

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

## Board of Governors June Meeting Update

*A summary of the Board of Governors meeting June 26-27, 2020, prepared by WSBA*

A summary of the Board of Governors meeting June 26-27, held virtually, prepared by WSBA. The agenda, materials, and video recording from this Board of Governors meeting, as well as past meetings, are [online](#). The next regular meeting is July 24-25 (with a board retreat before on July 23) in Stevenson. The Board of Governors is WSBA's governing body charged with determining general policies of the bar and approving its annual budget.

Your At-Large Governors are [Russell Knight](#), [Hunter Abell](#), and [Alec Stephens](#).

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### SPECIAL MESSAGE FROM WSBA PRESIDENT RAJEEV MAJUMDAR

*Dear Colleagues,*

*Our June WSBA Board of Governors meeting was filled with hard but necessary conversations, particularly as we looked at how to respond as an association to the national dialogue about racism and unlawful use of force. I am enthused to begin the meaningful work of the newly chartered WSBA Equity and Disparity Work Group. And while I believe your Board is collectively committed to the right principles and made the right decisions, I want to acknowledge that statements were made at the board table that were both offensive and painful, especially for people of color. While we as a board took actions to promote diversity and equity in our courts and legal profession, I understand how those individual painful comments continue to illustrate and perpetuate the very problem itself. I strongly reject those comments as they are in direct opposition to WSBA's and my own unwavering values of diversity, equity, and inclusion. Resultantly, I am invoking the WSBA's independent ombudsman process to thoroughly investigate the matter. My message today is a placeholder for more to come because this work has to be done thoughtfully and meaningfully.*

*In service,  
Rajeev*

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### TOP MEETING TAKEAWAYS

**1. George Floyd Memoria Agenda—WSBA’s stand against racism and unlawful use of force:** At its first meeting since the killing of George Floyd and the resulting national unrest and dialogue about racism, the board took several actions in response to President Majumdar’s call to action. Significantly, they unanimously [passed a resolution](#) acknowledging statements made by the members, supporting the [Supreme Court’s message](#), endorsing the [WSBA President’s message](#) to the membership, and committing the WSBA to support its members in speaking out. Most importantly, the board chartered a multi-stakeholder Equity and Disparity Work Group to actively identify and suggest remedies for rules, regulations, and laws related to the practice of law and administration of justice that facilitate injustice and perpetuate institutionalized racism. The board also answered President Majumdar’s challenge to revise the mission statement of the bar to emphasize the WSBA’s mandate to promote an effective legal system accessible to all people, by proposing a statement to send out for member feedback. “Even if these are hard conversations, we are compelled to act as an association,” said President Rajeev Majumdar. “We have the unique ability to look at the justice system itself—at the very tools we use every day—to ensure equitable access for all people.” (See below for more information.)

**2. Expanding the Hardship Exemption:** In recognition of challenges facing members throughout their lifetimes, the number of times an Active member can receive a hardship exemption from paying annual license fees has been increased from once to twice, per a bylaw amendment that is now subject to review by the Washington Supreme Court. The goal is to offer the additional hardship exemption by the next licensing deadline.

**3. Law Clerk Tutors:** Have you considered serving as a tutor for a prospective Law Clerk student? This program offers an important alternative to law school that helps breaks down economic, geographic, and other barriers for prospective lawyers. [Learn about two Law Clerks’ journeys and consider becoming a tutor](#)—we need you!

**4. WSBA Leadership:** The Board of Governors selected current District 6 Governor Hon. Brian Tollefson as WSBA’s President-Elect for the coming year and Lisa Mansfield as an At-Large Governor for 2020-23 (note: *14 candidates* initially applied for this seat, currently held by At-Large Governor Alec Stephens). After a favorable performance review, the board also voted to hire Terra Nevitt as WSBA Executive Director (removing “interim” from her current title), subject to negotiation of an employment contract. ([See page 296.](#))

**5. COVID-19 Resources and Information:** WSBA frequently updates its [COVID-19 web page](#) with information, news, and resources in the categories such as law-firm management, free CLEs and webinars, court orders, opportunities to help, and more. The annual CLE Summer Sale begins July 7, and we are offering a bigger discount (50%) than in previous years to help members navigate the legal landscape and requirements during the pandemic.

## **MEETING RECAP**

**Local Heroes.** Kudos to our two Local Heroes, nominated by the Whatcom and Skagit County Bars (the original locale for this board meeting was to be in Bellingham, pre-COVID-19 regulations):

- **Heather Powell** (nominated by the Whatcom County Bar Association): Since 2013, Ms. Powell has served as CEO of the Boys & Girls Clubs of Whatcom County, where she consistently and passionately advocates for at-risk youth. This hallmark has been amplified during the COVID-19 pandemic. For example, she spearheaded an effort to save more than 500 licensed childcare locations from closing—these locations served primarily low-income families as well as parents who have been essential workers during the crisis. As one of her nominators said: “Heather is an energetic leader who acts with courage, determination, and a desire to make a difference.” ([Read more.](#))

- **Heather Webb** (nominated by the Skagit County Bar Association): Ms. Webb serves as president of the Skagit County Bar Association and is known as a legal advocate who has helped highlight others who make significant contributions to the legal community. She has invested her time and energy to make the association more visible in the community. For example, she reimaged the annual Law Day luncheon as a dinner and opened the event to the community, extending special invitations to high school teachers and students. In addition, Ms. Webb is a member of the Washington State Association for Justice, Washington Women Lawyers, and the Whatcom County Bar. She has also been named a Super Lawyer Rising Star. One of her nominators said: “She is highly admired for her legal skills and her compassion and devotion to her clients and community.” ([Read more.](#))

**George Floyd Memoria Agenda.** The Board of Governors responded to the killing of George Floyd with several actions to strengthen WSBA’s commitment to diversity, equity, and inclusion in the legal community. The board:

- Approved a resolution in response to the national dialogue on Racism and Unlawful Use of Force. This included an endorsement of the President’s message to the membership which stated, in part, that: *“There is no equity without access to the justice our legal system can provide, and there is no access to justice without our profession doing its part to solve problems. It is up to each one of us to stand up and speak for others who cannot so that we may substitute true dialogue and good policy for violence in our society. That is the very point of an effective legal system, and as officers of that system we bear a large share of the burden in its failures if each of us do not work to ever reform it.”* Also within the Resolution, the WSBA acknowledged [statements made by the members](#), and voiced support for the Supreme Court’s leadership in making [their statement](#), and committed the WSBA to supporting its members in speaking out—both by supporting their right to do so and their ability to do so with wellness and educational services. The Board also recognized the hard work of WSBA employees and that some have experienced racism and violence directly. ([See page 95.](#))

- [Chartered an Equity and Disparity Work Group](#) with wide representation and a two-year charter to review rules, regulations, and laws related to the practice of law and administration of justice (such as the Rules of Professional Conduct and GR 12.2, for example); to identify any of these that facilitate injustice; and to propose concrete remedies that WSBA can pursue in accordance with GR 12.2. ([See page 88.](#))
- Answered President Majumdar’s challenge to revise the mission statement of the bar to emphasize the WSBA’s mandate to promote an effective legal system accessible to **all people**, by proposing a revised mission statement. WSBA will now send out the proposed revision to members broadly to solicit feedback before the board takes any action. New proposed mission: *With a strong commitment to serving its members and the public, WSBA ensures the integrity of the legal profession and promotes an effective legal system, accessible to all.* (Current mission statement: *To serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.*) WSBA will solicit feedback membership-wide in the following weeks. Comments can be sent to [barleaders@wsba.org](mailto:barleaders@wsba.org). ([See page 86.](#))
- Recognized and honored the effort, empathy, statements, and action taken by groups of members such as the WSBA Civil Rights Law Section, WSBA Council on Public Defense, the Access to Justice Board, Loren Miller Bar Association, Filipino Lawyers of Washington, Korean American Bar Association, Latina/o Bar Association of Washington, QLaw Association and QLaw Foundation, South Asian Bar Association of Washington, Vietnamese American Bar Association of Washington, Washington Women Lawyers, Association of Washington Assistant Attorneys General and the Solidarity Caucus of the Professional Staff Organizing Committee, and the Washington State Bar Foundation. ([See page 63.](#))
- Approved for distribution a Statement by Council on Public Defense. ([See page 83.](#))
- Approved [a resolution in support of the Court’s Law Clerk Program](#) (authorized by Admissions to Practice Rule 6), an alternative to traditional law school education, which might otherwise be unattainable due to economic and institutional barriers for potential lawyers. ([See page 91.](#))
- Heard several recommendations from WSBA’s Diversity Committee regarding the organization’s existing 2013 Diversity Plan. ([See page 99.](#))

**Diploma Privilege: Send comments to WSBA or the Court directly.** Following the [Court’s Order](#) to waive the Uniform Bar Exam (UBE) portion of the bar exam (the Multistate Professional Responsibility Exam and the Washington Law Component Exam are still required) as a licensing requirement for the majority of applicants signed up for the summer exam, the Board of Governors discussed feedback and concern from law students and members. Comments included: A significant amount of feedback from members with concerns; the Board agreed to forward those comments collected to date to the Court as well as solicit additional comments. If you would like to submit a comment as part of the bar’s aggregate submission to the Court, please send them

to [barleaders@wsba.org](mailto:barleaders@wsba.org) by the end of July. The Board also supported the Law Clerk Board's request to ask the Court to amend its Order to include qualified graduates of the Law Clerk program and to make a contingency plan for LL.M (Master of Laws) bar applicants if the July bar exam cannot be administered safely. ([See page 294.](#))

**Comments on Draft Amendments to Disciplinary Procedural Rules.** Justice Mary Yu of the Washington Supreme Court appeared at the meeting to answer questions and to dispel rumors of any imminent changes to the lawyer discipline system without providing an opportunity for comment to WSBA's Board of Governors. She explained that drafts of discipline-system rule amendments (prepared at the direction of the Court with assistance from WSBA staff) should be transmitted directly to the Court and not through the Board of Governors. Discipline counsel reports to the Court on discipline matters and the structure of the relationship is outlined in ELC Title 2. It would be improper for the proposed rules to first go to the Board of Governors. Once the proposed rules are transmitted to the Court, they will likely be sent to our Court Rules Committee and then published for comment. Justice Yu wanted to assure the BOG that the Court would solicit input from the bar and Board of Governors before adopting any such rules. Justice Yu and WSBA President Majumdar assured the board and other stakeholders that they will have ample time to consider and comment on any rule changes if the Court decides to advance them in some form. "We will definitely seek member input in the event any proposal comes to fruition," Majumdar said. Justice Yu explained that if the Court advances a final draft, the Court will forward them to WSBA for input in accordance with General Rule (GR) 9. She believes this process is more consistent with the Court's and Board of Governor's respective roles in the discipline system.

**More Awards!** The Board of Governors approved this year's slate of APEX (Acknowledging Professional Excellence) Award winners. Stay tuned for the names of these outstanding legal luminaries.

**Removing Barriers to Emeritus Pro Bono Status (first read).** The Board of Governors will vote at its next meeting in July whether to change certain qualifications under Admission and Practice Rules for members seeking or in Emeritus Pro Bono status. These APR amendments—such as removing an experience qualification, waiving the license fee for those who volunteer 30 hours in the previous year with a QLSP, and changing the label from "emeritus pro bono" status to "pro bono" status to make it clear that members can move to this status at any stage of their careers — were recommended by the Pro Bono and Public Service Committee to encourage more members who resign active licenses to instead continue to perform pro bono services via Emeritus Pro Bono status. If approved, the APR amendments and WSBA bylaw change will go before the Washington Supreme Court for review. ([See page 208.](#))

**Budget Items.** The Board of Governors will recommend to the Washington Supreme Court a one-time \$15 reduction to the Client Protection Fund; that means the current rate of \$25 would drop to \$10 for 2021. Careful analysis shows the fund has sufficient capacity to safeguard payouts while providing this one-time relief for members during a time when COVID-19 economic impacts for

members are yet unknown. (See page 255.) Also, Audit Firm Clark Nuber presented results from WSBA's "deep dive" audit, with an overall summary: "No systemic failures and no red flags" but some recommendations to show documentation to policies and procedures in line with industry best practices. (See page 262.) This audit was in addition to WSBA's regular annual audit, which came back with a clean report indicating the bar's finances are well managed and accurate in all material respects.

**Support for Private Attorney Involvement Plan.** The Board of Governors approved a comment from the Pro Bono and Public Service Committee in support of Northwest Justice Project's 2020 Private Attorney Involvement Plan. This plan identifies work areas not generally served by volunteer lawyer programs and how to engage private attorneys in these areas. (See page 246.)

**Defense Requests for Expert Funds.** The Board of Governors approved the Council on Public Defense's proposed charter revision as well as a comment in support of proposed rule amendments that require judges to consider defense requests for expert funds ex parte. (See page 197.)

**Proposed Ethics Amendments.** The Committee on Professional Ethics requested support for amendment recommendations to the Rules of Professional Conduct (RPCs) regarding in-house lawyers (RPC 1.16 and 1.13), as well as fee sharing with nonprofit lawyer referral services (RPC 7.2 and 5.4). The Board of Governors voted to approve a minor revision to the RPC. 1.16 and 1.13 recommendations and then voted to forward both recommendations to the Washington Supreme Court. (See page 312.)

**Reports from WSBA Entities.** The Board of Governors heard updates from the Editorial Advisory Committee (see page 101), Coronavirus Response Task Force (see page 111), Ad Hoc Committee to Investigate Alternatives to Mandatory Malpractice Insurance (see page 130), and the Council on Public Defense (see page 185).

**Salary Transparency.** The Board requested that the WSBA President, Treasurer, and Interim Executive Director present a proposal at the July Board of Governors meeting about options for posting salary ranges for WSBA positions to provide greater transparency to members, while addressing privacy and safety concerns of employees.

**Helping Sections Connect with Legislators.** After several previous reads, the Board approved a revised policy to clarify how Sections introduce and respond to legislation in a manner that encourages members to share their subject-matter expertise with lawmakers in an official WSBA capacity while adhering to [General Rule 12.2](#). (See page 271.)

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