000	(6,763)	130.74%
DIRECT EXPENSES:									
SPEAKERS & PROGRAM DEVELOP	125	-	125	500	-	500	1,500	1,500	33.33%
CONFERENCE CALLS	17	-	17	67	-	67	200	200	33.34%
TOTAL DIRECT EXPENSES:	142	-	142	567	-	567	1,700	1,700	33.33%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.43 FTE)	2,362	2,555	(193)	9,447	7,378	2,069	28,341	20,963	26.03%
BENEFITS EXPENSE	821	917	(95)	3,334	3,352	(17)	9,968	6,617	33.62%
OTHER INDIRECT EXPENSE	1,010	793	217	4,160	3,492	668	12,474	8,982	27.99%
TOTAL INDIRECT EXPENSES:	4,193	4,265	(72)	16,941	14,222	2,720	50,783	36,561	28.00%
TOTAL ALL EXPENSES:	4,335	4,265	70	17,508	14,222	3,286	52,483	38,261	27.10%
NET INCOME (LOSS):	(2,501)	(492)	2,010	(10,175)	14,541	24,716	(30,483)	(45,024)	-47.70%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM									
REVENUE:									
LLLT LICENSE FEES	1,342	1,177	(165)	3,715	4,412	697	14,449	10,037	30.53%
LLLT LATE LICENSE FEES	-	-	-	412	-	(412)	1,412	1,412	0.00%
LLLT EXAM FEES	900	500	(400)	14,100	3,850	(10,250)	14,100	10,250	27.30%
TOTAL REVENUE:	2,242	1,677	(565)	18,227	8,262	(9,965)	29,961	21,699	27.58%
DIRECT EXPENSES:									
LLLT BOARD	3,500	-	3,500	7,000	1,449	5,551	21,000	19,551	6.90%
LLLT EXAM WRITING	4,500	-	4,500	4,500	-	4,500	9,000	9,000	0.00%
TOTAL DIRECT EXPENSES:	8,000	-	8,000	11,500	1,449	10,051	30,000	28,551	4.83%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.48 FTE)	3,339	3,624	(284)	13,357	13,381	(24)	40,070	26,689	33.39%
BENEFITS EXPENSE	1,141	1,259	(118)	4,605	4,631	(26)	13,804	9,173	33.55%
OTHER INDIRECT EXPENSE	1,126	899	228	4,639	3,957	681	13,908	9,951	28.45%
TOTAL INDIRECT EXPENSES:	5,606	5,781	(175)	22,601	21,969	631	67,783	45,814	32.41%
TOTAL ALL EXPENSES:	13,606	5,781	7,825	34,101	23,419	10,682	97,783	74,364	23.95%
NET INCOME (LOSS):	(11,365)	(4,104)	7,260	(15,874)	(15,157)	717	(67,822)	(52,665)	22.35%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
LIMITED PRACTICE OFFICERS									
REVENUE:									
INVESTIGATION FEES	151	-	(151)	151	-	(151)	551	551	0.00%
MEMBER LATE FEES	-	1,200	1,200	-	1,200	1,200	-	(1,200)	
LPO EXAMINATION FEES	-	(850)	(850)	14,000	19,850	5,850	28,000	8,150	70.89%
LPO LICENSE FEES	14,769	12,700	(2,069)	55,924	54,427	(1,498)	174,077	119,651	31.27%
LPO LATE LICENSE FEES	-	-	-	-	-	-	5,100	5,100	0.00%
LPO LICENSE FEES - REINSTATES	83	-	(83)	333	-	(333)	1,000	1,000	0.00%
TOTAL REVENUE:	15,003	13,050	(1,953)	70,408	75,477	5,068	208,728	133,252	36.16%
DIRECT EXPENSES:									
FACILITY, PARKING, FOOD	-	-	-	-	-	-	9,000	9,000	0.00%
EXAM WRITING	-	-	-	-	-	-	8,400	8,400	0.00%
ONLINE LEGAL RESEARCH	209	158	51	209	470	(261)	1,895	1,425	24.81%
LAW LIBRARY	252	282	(30)	252	1,114	(862)	3,840	2,726	29.01%
LPO BOARD	500	-	500	1,000	-	1,000	3,000	3,000	0.00%
LPO OUTREACH	417	-	417	1,667	-	1,667	5,000	5,000	0.00%
PRINTING & COPYING	100	-	100	100	-	100	200	200	0.00%
TOTAL DIRECT EXPENSES:	1,478	440	1,038	3,228	1,584	1,644	31,335	29,751	5.05%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.73 FTE)	4,510	5,046	(535)	18,041	18,228	(188)	54,122	35,894	33.68%
BENEFITS EXPENSE	1,588	1,756	(169)	6,422	6,447	(25)	19,232	12,786	33.52%
OTHER INDIRECT EXPENSE	1,719	1,375	345	7,080	6,052	1,028	21,229	15,176	28.51%
TOTAL INDIRECT EXPENSES:	7,817	8,176	(359)	31,542	30,727	815	94,583	63,856	32.49%
TOTAL ALL EXPENSES:	9,295	8,616	679	34,770	32,311	2,459	125,917	93,606	25.66%
NET INCOME (LOSS):	5,708	4,434	(1,275)	35,638	43,166	7,527	82,811	39,645	52.13%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
MEMBER WELLNESS PROGRAM									
REVENUE:									
DIVERSIONS	583	1,125	542	2,333	2,625	292	7,000	4,375	37.50%
TOTAL REVENUE:	583	1,125	542	2,333	2,625	292	7,000	4,375	37.50%
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	42	-	42	167	-	167	500	500	0.00%
PROF LIAB INSURANCE	455	825	(370)	1,821	825	996	5,462	4,637	15.10%
WSBA CONNECTS	83	-	83	8,333	8,110	223	9,000	890	90.11%
STAFF TRAINING	-	-	-	-	165	(165)	-	(165)	
SUBSCRIPTIONS	-	100	(100)	-	300	(300)	-	(300)	
TOTAL DIRECT EXPENSES:	580	925	(345)	10,321	9,400	921	14,962	5,562	62.82%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.48 FTE)	10,174	5,451	4,723	40,695	37,673	3,022	122,085	84,412	30.86%
BENEFITS EXPENSE	4,186	4,498	(312)	16,916	16,795	122	50,630	33,836	33.17%
OTHER INDIRECT EXPENSE	3,515	2,776	739	14,471	12,221	2,250	43,389	31,168	28.17%
TOTAL INDIRECT EXPENSES:	17,874	12,725	5,150	72,082	66,688	5,394	216,105	149,417	30.86%
TOTAL ALL EXPENSES:	18,455	13,650	4,805	82,403	76,088	6,315	231,067	154,979	32.93%
NET INCOME (LOSS):	(17,871)	(12,525)	5,347	(80,070)	(73,463)	6,607	(224,067)	(150,604)	32.79%

Washington State Bar Association
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For the Period from January 1, 2022 to January 31, 2022

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
MANDATORY CONTINUING LEGAL EDUCATION									
REVENUE:									
ACCREDITED PROGRAM FEES	42,765	40,600	(2,165)	171,061	215,600	44,539	515,000	299,400	41.86%
FORM 1 LATE FEES	18,333	15,350	(2,983)	73,333	86,550	13,217	220,000	133,450	39.34%
MEMBER LATE FEES	36,000	99,150	63,150	38,000	99,600	61,600	300,000	200,400	33.20%
ANNUAL ACCREDITED SPONSOR FEES	39,250	-	(39,250)	39,250	39,250	-	39,250	-	100.00%
ATTENDANCE LATE FEES	8,087	12,550	4,463	32,347	55,800	23,453	95,000	39,200	58.74%
COMITY CERTIFICATES	5,550	16,300	10,750	16,425	36,925	20,500	40,500	3,575	91.17%
TOTAL REVENUE:	149,985	183,950	33,965	370,416	533,725	163,309	1,209,750	676,025	44.12%
DIRECT EXPENSES:									
DEPRECIATION	1,703	1,705	(2)	10,639	10,828	(189)	24,263	13,435	44.63%
STAFF MEMBERSHIP DUES	-	-	-	-	500	(500)	500	-	100.00%
ONLINE LEGAL RESEARCH	251	158	93	251	470	(219)	1,895	1,425	24.81%
LAW LIBRARY	21	12	10	21	46	(24)	158	112	29.00%
MCLE BOARD	650	-	650	1,300	-	1,300	3,250	3,250	0.00%
STAFF TRAVEL/PARKING	4	-	4	17	-	17	50	50	0.00%
STAFF TRAINING	-	-	-	-	-	-	5,550	5,550	0.00%
TOTAL DIRECT EXPENSES:	2,630	1,875	755	12,229	11,843	385	35,666	23,822	33.21%
INDIRECT EXPENSES:									
SALARY EXPENSE (4.88 FTE)	44,874	47,097	(2,223)	181,417	167,589	13,828	399,930	232,342	41.90%
BENEFITS EXPENSE	9,372	10,412	(1,040)	38,042	38,109	(68)	113,757	75,647	33.50%
OTHER INDIRECT EXPENSE	11,561	9,173	2,388	47,606	40,387	7,219	142,744	102,357	28.29%
TOTAL INDIRECT EXPENSES:	65,807	66,682	(875)	267,065	246,085	20,980	656,431	410,346	37.49%
TOTAL ALL EXPENSES:	68,437	68,557	(120)	279,293	257,928	21,365	692,097	434,168	37.27%
NET INCOME (LOSS):	81,549	115,393	33,844	91,123	275,797	184,673	517,653	241,857	53.28%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
MINI CLE									
INDIRECT EXPENSES:									
SALARY EXPENSE (0.91 FTE)	5,282	5,851	(568)	21,130	16,646	4,484	63,389	46,743	26.26%
BENEFITS EXPENSE	1,786	1,996	(211)	7,248	7,305	(57)	21,671	14,366	33.71%
OTHER INDIRECT EXPENSE	2,158	1,718	440	8,887	7,565	1,321	26,646	19,080	28.39%
TOTAL INDIRECT EXPENSES:	9,226	9,565	(340)	37,264	31,517	5,748	111,706	80,189	28.21%
NET INCOME (LOSS):	(9,226)	(9,565)	(339)	(37,264)	(31,517)	5,748	(111,706)	(80,189)	28.21%

Washington State Bar Association

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For the Period from January 1, 2022 to January 31, 2022

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
MEMBER SERVICES & ENGAGEMENT									
REVENUE:									
ROYALTIES	900	1,390	490	3,600	19,365	15,765	10,800	(8,565)	179.31%
TOTAL REVENUE:	900	1,390	490	3,600	19,365	15,765	10,800	(8,565)	179.31%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	167	-	167	333	18	315	1,000	982	1.80%
SURVEYS	-	-	-	300	-	300	300	300	0.00%
STAFF CONFERENCE & TRAINING	33	-	33	133	-	133	400	400	0.00%
SMALL TOWN AND RURAL COMMITTEE	167	-	167	667	-	667	2,000	2,000	0.00%
YLL SECTION PROGRAM	-	-	-	750	-	750	1,500	1,500	0.00%
WYLC OUTREACH EVENTS	125	-	125	500	-	500	1,500	1,500	0.00%
WYL COMMITTEE	750	-	750	1,500	39	1,461	7,500	7,461	0.52%
TRIAL ADVOCACY EXPENSES	-	-	-	750	-	750	3,500	3,500	0.00%
RECEPTION/FORUM EXPENSE	1,500	-	1,500	1,500	-	1,500	3,000	3,000	0.00%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	417	-	417	1,667	-	1,667	5,000	5,000	0.00%
STAFF MEMBERSHIP DUES	71	-	71	283	-	283	850	850	0.00%
LENDING LIBRARY	500	10	490	2,000	156	1,844	6,000	5,844	2.60%
TOTAL DIRECT EXPENSES:	3,729	10	3,719	10,383	213	10,170	32,550	32,337	0.65%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.46 FTE)	19,803	21,621	(1,818)	79,212	78,999	213	237,634	158,635	33.24%
BENEFITS EXPENSE	5,975	6,820	(845)	24,305	24,729	(424)	72,634	47,906	34.05%
OTHER INDIRECT EXPENSE	8,196	6,503	1,693	33,749	28,632	5,118	101,195	72,563	28.29%
TOTAL INDIRECT EXPENSES:	33,974	34,943	(969)	137,265	132,359	4,906	411,463	279,104	32.17%
TOTAL ALL EXPENSES:	37,703	34,953	2,750	147,648	132,572	15,077	444,013	311,441	29.86%
NET INCOME (LOSS):	(36,803)	(33,563)	3,240	(144,048)	(113,206)	30,842	(433,213)	(320,007)	26.13%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
MEMBER SERVICES & ENGAGEMENT (COMBINED)									
REVENUE:									
ROYALTIES	900	1,390	490	3,600	19,365	15,765	10,800	(8,565)	179.31%
MP3 SALES	385	784	399	1,540	6,566	5,026	4,620	(1,946)	142.12%
DIGITAL VIDEO SALES	782	2,989	2,207	3,127	22,197	19,070	9,380	(12,817)	236.64%
NMP PRODUCT SALES	6,667	7,319	652	26,667	32,519	5,852	80,000	47,481	40.65%
SPONSORSHIPS	667	-	(667)	2,667	-	(2,667)	8,000	8,000	0.00%
SEMINAR REGISTRATIONS	5,500	-	(5,500)	5,500	-	(5,500)	16,500	16,500	0.00%
TRIAL ADVOCACY PROGRAM	-	-	-	-	-	-	15,000	15,000	0.00%
TOTAL REVENUE:	14,900	12,482	(2,418)	43,100	80,647	37,547	144,300	63,653	55.89%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	167	-	167	333	18	315	1,000	982	1.80%
SURVEYS	-	-	-	300	-	300	300	300	0.00%
STAFF CONFERENCE & TRAINING	33	-	33	133	-	133	400	400	0.00%
SMALL TOWN AND RURAL COMMITTEE	167	-	167	667	-	667	2,000	2,000	0.00%
CONFERENCE CALLS	17	-	17	67	-	67	200	200	0.00%
YLL SECTION PROGRAM	-	-	-	750	-	750	1,500	1,500	0.00%
WYLC OUTREACH EVENTS	125	-	125	500	-	500	1,500	1,500	0.00%
WYL COMMITTEE	750	-	750	1,500	39	1,461	7,500	7,461	0.52%
TRIAL ADVOCACY EXPENSES	-	-	-	1,500	-	1,500	7,000	7,000	0.00%
RECEPTION/FORUM EXPENSE	1,500	-	1,500	1,500	-	1,500	3,000	3,000	0.00%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	417	-	417	1,667	-	1,667	5,000	5,000	0.00%
STAFF MEMBERSHIP DUES	71	-	71	283	-	283	850	850	0.00%
LENDING LIBRARY	500	10	490	2,000	156	1,844	6,000	5,844	2.60%
NMP SPEAKERS & PROGRAM DEVELOPMEN	167	-	167	667	-	667	2,000	2,000	0.00%
TOTAL DIRECT EXPENSES:	3,912	10	3,902	11,866	213	11,654	38,250	38,037	0.56%
INDIRECT EXPENSES:									
SALARY EXPENSE (3.46 FTE)	31,917	34,909	(2,992)	127,669	117,895	9,774	383,007	265,112	30.78%
BENEFITS EXPENSE	10,048	11,383	(1,335)	40,844	41,406	(563)	122,081	80,674	33.92%
OTHER INDIRECT EXPENSE	13,214	10,494	2,719	54,413	46,206	8,206	163,153	116,946	28.32%
TOTAL INDIRECT EXPENSES:	55,179	56,787	(1,608)	222,926	205,508	17,418	668,240	462,732	30.75%
TOTAL ALL EXPENSES:	59,092	56,797	2,294	234,792	205,721	29,071	706,490	500,770	29.12%
NET INCOME (LOSS):	(44,192)	(44,315)	(123)	(191,692)	(125,073)	66,619	(562,190)	(437,117)	22.25%

Washington State Bar Association
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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
NEW MEMBER EDUCATION									
REVENUE:									
NMP PRODUCT SALES	6,667	7,319	652	26,667	32,519	5,852	80,000	47,481	40.65%
SEMINAR REGISTRATIONS	5,500	-	(5,500)	5,500	-	(5,500)	16,500	16,500	0.00%
TRIAL ADVOCACY PROGRAM	-	-	-	-	-	-	15,000	15,000	0.00%
TOTAL REVENUE:	12,167	7,319	(4,848)	32,167	32,519	352	111,500	78,981	29.17%
DIRECT EXPENSES:									
TRIAL ADVOCACY EXPENSES	-	-	-	750	-	750	3,500	3,500	0.00%
SPEAKERS & PROGRAM DEVELOPMENT	167	-	167	667	-	667	2,000	2,000	0.00%
TOTAL DIRECT EXPENSES:	167	-	167	1,417	-	1,417	5,500	5,500	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.78 FTE)	4,470	4,883	(413)	17,881	14,872	3,009	53,643	38,770	27.72%
BENEFITS EXPENSE	1,466	1,650	(184)	5,957	6,020	(64)	17,807	11,786	33.81%
OTHER INDIRECT EXPENSE	1,850	1,480	369	7,617	6,518	1,099	22,839	16,321	28.54%
TOTAL INDIRECT EXPENSES:	7,786	8,014	(227)	31,455	27,411	4,044	94,289	66,878	29.07%
TOTAL ALL EXPENSES:	7,953	8,014	(61)	32,871	27,411	5,461	99,789	72,378	27.47%
NET INCOME (LOSS):	4,214	(695)	(4,908)	(705)	5,108	5,813	11,711	6,603	43.62%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
OFFICE OF THE EXECUTIVE DIRECTOR									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
LEADERSHIP TRAINING	1,667	-	1,667	6,667	-	6,667	20,000	20,000	0.00%
WASHINGTON LEADERSHIP INSTITUTE	6,667	-	6,667	26,667	-	26,667	80,000	80,000	0.00%
ED TRAVEL & OUTREACH	-	-	-	-	601	(601)	5,000	4,399	12.02%
LAW LIBRARY	-	12	(12)	-	46	(46)	-	(46)	
STAFF TRAVEL/PARKING	167	(3)	170	667	18	649	2,000	1,982	0.90%
STAFF TRAINING	417	-	417	1,667	717	950	5,000	4,283	14.33%
STAFF MEMBERSHIP DUES	-	-	-	1,111	603	508	1,111	508	54.31%
SURVEY	-	-	-	300	-	300	300	300	0.00%
TOTAL DIRECT EXPENSES:	8,917	8	8,908	37,078	1,985	35,093	113,411	111,426	1.75%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.00 FTE)	27,983	39,392	(11,409)	111,931	120,722	(8,791)	335,791	215,069	35.95%
BENEFITS EXPENSE	7,681	8,505	(824)	27,439	27,277	161	87,436	60,158	31.20%
OTHER INDIRECT EXPENSE	4,743	3,780	963	19,531	16,644	2,887	58,562	41,918	28.42%
TOTAL INDIRECT EXPENSES:	40,406	51,677	(11,271)	158,900	164,643	(5,743)	481,789	317,146	34.17%
TOTAL ALL EXPENSES:	49,323	51,685	(2,362)	195,978	166,628	29,350	595,200	428,572	28.00%
NET INCOME (LOSS):	(49,323)	(51,685)	(2,362)	(195,978)	(166,628)	29,350	(595,200)	(428,572)	28.00%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
OFFICE OF GENERAL COUNSEL									
REVENUE:									
RECORDS REQUEST FEES	-	-	-	-	3	3	-	(3)	
TOTAL REVENUE:	-	-	-	-	3	3	-	(3)	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	83	-	83	333	74	259	1,000	926	7.40%
STAFF MEMBERSHIP DUES	-	229	(229)	1,500	254	1,246	1,500	1,246	16.94%
ONLINE LEGAL RESEARCH	947	950	(2)	3,790	2,821	969	11,369	8,548	24.81%
LAW LIBRARY	208	23	184	830	1,693	(862)	1,868	176	90.61%
COURT RULES COMMITTEE	-	-	-	-	0.10	(0.10)	-	(0.10)	
CUSTODIANSHIPS	1,000	-	1,000	4,000	150	3,850	12,000	11,850	1.25%
LITIGATION EXPENSES	17	-	17	67	-	67	200	200	0.00%
STAFF TRAINING	-	-	-	-	95	(95)	3,400	3,305	2.79%
TOTAL DIRECT EXPENSES:	2,255	1,202	1,053	10,520	5,087	5,433	31,337	26,250	16.23%
INDIRECT EXPENSES:									
SALARY EXPENSE (6.09 FTE)	50,679	56,462	(5,783)	202,718	204,848	(2,130)	608,154	403,305	33.68%
BENEFITS EXPENSE	14,856	16,645	(1,789)	58,324	58,986	(662)	178,104	119,118	33.12%
OTHER INDIRECT EXPENSE	14,452	11,473	2,980	59,512	50,513	8,999	178,443	127,931	28.31%
TOTAL INDIRECT EXPENSES:	79,988	84,580	(4,592)	320,554	314,347	6,207	964,701	650,354	32.58%
TOTAL ALL EXPENSES:	82,243	85,782	(3,539)	331,074	319,434	11,640	996,039	676,604	32.07%
NET INCOME (LOSS):	(82,243)	(85,782)	(3,539)	(331,074)	(319,431)	11,643	(996,039)	(676,608)	32.07%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	-	(229)	229	-	-	-	100	100	0.00%
LAW LIBRARY	79	70	9	318	276	41	953	677	29.00%
DISCIPLINARY BOARD EXPENSES	259	1	259	1,036	1	1,036	3,108	3,108	0.02%
CHIEF HEARING OFFICER	2,750	2,500	250	11,000	10,000	1,000	33,000	23,000	30.30%
HEARING OFFICER EXPENSES	3,583	-	3,583	14,333	75	14,258	43,000	42,925	0.18%
HEARING OFFICER TRAINING	46	-	46	183	-	183	550	550	0.00%
OUTSIDE COUNSEL	4,583	4,000	583	18,333	16,000	2,333	55,000	39,000	29.09%
STAFF TRAINING	-	-	-	-	-	-	1,000	1,000	0.00%
TOTAL DIRECT EXPENSES:	11,301	6,341	4,960	45,204	26,352	18,851	136,711	110,359	19.28%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.30 FTE)	8,106	11,573	(3,466)	32,425	35,070	(2,645)	97,274	62,204	36.05%
BENEFITS EXPENSE	2,501	2,828	(327)	10,034	10,158	(124)	30,240	20,083	33.59%
OTHER INDIRECT EXPENSE	3,083	2,458	624	12,695	10,824	1,871	38,065	27,241	28.44%
TOTAL INDIRECT EXPENSES:	13,690	16,859	(3,169)	55,153	56,052	(899)	165,580	109,528	33.85%
TOTAL ALL EXPENSES:	24,991	23,200	1,791	100,357	82,404	17,953	302,291	219,886	27.26%
NET INCOME (LOSS):	(24,991)	(23,200)	1,791	(100,357)	(82,404)	17,953	(302,291)	(219,886)	27.26%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
PRACTICE OF LAW BOARD									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
PRACTICE OF LAW BOARD	1,000	-	1,000	4,000	-	4,000	12,000	12,000	0.00%
TOTAL DIRECT EXPENSES:	1,000	-	1,000	4,000	-	4,000	12,000	12,000	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.48 FTE)	3,870	4,211	(340)	15,481	15,441	40	46,443	31,002	33.25%
BENEFITS EXPENSE	1,011	1,157	(147)	3,732	3,754	(22)	11,891	8,137	31.57%
OTHER INDIRECT EXPENSE	1,146	899	247	4,720	3,957	762	14,151	10,194	27.96%
TOTAL INDIRECT EXPENSES:	6,027	6,266	(239)	23,932	23,152	781	72,486	49,334	31.94%
TOTAL ALL EXPENSES:	7,027	6,266	761	27,932	23,152	4,781	84,486	61,334	27.40%
NET INCOME (LOSS):	(7,027)	(6,266)	761	(27,932)	(23,152)	4,781	(84,486)	(61,334)	27.40%

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	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
PRACTICE MANAGEMENT ASSISTANCE									
REVENUE:									
ROYALTIES	3,204	-	(3,204)	12,817	226	(12,591)	38,450	38,224	0.59%
TOTAL REVENUE:	3,204	-	(3,204)	12,817	226	(12,591)	38,450	38,224.19	0.59%
DIRECT EXPENSES:									
STAFF MEMBERSHIP DUES	21	-	21	84	-	84	250	250	0.00%
CASEMAKER/FASTCASE	11,417	-	11,417	45,667	-	45,667	137,000	137,000	0.00%
SUBSCRIPTIONS	21	17	4	83	66	17	250	184	26.46%
TOTAL DIRECT EXPENSES:	11,458	17	11,442	45,834	66	45,767	137,500	137,434	0.05%
INDIRECT EXPENSES:									
TOTAL INDIRECT EXPENSES:	-	-	-	-	-	-	-	-	
TOTAL ALL EXPENSES:	11,458	17	11,442	45,834	66	45,767	137,500	137,434	0.05%
NET INCOME (LOSS):	(8,254)	(17)	8,238	(33,017)	160	33,176	(99,050)	(99,210)	-0.16%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
PROFESSIONAL RESPONSIBILITY PROGRAM									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	292	-	292	1,167	-	1,167	3,500	3,500	0.00%
STAFF MEMBERSHIP DUES	-	-	-	214	-	214	375	375	0.00%
LAW LIBRARY	53	47	6	213	185	28	638	453	29.00%
CPE COMMITTEE	-	-	-	27	-	27	3,750	3,750	0.00%
TOTAL DIRECT EXPENSES:	345	47	298	1,620	185	1,436	8,263	8,078	2.24%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.59 FTE)	14,152	16,029	(1,877)	56,610	57,112	(502)	169,829	112,717	33.63%
BENEFITS EXPENSE	4,759	5,200	(441)	19,148	19,271	(123)	57,462	38,192	33.54%
OTHER INDIRECT EXPENSE	3,777	3,014	763	15,551	13,268	2,283	46,630	33,361	28.45%
TOTAL INDIRECT EXPENSES:	22,688	24,243	(1,555)	91,309	89,651	1,658	273,922	184,271	32.73%
TOTAL ALL EXPENSES:	23,033	24,290	(1,257)	92,930	89,836	3,094	282,184	192,349	31.84%
NET INCOME (LOSS):	(23,033)	(24,290)	(1,257)	(92,930)	(89,836)	3,094	(282,184)	(192,349)	31.84%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
PUBLIC SERVICE PROGRAMS									
REVENUE:									
DONATIONS & GRANTS	-	130,000	130,000	130,000	130,000	-	130,000	-	100.00%
TOTAL REVENUE:	-	130,000	130,000	130,000	130,000	-	130,000	-	100.00%
DIRECT EXPENSES:									
DONATIONS/SPONSORSHIPS/GRANTS	-	29,338	(29,338)	-	29,338	(29,338)	250,280	220,942	11.72%
STAFF TRAVEL/PARKING	225	-	225	900	-	900	2,700	2,700	0.00%
PRO BONO & PUBLIC SERVICE COMMITTEE	-	-	-	37	-	37	2,000	2,000	0.00%
SURVEYS	-	-	-	100	-	100	100	100	0.00%
STAFF TRAINING	-	-	-	-	-	-	1,200	1,200	0.00%
PRO BONO CERTIFICATES	-	-	-	-	-	-	2,000	2,000	0.00%
TOTAL DIRECT EXPENSES:	225	29,338	(29,113)	1,037	29,338	(28,301)	258,280	228,942	11.36%
INDIRECT EXPENSES:									
SALARY EXPENSE (1.30 FTE)	6,271	6,686	(415)	25,085	25,261	(176)	75,255	49,993	33.57%
BENEFITS EXPENSE	2,644	2,891	(247)	10,729	10,646	84	32,083	21,437	33.18%
OTHER INDIRECT EXPENSE	3,083	2,458	624	12,695	10,824	1,871	38,065	27,241	28.44%
TOTAL INDIRECT EXPENSES:	11,999	12,035	(37)	48,509	46,731	1,778	145,402	98,671	32.14%
TOTAL ALL EXPENSES:	12,224	41,373	(29,150)	49,546	76,069	(26,523)	403,682	327,613	18.84%
NET INCOME (LOSS):	(12,224)	88,627	100,850	80,454	53,931	(26,523)	(273,682)	(327,613)	-19.71%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
PUBLICATION & DESIGN SERVICES									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
SUBSCRIPTIONS	17	80	(63)	67	100	(33)	200	100	49.80%
IMAGE LIBRARY	342	-	342	1,367	4,100	(2,733)	4,100	-	100.00%
TOTAL DIRECT EXPENSES:	358	80	278	1,433	4,200	(2,766)	4,300	100	97.67%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.89 FTE)	4,845	6,779	(1,934)	19,381	20,814	(1,433)	58,142	37,328	35.80%
BENEFITS EXPENSE	1,486	1,696	(210)	6,048	6,143	(95)	18,072	11,929	33.99%
OTHER INDIRECT EXPENSE	2,111	1,665	445	8,691	7,332	1,359	26,060	18,728	28.14%
TOTAL INDIRECT EXPENSES:	8,442	10,141	(1,699)	34,120	34,289	(170)	102,273	67,984	33.53%
TOTAL ALL EXPENSES:	8,800	10,221	(1,421)	35,553	38,489	(2,936)	106,573	68,084	36.12%
NET INCOME (LOSS):	(8,800)	(10,221)	(1,421)	(35,553)	(38,489)	(2,936)	(106,573)	(68,084)	36.12%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
REGULATORY SERVICES FTE									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF CONFERENCE & TRAINING	375	-	375	1,500	-	1,500	9,000	9,000	16.67%
TOTAL DIRECT EXPENSES:	375	-	375	1,500	-	1,500	9,000	9,000	0.00%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.78 FTE)	27,287	31,382	(4,095)	109,146	108,789	357	327,439	218,650	33.22%
BENEFITS EXPENSE	7,991	8,882	(890)	31,860	32,309	(449)	96,215	63,905	33.58%
OTHER INDIRECT EXPENSE	6,581	5,234	1,347	27,099	23,045	4,054	81,254	58,209	28.36%
TOTAL INDIRECT EXPENSES:	41,859	45,498	(3,639)	168,106	164,143	3,963	504,908	340,765	32.51%
TOTAL ALL EXPENSES:	42,234	45,498	(3,264)	169,606	164,143	5,463	513,908	349,765	31.94%
NET INCOME (LOSS):	(42,234)	(45,498)	(3,264)	(169,606)	(164,143)	5,463	(513,908)	(349,765)	31.94%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
SERVICE CENTER									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
TRANSLATION SERVICES	708	703	5	2,833	2,769	64	8,500	5,731	32.58%
STAFF TRAINING	175	-	175	700	36	664	2,100	2,064	1.71%
TOTAL DIRECT EXPENSES:	883	703	180	3,533	2,805	728	10,600	7,795	26.46%
INDIRECT EXPENSES:									
SALARY EXPENSE (5.71 FTE)	28,703	35,951	(7,248)	114,812	119,055	(4,243)	344,434	225,379	34.57%
BENEFITS EXPENSE	10,723	11,907	(1,185)	43,557	43,572	(16)	130,208	86,636	33.46%
OTHER INDIRECT EXPENSE	13,541	10,759	2,782	55,760	47,370	8,390	167,194	119,823	28.33%
TOTAL INDIRECT EXPENSES:	52,967	58,617	(5,650)	214,129	209,998	4,131	641,836	431,839	32.72%
TOTAL ALL EXPENSES:	53,850	59,320	(5,470)	217,662	212,802	4,860	652,436	439,634	32.62%
NET INCOME (LOSS):	(53,850)	(59,320)	(5,470)	(217,662)	(212,802)	4,860	(652,436)	(439,634)	32.62%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
SECTIONS ADMINISTRATION									
REVENUE:									
REIMBURSEMENTS FROM SECTIONS	-	254,727	254,727	-	330,706	330,706	286,875	(43,831)	115.28%
TOTAL REVENUE:	-	254,727	254,727	-	330,706	330,706	286,875	(43,831)	115.28%
DIRECT EXPENSES:									
STAFF TRAVEL/PARKING	83	-	83	333	-	333	1,000	1,000	0.00%
SUBSCRIPTIONS	29	-	29	117	-	117	350	350	0.00%
SECTION/COMMITTEE CHAIR MTGS	-	-	-	500	-	500	1,000	1,000	0.00%
DUES STATEMENTS	5,935	-	5,935	5,935	4,593	1,342	5,935	1,342	77.39%
STAFF TRAINING	17	-	17	67	-	67	200	200	0.00%
STAFF MEMBERSHIP DUES	21	-	21	83	-	83	250	250	0.00%
TOTAL DIRECT EXPENSES:	6,085	-	6,085	7,035	4,593	2,442	8,735	4,142	52.58%
INDIRECT EXPENSES:									
SALARY EXPENSE (2.58 FTE)	12,458	13,410	(952)	49,832	46,732	3,100	149,495	102,763	31.26%
BENEFITS EXPENSE	4,653	5,183	(530)	18,914	18,923	(10)	56,533	37,609	33.47%
OTHER INDIRECT EXPENSE	6,118	4,864	1,254	25,195	21,416	3,779	75,545	54,129	28.35%
TOTAL INDIRECT EXPENSES:	23,229	23,456	(227)	93,940	87,071	6,869	281,572	194,501	30.92%
TOTAL ALL EXPENSES:	29,314	23,456	5,858	100,975	91,664	9,311	290,307	198,643	31.57%
NET INCOME (LOSS):	(29,314)	231,270	260,584	(100,975)	239,042	340,017	(3,432)	(242,474)	-6965.17%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
SECTIONS OPERATIONS									
REVENUE:									
SECTION DUES	39,746	382,759	343,012	148,456	501,671	353,215	439,178	(62,493)	114.23%
SEMINAR PROFIT SHARE	11,791	-	(11,791)	47,165	-	(47,165)	147,494	147,494	0.00%
INTEREST INCOME	67	-	(67)	267	-	(267)	910	910	0.00%
PUBLICATIONS REVENUE	333	-	(333)	1,333	-	(1,333)	4,000	4,000	0.00%
OTHER	3,164	360	(2,804)	12,657	15,360	2,703	46,070	30,710	33.34%
TOTAL REVENUE:	55,102	383,119	328,017	209,877	517,031	307,153	637,652	120,621	81.08%
DIRECT EXPENSES:									
DIRECT EXPENSES OF SECTION ACTIVITIES	51,002	773	50,229	204,010	48,681	155,329	612,229	563,548	7.95%
REIMBURSEMENT TO WSBA FOR INDIRECT	23,952	254,727	(230,775)	95,808	330,706	(234,898)	287,423	(43,283)	115.06%
TOTAL DIRECT EXPENSES:	74,954	255,500	(180,545)	299,818	379,387	(79,570)	899,652	520,264	42.17%
NET INCOME (LOSS):	(19,853)	127,619	147,472	(89,940)	137,644	227,584	(262,000)	(399,643)	-52.54%

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	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR	% USED OF ANNUAL BUDGET
TECHNOLOGY									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	-
DIRECT EXPENSES:									
CONSULTING SERVICES	9,167	4,056	5,111	36,667	9,283	27,384	110,000	100,717	8.44%
STAFF TRAVEL/PARKING	-	198	(198)	-	834	(834)	2,500	1,666	33.36%
STAFF MEMBERSHIP DUES	-	-	-	-	-	-	450	450	0.00%
TELEPHONE	7,083	2,246	4,837	28,333	22,368	5,965	85,000	62,632	26.32%
COMPUTER HARDWARE	5,417	-	5,417	21,667	15,142	6,525	65,000	49,858	23.29%
COMPUTER SOFTWARE	17,083	73	17,010	68,333	24,972	43,362	205,000	180,028	12.18%
HARDWARE SERVICE & WARRANTIES	4,167	1,011	3,156	16,667	30,355	(13,688)	50,000	19,645	60.71%
SOFTWARE MAINTENANCE & LICENSING	30,833	25,214	5,620	123,333	87,891	35,443	370,000	282,109	23.75%
COMPUTER SUPPLIES	167	319	(153)	667	3,103	(2,436)	2,000	(1,103)	155.13%
THIRD PARTY SERVICES	3,333	7,128	(3,795)	13,333	30,868	(17,534)	40,000	9,132	77.17%
STAFF TRAINING	833	-	833	3,333	-	3,333	10,000	10,000	0.00%
TRANSFER TO INDIRECT EXPENSES	(78,083)	(40,245)	(37,838)	(312,333)	(224,814)	(87,519)	(939,950)	(715,136)	23.92%
TOTAL DIRECT EXPENSES:	-	-	-	(0)	-	(0)	-	-	-
INDIRECT EXPENSES:									
SALARY EXPENSE (13.00 FTE)	102,779	130,553	(27,774)	411,116	432,216	(21,100)	1,233,346	801,130	35.04%
BENEFITS EXPENSE	31,085	34,740	(3,655)	125,819	127,892	(2,073)	376,478	248,586	33.97%
CAPITAL LABOR & OVERHEAD	(12,917)	(2,773)	(10,144)	(51,667)	(30,337)	(21,330)	(155,000)	(124,663)	19.57%
OTHER INDIRECT EXPENSE	28,994	24,478	4,516	119,606	107,776	11,829	358,319	250,543	30.08%
TOTAL INDIRECT EXPENSES:	149,941	186,999	(37,057)	604,874	637,547	(32,673)	1,813,143	1,175,596	35.16%
TOTAL ALL EXPENSES:	149,941	186,999	(37,057)	604,874	637,547	(32,673)	1,813,143	1,175,596	35.16%
NET INCOME (LOSS):	(149,941)	(186,999)	(37,057)	(604,874)	(637,547)	(32,673)	(1,813,143)	(1,175,596)	35.16%

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VOLUNTEER ENGAGEMENT									
REVENUE:									
TOTAL REVENUE:	-	-	-	-	-	-	-	-	
DIRECT EXPENSES:									
STAFF CONFERENCE & TRAINING	333	-	333	1,333	-	1,333	4,000	4,000	0.00%
STAFF MEMBERSHIP DUES	-	-	-	389	-	389	389	389	0.00%
VOULUNTEER SUPPORT	1,000	-	1,000	4,000	-	4,000	12,000	12,000	0.00%
ABA DELEGATES	278	-	278	1,111	-	1,111	3,334	3,334	0.00%
SECTION/COMMITTEE CHAIR MEETINGS	42	-	42	167	-	167	500	500	0.00%
TOTAL DIRECT EXPENSES:	1,653	-	1,653	7,000	-	7,000	20,223	20,223	34.62%
INDIRECT EXPENSES:									
SALARY EXPENSE (0.60 FTE)	4,826	5,439	(614)	19,303	19,443	(140)	57,909	38,466	33.58%
BENEFITS EXPENSE	1,535	1,699	(164)	6,209	6,281	(72)	18,580	12,299	33.81%
OTHER INDIRECT EXPENSE	1,423	1,110	313	5,859	4,888	971	17,569	12,680	27.82%
TOTAL INDIRECT EXPENSES:	7,783	8,248	(465)	31,372	30,612	759	94,057	63,445	32.55%
TOTAL ALL EXPENSES:	9,436	8,248	1,188	38,372	30,612	7,760	114,280	83,668	26.79%
NET INCOME (LOSS):	(9,436)	(8,248)	1,188	(38,372)	(30,612)	7,760	(114,280)	(83,668)	26.79%

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INDIRECT EXPENSES:									
SALARIES INCLUDING TEMPS	1,062,275	1,203,118	(140,843)	4,229,018	4,232,886	(3,868)	12,531,752	8,298,866	33.78%
CAPITAL LABOR & OVERHEAD	(12,917)	(2,773)	(10,144)	(51,667)	(30,337)	(21,330)	(155,000)	(124,663)	19.57%
EMPLOYEE ASSISTANCE PLAN	-	0	-	1,200	1,600	(400)	4,800	3,200	33.33%
EMPLOYEE SERVICE AWARDS	153	-	153	613	415	198	1,840	1,425	22.55%
FICA (EMPLOYER PORTION)	63,362	85,463	(22,101)	238,298	306,343	(68,044)	743,343	437,000	41.21%
L&I INSURANCE	-	12,461	(12,461)	11,379	24,139	(12,760)	49,414	25,275	48.85%
WA STATE FAMILY MEDICAL LEAVE (EMPI)	2,567	1,827	740	10,269	5,934	4,335	30,807	24,873	19.26%
MEDICAL (EMPLOYER PORTION)	138,333	128,650	9,684	550,907	509,709	41,198	1,657,574	1,147,865	30.75%
RETIREMENT (EMPLOYER PORTION)	104,752	109,854	(5,102)	418,530	406,248	12,282	1,256,547	850,299	32.33%
TRANSPORTATION ALLOWANCE	1,800	7,157	(5,357)	33,333	15,223	18,110	47,733	32,510	31.89%
UNEMPLOYMENT INSURANCE	9,447	11,370	(1,923)	15,300	20,094	(4,794)	70,000	49,906	28.71%
TOTAL SALARY & BENEFITS EXPENSE:	1,369,774	1,557,126	(187,352)	5,457,181	5,492,255	(35,074)	16,238,811	10,746,556	33.82%
WORKPLACE BENEFITS	3,750	816	2,934	15,000	5,809	9,192	45,000	39,192	12.91%
HUMAN RESOURCES POOLED EXP	6,792	6,317	475	27,167	21,749	5,417	81,520	59,771	26.68%
MEETING SUPPORT EXPENSES	1,529	140	1,389	3,823	1,127	2,695	10,000	8,873	11.27%
RENT	154,061	160,211	(6,149)	616,244	640,947	(24,703)	2,029,301	1,388,354	31.58%
PERSONAL PROP TAXES-WSBA	-	527	(527)	3,159	2,106	1,053	6,466	4,360	32.57%
FURNITURE, MAINT, LH IMP	1,355	396	959	4,710	3,282	1,428	13,419	10,137	24.46%
OFFICE SUPPLIES & EQUIPMENT	5,469	1,186	4,283	12,907	4,289	8,618	32,741	28,453	13.10%
FURN & OFFICE EQUIP DEPRECIATION	3,525	3,525	-	14,809	14,951	(142)	43,009	28,058	34.76%
COMPUTER HARDWARE DEPRECIATION	1,924	3,144	(1,220)	8,722	10,847	(2,125)	24,114	13,267	44.98%
COMPUTER SOFTWARE DEPRECIATION	6,742	9,048	(2,306)	26,968	36,494	(9,526)	80,904	44,410	45.11%
INSURANCE	19,859	18,627	1,233	79,437	74,507	4,930	238,839	164,332	31.20%
WORK HOME FURNITURE & EQUIP	1,000	1,736	(736)	55,000	16,749	38,251	63,000	46,251	26.59%
PROFESSIONAL FEES-AUDIT	10,000	2,000	8,000	40,000	30,000	10,000	40,000	10,000	75.00%
PROFESSIONAL FEES-LEGAL	20,833	-	20,833	83,333	26,711	56,622	250,000	223,289	10.68%
TELEPHONE & INTERNET	1,800	640	1,160	7,200	2,740	4,460	21,600	18,860	12.69%
POSTAGE - GENERAL	2,000	3,386	(1,385)	8,001	7,572	428	24,000	16,428	31.55%
RECORDS STORAGE	2,500	1,774	726	10,000	9,535	465	30,000	20,465	31.78%
BANK FEES	5,106	9,717	(4,611)	14,486	22,534	(8,049)	48,000	25,466	46.95%
PRODUCTION MAINTENANCE & SUPPLIES	1,017	910	106	4,067	7,125	(3,058)	16,692	9,567	42.68%
COMPUTER POOLED EXPENSES	78,192	40,245	37,947	312,767	224,814	87,952	941,250	716,436	23.88%
TOTAL OTHER INDIRECT EXPENSES:	327,454	264,344	63,110	1,347,799	1,163,889	183,910	4,039,856	2,875,968	28.81%
TOTAL INDIRECT EXPENSES:	1,697,228	1,821,470	(124,243)	6,804,980	6,656,143	148,837	20,278,667	13,622,524	32.82%

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2022 to January 31, 2022

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON	
	FISCAL 2022 BUDGET CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2022 ANNUAL BUDGET	REMAINING BALANCE OF YEAR
ACCESS TO JUSTICE	(16,132)	(13,042)	3,090	(78,662)	(51,141)	27,520	(208,619)	(157,478)
ADMINISTRATION	(94,104)	(108,080)	(13,977)	(370,376)	(361,894)	8,482	(1,087,547)	(725,653)
ADMISSIONS/BAR EXAM	(10,295)	(36,031)	(25,736)	204,741	120,438	(84,303)	14,103	(106,335)
ADVANCEMENT FTE	(29,094)	(29,934)	(840)	(116,483)	(111,705)	4,777	(350,555)	(238,850)
BAR NEWS	(15,390)	5,132	20,522	(32,088)	(10,725)	21,363	(125,922)	(115,197)
BOARD OF GOVERNORS	(28,296)	(25,226)	3,070	(115,273)	(99,934)	15,339	(476,753)	(376,820)
CHARACTER & FITNESS BOARD	(2,116)	(965)	1,151	(13,185)	(3,513)	9,673	(31,151)	(27,639)
CLE - PRODUCTS	68,367	71,733	3,366	272,578	832,423	559,845	818,413	(14,010)
CLE - SEMINARS	(20,944)	(74,258)	(53,314)	(95,273)	(73,620)	21,653	(392,917)	(319,297)
CLIENT PROTECTION FUND	347,787	376,433	28,646	491,536	596,552	105,016	169,578	(426,973)
COMMUNICATIONS	(59,613)	(56,580)	3,033	(245,800)	(220,674)	25,127	(726,303)	(505,629)
COMMUNICATIONS FTE	(18,582)	(19,581)	(999)	(73,924)	(72,392)	1,532	(223,276)	(150,884)
DESKBOOKS	(9,456)	(3,877)	5,579	(38,351)	(50,641)	(12,290)	(115,041)	(64,400)
DISCIPLINE	(487,404)	(501,942)	(14,538)	(1,949,267)	(1,861,055)	88,212	(5,898,777)	(4,037,722)
DIVERSITY	(31,748)	109,412	141,160	(47,283)	39,822	87,105	(293,338)	(333,160)
EJD FTE	(15,110)	(18,881)	(3,771)	(60,406)	(69,543)	(9,138)	(181,312)	(111,768)
FOUNDATION	(10,249)	(10,879)	(630)	(41,401)	(40,900)	501	(128,667)	(87,766)
HUMAN RESOURCES	(38,018)	(39,739)	(1,721)	(153,260)	(150,786)	2,473	(459,421)	(308,635)
LAW CLERK PROGRAM	85,395	80,464	(4,931)	80,571	81,210	639	100,057	18,848
LEGISLATIVE	(25,752)	(25,164)	589	(100,833)	(79,862)	20,971	(271,935)	(192,074)
LEGAL LUNCHBOX	(2,501)	(492)	2,010	(10,175)	14,541	24,716	(30,483)	(45,024)
LICENSE FEES	1,466,394	1,231,666	(234,729)	5,475,176	5,308,709	(166,468)	16,579,802	11,271,093
LICENSING AND MEMBERSHIP	(17,347)	4,266	21,612	(78,746)	(40,460)	38,285	(228,129)	(187,669)
LIMITED LICENSE LEGAL TECHNICIAN	(11,365)	(4,104)	7,260	(15,874)	(15,157)	717	(67,822)	(52,665)
LIMITED PRACTICE OFFICERS	5,708	4,434	(1,275)	35,638	43,166	7,527	82,811	39,645
MANDATORY CLE ADMINISTRATION	81,549	115,393	33,844	91,123	275,797	184,673	517,653	241,857
MEMBER WELLNESS PROGRAM	(17,871)	(12,525)	5,347	(80,070)	(73,463)	6,607	(224,067)	(150,604)
MEMBER SERVICES & ENGAGEMENT	(44,192)	(44,315)	(123)	(191,692)	(125,073)	66,619	(562,190)	(437,117)
MINI CLE	(9,226)	(9,565)	(339)	(37,264)	(31,517)	5,748	(111,706)	(80,189)
NEW MEMBER EDUCATION	4,214	(695)	(4,908)	(705)	5,108	5,813	11,711	6,603
OFFICE OF GENERAL COUNSEL	(82,243)	(85,782)	(3,539)	(331,074)	(319,431)	11,643	(996,039)	(676,608)
OFFICE OF THE EXECUTIVE DIRECTOR	(49,323)	(51,685)	(2,362)	(195,978)	(166,628)	29,350	(595,200)	(428,572)
OGC-DISCIPLINARY BOARD	(24,991)	(23,200)	1,791	(100,357)	(82,404)	17,953	(302,291)	(219,886)
PRACTICE OF LAW BOARD	(7,027)	(6,266)	761	(27,932)	(23,152)	4,781	(84,486)	(61,334)
PRACTICE MANAGEMENT ASSISTANCE	(8,254)	(17)	8,238	(33,017)	160	33,176	(99,050)	(99,210)
PROFESSIONAL RESPONSIBILITY PROGRAM	(23,033)	(24,290)	(1,257)	(92,930)	(89,836)	3,094	(282,184)	(192,349)
PUBLIC SERVICE PROGRAMS	(12,224)	88,627	100,850	80,454	53,931	(26,523)	(273,682)	(327,613)
PUBLICATION & DESIGN SERVICES	(8,800)	(10,221)	(1,421)	(35,553)	(38,489)	(2,936)	(106,573)	(68,084)
REGULATORY SERVICES FTE	(42,234)	(45,498)	(3,264)	(169,606)	(164,143)	5,463	(513,908)	(349,765)
SECTIONS ADMINISTRATION	(29,314)	231,270	260,584	(100,975)	239,042	340,017	(3,432)	(242,474)
SECTIONS OPERATIONS	(19,853)	127,619	147,472	(89,940)	137,644	227,584	(262,000)	(399,643)
SERVICE CENTER	(53,850)	(59,320)	(5,470)	(217,662)	(212,802)	4,860	(652,436)	(439,634)
TECHNOLOGY	(149,941)	(186,999)	(37,057)	(604,874)	(637,547)	(32,673)	(1,813,143)	(1,175,596)
VOLUNTEER SUPPORT	(9,436)	(8,248)	1,188	(38,372)	(30,612)	7,760	(114,280)	(83,668)
INDIRECT EXPENSES	(1,697,228)	(1,821,470)	(124,243)	(6,804,980)	(6,656,143)	148,837	(20,278,667)	(13,622,524)
TOTAL OF ALL	(1,173,140)	(912,421)	260,719	(6,057,823)	(4,216,702)	1,841,121	(20,279,173)	(16,062,471)
NET INCOME (LOSS)	524,088	909,049	384,962	747,157	2,439,441	1,692,284	(506)	(2,439,947)

Washington State Bar Association Financial Summary
Compared to Fiscal Year 2021 Budget
For the Period from January 1, 2022 to January 31, 2022

Category	YTD Actual Revenues	YTD Budgeted Revenues	YTD Actual Indirect Expenses	YTD Budgeted Indirect Expenses	YTD Actual Direct Expenses	YTD Budgeted Direct Expenses	YTD Actual Total Expenses	YTD Budgeted Total Expenses	YTD Actual Net Result	YTD Budgeted Net Result
Access to Justice	-	-	50,767	53,150	374	25,512	51,141	78,662	(51,141)	(78,662)
Administration	2,839	1,720	364,733	367,924	-	4,171	364,733	372,096	(361,894)	(370,376)
Admissions/Bar Exam	426,620	518,907	294,888	298,809	11,294	15,357	306,182	314,167	120,438	204,741
Advancement FTE	-	-	111,705	114,349	-	2,133	111,705	116,483	(111,705)	(116,483)
Bar News	206,438	225,420	109,594	112,975	107,569	144,533	217,163	257,509	(10,725)	(32,088)
Board of Governors	-	-	58,195	58,329	41,739	56,943	99,934	115,273	(99,934)	(115,273)
Character & Fitness Board	-	-	3,513	3,485	-	9,700	3,513	13,185	(3,513)	(13,185)
Communications Strategies	1,113	-	199,777	214,735	22,010	31,066	221,787	245,800	(220,674)	(245,800)
Communications Strategies FTE	-	-	72,392	73,924	-	-	72,392	73,924	(72,392)	(73,924)
Discipline	42,629	35,292	1,854,653	1,915,253	49,032	69,307	1,903,685	1,984,560	(1,861,055)	(1,949,267)
Diversity	135,000	138,458	91,525	96,143	3,653	89,598	95,178	185,741	39,822	(47,283)
EJD FTE	-	-	69,543	60,406	-	-	69,543	60,406	(69,543)	(60,406)
Foundation	-	-	40,311	41,254	590	147	40,900	41,401	(40,900)	(41,401)
Human Resources	-	-	150,786	153,260	-	0	150,786	153,260	(150,786)	(153,260)
Law Clerk Program	119,593	121,289	38,383	38,052	-	2,667	38,383	40,719	81,210	80,571
Legislative	-	-	75,877	80,716	3,985	20,117	79,862	100,833	(79,862)	(100,833)
Legal Lunchbox	28,763	7,333	14,222	16,941	-	567	14,222	17,508	14,541	(10,175)
Licensing and Membership Records	162,330	129,007	193,172	198,469	9,618	9,284	202,790	207,753	(40,460)	(78,746)
Licensing Fees	5,308,709	5,475,176	-	-	-	-	-	-	5,308,709	5,475,176
Limited License Legal Technician	8,262	18,227	21,969	22,601	1,449	11,500	23,419	34,101	(15,157)	(15,874)
Limited Practice Officers	75,477	70,408	30,727	31,542	1,584	3,228	32,311	34,770	43,166	35,638
Mandatory CLE	533,725	370,416	246,085	267,065	11,843	12,229	257,928	279,293	275,797	91,123
Member Wellness Program	2,625	2,333	66,688	72,082	9,400	10,321	76,088	82,403	(73,463)	(80,070)
Member Services & Engagement	19,365	3,600	132,359	137,265	213	10,383	132,572	147,648	(113,206)	(144,048)
New Member Education	32,519	32,167	27,411	31,455	-	1,417	27,411	32,871	5,108	(705)
Mini CLE	-	-	31,517	37,264	-	-	31,517	37,264	(31,517)	(37,264)
Office of General Counsel	3	-	314,347	320,554	5,087	10,520	319,434	331,074	(319,431)	(331,074)
Office of the Executive Director	-	-	164,643	158,900	1,985	37,078	166,628	195,978	(166,628)	(195,978)
OGC-Disciplinary Board	-	-	56,052	55,153	26,352	45,204	82,404	100,357	(82,404)	(100,357)
Practice of Law Board	-	-	23,152	23,932	-	4,000	23,152	27,932	(23,152)	(27,932)
Practice Management Assistance	226	12,817	-	-	66	45,834	66	45,834	160	(33,017)
Professional Responsibility Program	-	-	89,651	91,309	185	1,620	89,836	92,930	(89,836)	(92,930)
Public Service Programs	130,000	130,000	46,731	48,509	29,338	1,037	76,069	49,546	53,931	80,454
Publication and Design Services	-	-	34,289	34,120	4,200	1,433	38,489	35,553	(38,489)	(35,553)
Regulatory Services FTE	-	-	164,143	168,106	-	1,500	164,143	169,606	(164,143)	(169,606)
Sections Administration	330,706	-	87,071	93,940	4,593	7,035	91,664	100,975	239,042	(100,975)
Service Center	-	-	209,998	214,129	2,805	3,533	212,802	217,662	(212,802)	(217,662)
Technology	-	-	637,547	604,874	-	(0)	637,547	604,874	(637,547)	(604,874)
Volunteer Engagement	-	-	30,612	31,372	-	7,000	30,612	38,372	(30,612)	(38,372)
Subtotal General Fund	7,566,942	7,292,572	6,209,027	6,342,347	348,964	695,973	6,557,992	7,038,321	1,008,951	254,252
Expenses using reserve funds									-	-
Total General Fund - Net Result from Operations									1,008,951	254,252
Percentage of Budget		34.02%		33.57%		26.44%				
CLE-Seminars and Products	1,118,056	634,995	326,137	338,945	33,116	118,745	359,253	457,690	758,803	177,305
CLE - Deskbooks	18,397	55,867	68,523	70,280	516	23,938	69,039	94,218	(50,641)	(38,351)
Total CLE	1,136,454	690,862	394,660	409,225	33,632	142,683	428,292	551,908	708,162	138,954
Percentage of Budget		33.33%		33.35%		26.66%				
Total All Sections	517,031	209,877	-	-	379,387	299,818	379,387	299,818	137,644	(89,940)
Percentage of Budget		32.91%				33.33%				
Client Protection Fund-Restricted	619,223	584,674	52,456	52,262	(29,784)	40,876	22,672	93,138	596,552	491,536
Percentage of Budget		70.42%		33.33%		8.11%				
Totals	9,839,650	8,777,985	6,656,143	6,803,834	732,199	1,179,350	7,388,342	7,983,185	2,451,308	794,801
Percentage of Budget										

Summary of Fund Balances:	Fund Balances Sept. 30, 2021	2022 Budgeted YTD Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	4,046,246	4,537,781	4,642,797
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	648,792	787,746	1,356,954
Section Funds	1,508,843	1,418,903	1,646,486
Board-Designated Funds (General Fund):			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	1,050,000	1,050,000	1,550,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	4,522,174	4,776,425	5,031,125
Total General Fund Balance	7,072,174	7,326,425	8,081,125
Net Change in Total General Fund Balance		254,252	1,008,951
Total Fund Balance	13,276,054	14,070,855	15,727,362
Net Change In Fund Balance		794,801	2,451,308

Financial Summary Comparison

	Net Income	Net Income
	January	YTD
General Fund Net Income	\$ 422,151	\$ 1,008,951
CLE Fund Net Income	\$ (6,402)	\$ 708,162
CPF Net Income	\$ 376,433	\$ 596,552
Sections Net Income	\$ 127,619	\$ 137,644
Total	\$ 919,801	\$ 2,451,308

	Fund Balances	Fund Balances
	December	January
Restricted General Fund	\$ 3,050,000	\$ 3,050,000
Unrestricted General Fund	\$ 4,608,973	\$ 5,031,125
Total General Fund	\$ 7,658,973	\$ 8,081,125
CLE Fund	\$ 1,363,356	\$ 1,356,954
CPF Fund	\$ 4,266,365	\$ 4,642,797
Section Fund	\$ 1,518,867	\$ 1,646,486

WSBA MISSION

The Washington State Bar Association’s mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

WSBA GUIDING PRINCIPLES

The WSBA will operate a well-managed association that supports its members and advances and promotes:

- **Access to the justice system.**
Focus: Provide training and leverage community partnerships in order to enhance a culture of service for legal professionals to give back to their communities, with a particular focus on services to underserved low and moderate income people.
- **Diversity, equality, and cultural understanding throughout the legal community.**
Focus: Work to understand the lay of the land of our legal community and provide tools to members and employers in order to enhance the retention of minority legal professionals in our community.
- **The public’s understanding of the rule of law and its confidence in the legal system.**
Focus: Educate youth and adult audiences about the importance of the three branches of government and how they work together.
- **A fair and impartial judiciary.**
- **The ethics, civility, professionalism, and competence of the Bar.**

MISSION FOCUS AREAS

Ensuring Competent and Qualified Legal Professionals

- Cradle to Grave
- Regulation and Assistance

Promoting the Role of Legal Professionals in Society

- Service
- Professionalism

PROGRAM CRITERIA

- Does the Program further either or both of WSBA’s mission-focus areas?
- Does WSBA have the competency to operate the Program?
- As the mandatory bar, how is WSBA uniquely positioned to successfully operate the Program?
- Is statewide leadership required in order to achieve the mission of the Program?
- Does the Program’s design optimize the expenditure of WSBA resources devoted to the Program, including the balance between volunteer and staff involvement, the number of people served, the cost per person, etc?

2016 – 2018 STRATEGIC GOALS

- **Equip members with skills for the changing profession**
- **Promote equitable conditions for members from historically marginalized or underrepresented backgrounds to enter, stay and thrive in the profession**
- **Explore and pursue regulatory innovation and advocate to enhance the public’s access to legal services**

GR 12
REGULATION OF THE PRACTICE OF LAW

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law in Washington. The legal profession serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system. The Court ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under the Supreme Court's authority.

[Adopted effective September 1, 2017.]

GR 12.1
REGULATORY OBJECTIVES

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include: protection of the public; advancement of the administration of justice and the rule of law; meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;

(a) transparency regarding the nature and scope of legal services To be provided, the credentials of those who provide them, and the availability of regulatory protections;

(b) delivery of affordable and accessible legal services;

(c) efficient, competent, and ethical delivery of legal services;

(d) protection of privileged and confidential information;

(e) independence of professional judgment;

(f) Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;

(g) Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

[Adopted effective September 1, 2017.]

GR 12.2
**WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED
ACTIVITIES, AND PROHIBITED ACTIVITIES**

In the exercise of its inherent and plenary authority to regulate the practice of law in Washington, the Supreme Court authorizes and supervises the Washington State Bar Association's activities. The Washington State Bar Association carries out the administrative responsibilities and functions expressly delegated to it by this rule and other Supreme Court rules and orders enacted or adopted to regulate the practice of law, including the purposes and authorized activities set forth below.

(a) Purposes: In General. In general, the Washington State Bar Association strives to:

- (1) Promote independence of the judiciary and the legal profession.
- (2) Promote an effective legal system, accessible to all.
- (3) Provide services to its members and the public.
- (4) Foster and maintain high standards of competence, professionalism, and ethics among its members.
- (5) Foster collegiality among its members and goodwill between the legal profession and the public.
- (6) Promote diversity and equality in the courts and the legal profession.
- (7) Administer admission, regulation, and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.
- (8) Administer programs of legal education.
- (9) Promote understanding of and respect for our legal system and the law.
- (10) Operate a well-managed and financially sound association, with a positive work environment for its employees.
- (11) Serve as a statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the association and the legal profession.

(b) Specific Activities Authorized. In pursuit of these purposes, the Washington State Bar Association may:

- (1) Sponsor and maintain committees and sections, whose activities further these purposes;
- (2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;
- (3) Provide periodic reviews and recommendations concerning court rules and procedures;
- (4) Administer examinations and review applicants' character and fitness to practice law;
- (5) Inform and advise its members regarding their ethical obligations;
- (6) Administer an effective system of discipline of its members, including receiving and investigating complaints of misconduct by legal professionals, taking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;
- (7) Maintain a program, pursuant to court rule, requiring members to submit fee disputes to arbitration;
- (8) Maintain a program for mediation of disputes between members and others;
- (9) Maintain a program for legal professional practice assistance;
- (10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;

- (11) Maintain a system for accrediting programs of continuing legal education;
- (12) Conduct examinations of legal professionals' trust accounts;
- (13) Maintain a fund for client protection in accordance with the Admission and Practice Rules;
- (14) Maintain a program for the aid and rehabilitation of impaired members;
- (15) Disseminate information about the organization's activities, interests, and positions;
- (16) Monitor, report on, and advise public officials about matters of interest to the organization and the legal profession;
- (17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization's positions and concerns;
- (18) Encourage public service by members and support programs providing legal services to those in need;
- (19) Maintain and foster programs of public information and education about the law and the legal system;
- (20) Provide, sponsor, and participate in services to its members;
- (21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the organization's discretion, authorizing collective bargaining;
- (22) Establish the amount of all license, application, investigation, and other related fees, as well as charges for services provided by the Washington State Bar Association, and collect, allocate, invest, and disburse funds so that its mission, purposes, and activities may be effectively and efficiently discharged. The amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable;
- (23) Administer Supreme-Court-created boards in accordance with General Rule 12.3.

(c) Activities Not Authorized. The Washington State Bar Association will not:

- (1) Take positions on issues concerning the politics or social positions of foreign nations;
- (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or
- (3) Support or oppose, in an election, candidates for public office.

[Adopted effective July 17, 1987; amended effective December 10, 1993; September 1, 1997; September 1, 2007; September 1, 2013; September 1, 2017.]

GR 12.3
WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION
OF SUPREME COURT-CREATED BOARDS AND COMMITTEES

The Supreme Court has delegated to the Washington State Bar Association the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.

[Adopted effective September 1, 2007; amended effective September 1, 2017.]

GR 12.4
WASHINGTON STATE BAR ASSOCIATION ACCESS TO
RECORDS

(a) Policy and Purpose. It is the policy of the Washington State Bar Association to facilitate access to Bar records. A presumption of public access exists for Bar records, but public access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.3 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a Bar record.

(2) "Bar record" means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the Bar and its staff or stored under Bar ownership and control in facilities or servers. Records solely in the possession of hearing officers, non-Bar staff members of boards, committees, task forces, commissions, sections, councils, or divisions that were prepared by the hearing officers or the members and in their sole possession, including private notes and working papers, are not Bar records and are not subject to public access under this rule. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital, or other format.

(d) Bar Records--Right of Access.

(1) The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule, or any other state statute (including the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be applied to a public agency, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules and associated regulations, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes, or orders, the Bar shall delete identifying details in a manner consistent with those rules, statutes, or orders when it makes available or publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

(2) In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may expressly be made public by court rule:

(A) Records of the personnel committee, and personal information in Bar records for employees, appointees, members, or volunteers of the Bar to the extent that disclosure would violate their right to privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. Membership class and status, bar number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Executive Director approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.

(B) Specific information and records regarding

(i) internal policies, guidelines, procedures, or techniques, the disclosure of which would reasonably be expected to compromise the conduct of disciplinary or regulatory functions, investigations, or examinations;

(ii) application, investigation, and hearing or proceeding records relating to lawyer, Limited Practice Officer, or Limited License Legal Technician admissions, licensing, or discipline, or that relate to the work of ELC 2.5 hearing officers, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law Board, or the Disciplinary Board in conducting investigations, hearings or proceedings; and

(iii) the work of the Judicial Recommendation Committee and the Hearing Officer selection panel, unless such records are expressly categorized as public information by court rule.

(C) Valuable formulae, designs, drawings, computer source code or object code, and research data created or obtained by the Bar.

(D) Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.

(E) Applications for licensure by the Bar and annual licensing forms and related records, including applications for license fee hardship waivers and any decision or determinations on the hardship waiver applications.

(F) Requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

Information covered by exemptions will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed.

(3) Persons Who Are Subjects of Records.

(A) Unless otherwise required or prohibited by law, the Bar has the option to give notice of any records request to any member or third party whose records would be included in the Bar's response.

(B) Any person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker.

(C) If the Bar decides to allow access to a requested record, a person who is named in that record, or to whom the records specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. The deadlines that apply to a requester apply as well to a person who is a subject of a record.

(e) Bar Records--Procedures for Access.

(1) General Procedures. The Bar Executive Director shall appoint a Bar staff member to serve as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the Bar public records officer, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and adopt and publish on its website the public records officer's work mailing address, telephone number, fax number, and e-mail address, and the procedures and fee schedules for accepting and responding to records requests by the effective date of this rule. The Bar shall acknowledge receipt of the request within 14 days of receipt, and shall communicate with the requester as necessary to clarify any ambiguities as to the records being requested. Records requests shall not be directed to other Bar staff or to volunteers serving on boards, committees, task forces, commissions, sections, councils, or divisions.

(2) Charging of Fees.

(A) A fee may not be charged to view Bar records.

(B) A fee may be charged for the photocopying or scanning of Bar records according to the fee schedule established by the Bar and published on its web site.

(C) A fee not to exceed \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

(f) Extraordinary Requests Limited by Resource Constraints. If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on time, resources, and personnel, the Bar shall communicate this information to the requester along with a good faith estimate of the time needed to complete the Bar's response. The Bar must attempt to reach

agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable, clarify how and why the response differs from the request, and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial as well as a written summary of the procedures under which the requesting party may seek further review.

(h) Review of Records Decisions.

(1) Internal Review. A person who objects to a record decision or other action by the Bar's public records officer may request review by the Bar's Executive Director.

(A) A record requester's petition for internal review must be submitted within 90 days of the Bar's public records officer's decision, on such form as the Bar shall designate and make available.

(B) The review proceeding is informal, summary, and on the record.

(C) The review proceeding shall be held within five working days. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.

(2) External Review. A person who objects to a records review decision by the Bar's Executive Director may request review by the Records Request Appeals Officer (RRAO) for the Bar.

(A) The requesting party's request for review of the Executive Director's decision must be deposited in the mail and postmarked or delivered to the Bar not later than 30 days after the issuance of the decision, and must be on such form as the Bar shall designate and make available.

(B) The review will be informal and summary, but in the sole discretion of the RRAO may include the submission of briefs no more than 20 pages long and of oral arguments no more than 15 minutes long.

(C) Decisions of the RRAO are final unless, within 30 days of the issuance of the decision, a request for discretionary review of the decision is filed with the Supreme Court. If review is granted, review is conducted by the Chief Justice of the Washington Supreme Court or his or her designee in accordance with procedures established by the Supreme Court. A designee of the Chief Justice shall be a current or former elected judge. The review proceeding shall be on the record, without additional briefing or argument unless such is ordered by the Chief Justice or his or her designee.

(D) The RRAO shall be appointed by the Board of Governors. The Bar may reimburse the RRAO for all necessary and reasonable expenses incurred in the completion of these duties, and may provide compensation for the time necessary for these reviews at a level established by the Board of Governors.

(i) Monetary Awards Not Allowed. Attorney fees, costs, civil penalties, or fines may not be awarded under this rule.

(j) Effective Date of Rule.

(1) This rule goes into effect on July 1, 2014, and applies to records that are created on or after that date.

(2) Public access to records that are created before that date are to be analyzed according to other court rules, applicable statutes, and the common law balancing test; the Public Records Act, chapter 42.56 RCW, does not apply to such Bar records, but it may be used for nonbinding guidance.

[Adopted effective July 1, 2014; amended effective September 1, 2017.]

**GR 12.5
IMMUNITY**

All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission and Practice Rules, the Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice officers and limited license legal technicians, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

[Adopted effective January 2, 2008; amended effective September 1, 2017.]

2021-2022
WSBA BOARD OF GOVERNORS MEETING SCHEDULE

MEETING DATE	LOCATION	POTENTIAL ISSUES / SOCIAL FUNCTION	AGENDA ITEMS DUE FOR EXEC COMMITTEE MTG	EXECUTIVE COMMITTEE MTG 9:00 am–12:00 pm	BOARD BOOK MATERIALS DEADLINE
November 4-5, 2021	Silver Cloud Hotel Tacoma Point Ruston Waterfront Ruston, WA	BOG Meeting	October 1, 2021	October 8, 2021	October 18, 2021
January 13-14, 2022	WSBA Conference Center Seattle, WA	BOG Meeting MLK Luncheon Jan. 14	November 29, 2021	December 6, 2021	December 27, 2021
March 10-11, 2022	St. Martin's University Lacey, WA Temple of Justice	BOG Meeting BOG Meeting with Supreme Court	January 28, 2022	February 4, 2022	February 21, 2022
May 19-20, 2022	The Davenport Grand Spokane, WA	BOG Meeting	April 11, 2022	April 18, 2022	May 2, 2022
July 13-15, 2022	Tacoma Convention Center Tacoma, WA	BOG Retreat BOG Meeting	June 6, 2022	June 13, 2022	June 27, 2022
September 22-23, 2022	Courtyard Marriott Bellevue, WA	BOG Meeting	August 15, 2022	August 22, 2022	September 5, 2022

The Board Book Material Deadline is the final due date for submission of materials for the respective Board meeting. Please notify the Executive Director's office in advance of possible late materials. Refer to 1305 BOG Action Procedure on how to bring agenda items to the Board.

This information can be found online at: <https://www.wsba.org/about-wsba/who-we-are/board-of-governors>



WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



Brian Tollefson
President-Elect



Dan Clark
President-Elect



Kyle Sciuchetti
Immediate Past
President



Bryn Peterson
Treasurer



Terra Nevitt
Executive Director
& Secretary

2021-2022

BRITISH COLUMBIA



Sunitha Anjilvel
Governor District 1



Carla Higginson
Governor District 2



Brett Purtzer
Governor District 6



Matthew Dresden
Governor District 7-North



Brent Williams-Ruth
Governor District 8



Francis Adewale
Governor District 5



Serena Sayani
Governor District 7-South



Bryn Peterson
Governor District 9



Thomas A. McBride
Governor District 10



Dan Clark
Governor District 4



Lauren Boyd
Governor District 3



Hunter Abell
Governor At-Large



Jordan Couch
Governor At-Large



Alec Stephens
Governor At-Large

OREGON

PACIFIC OCEAN

IDAHO



BASIC CHARACTERISTICS OF MOTIONS

*From: The Complete Idiot's Guide to Robert's Rules
The Guerilla Guide to Robert's Rules*

MOTION	PURPOSE	INTERRUPT SPEAKER?	SECOND NEEDED?	DEBATABLE?	AMENDABLE?	VOTE NEEDED
1. Fix the time to which to adjourn	Sets the time for a continued meeting	No	Yes	No ¹	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No ²	Yes	Majority
4. Raise a Question of Privilege	Asks urgent question regarding to rights	Yes	No	No	No	Rules by Chair
5. Call for orders of the day	Requires that the meeting follow the agenda	Yes	No	No	No	One member
6. Lay on the table	Puts the motion aside for later consideration	No	Yes	No	No	Majority
7. Previous question	Ends debate and moves directly to the vote	No	Yes	No	No	Two-thirds
8. Limit or extend limits of debate	Changes the debate limits	No	Yes	No	Yes	Two-thirds
9. Postpone to a certain time	Puts off the motion to a specific time	No	Yes	Yes	Yes	Majority ³
10. Commit or refer	Refers the motion to a committee	No	Yes	Yes	Yes	Majority
11. Amend an amendment (secondary amendment)	Proposes a change to an amendments	No	Yes	Yes ⁴	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes ⁴	Yes	Majority
13. Postpone indefinitely	Kills the motion	No	Yes	Yes	No	Majority
14. Main motion	Brings business before the assembly	No	Yes	Yes	Yes	Majority

1 Is debatable when another meeting is scheduled for the same or next day, or if the motion is made while no question is pending

2 Unless no question is pending

3 Majority, unless it makes question a special order

4 If the motion it is being applied to is debatable



Discussion Protocols Board of Governors Meetings

Philosophical Statement:

"We take serious our representational responsibilities and will try to inform ourselves on the subject matter before us by contact with constituents, stakeholders, WSBA staff and committees when possible and appropriate. In all deliberations and actions we will be courageous and keep in mind the need to represent and lead our membership and safeguard the public. In our actions, we will be mindful of both the call to action and the constraints placed upon the WSBA by GR 12 and other standards."

Governor's Commitments:

1. Tackle the problems presented; don't make up new ones.
2. Keep perspective on long-term goals.
3. Actively listen to understand the issues and perspective of others before making the final decision or lobbying for an absolute.
4. Respect the speaker, the input and the Board's decision.
5. Collect your thoughts and speak to the point – sparingly!
6. Foster interpersonal relationships between Board members outside Board events.
7. Listen and be courteous to speakers.
8. Speak only if you can shed light on the subject, don't be repetitive.
9. Consider, respect and trust committee work but exercise the Board's obligation to establish policy and insure that the committee work is consistent with that policy and the Board's responsibility to the WSBA's mission.
10. Seek the best decision through quality discussion and ample time (listen, don't make assumptions, avoid sidebars, speak frankly, allow time before and during meetings to discuss important matters).
11. Don't repeat points already made.
12. Everyone should have a chance to weigh in on discussion topics before persons are given a second opportunity.
13. No governor should commit the board to actions, opinions, or projects without consultation with the whole Board.
14. Use caution with e-mail: it can be a useful tool for debating, but e-mail is not confidential and does not easily involve all interests.
15. Maintain the strict confidentiality of executive session discussions and matters.



BOARD OF GOVERNORS

WSBA VALUES

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information



BOARD OF GOVERNORS

GUIDING COMMUNICATION PRINCIPLES

In each communication, I will assume the good intent of my fellow colleagues; earnestly and actively listen; encourage the expression of and seek to affirm the value of their differing perspectives, even where I may disagree; share my ideas and thoughts with compassion, clarity, and where appropriate confidentiality; and commit myself to the unwavering recognition, appreciation, and celebration of the humanity, skills, and talents that each of my fellow colleagues bring in the spirit and effort to work for the mission of the WSBA. Therefore, I commit myself to operating with the following norms:

- ◆ I will treat each person with courtesy and respect, valuing each individual.
- ◆ I will strive to be nonjudgmental, open-minded, and receptive to the ideas of others.
- ◆ I will assume the good intent of others.
- ◆ I will speak in ways that encourage others to speak.
- ◆ I will respect others' time, workload, and priorities.
- ◆ I will aspire to be honest and open in all communications.
- ◆ I will aim for clarity; be complete, yet concise.
- ◆ I will practice "active" listening and ask questions if I don't understand.
- ◆ I will use the appropriate communication method (face-to-face, email, phone, voicemail) for the message and situation.
- ◆ When dealing with material of a sensitive or confidential nature, I will seek and confirm that there is mutual agreement to the ground rules of confidentiality at the outset of the communication.
- ◆ I will avoid triangulation and go directly to the person with whom I need to communicate. (If there is a problem, I will go to the source for resolution rather than discussing it with or complaining to others.)
- ◆ I will focus on reaching understanding and finding solutions to problems.
- ◆ I will be mindful of information that affects, or might be of interest or value to, others, and pass it along; err on the side of over-communication.
- ◆ I will maintain a sense of perspective and respectful humor.



BOARD OF GOVERNORS

Anthony David Gipe
President

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November 2014

BEST PRACTICES AND EXPECTATIONS

❖ Attributes of the Board

- Competence
- Respect
- Trust
- Commitment
- Humor

❖ Accountability by Individual Governors

- Assume Good Intent
- Participation/Preparation
- Communication
- Relevancy and Reporting

❖ Team of Professionals

- Foster an atmosphere of teamwork
 - Between Board Members
 - The Board with the Officers
 - The Board and Officers with the Staff
 - The Board, Officers, and Staff with the Volunteers

- We all have common loyalty to the success of WSBA

❖ Work Hard and Have Fun Doing It

Working Together to Champion Justice