

# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED )  
AMENDMENTS TO APR 9—LICENSED LEGAL )  
INTERN )

## ORDER

NO. 25700-A-1410

\_\_\_\_\_ )  
The University of Washington School of Law, Seattle University School of Law,  
Gonzaga University School of Law, and Washington State Bar Association, having  
recommended the suggested amendments to APR 9—Licensed Legal Intern, 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.

(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](mailto: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 AMENDMENTS TO APR 9—LICENSED LEGAL  
INTERN

DATED at Olympia, Washington this 6th day of December, 2021.

For the Court

  
González, C.J.

# GR 9 COVER SHEET

## Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 9. Licensed Legal Interns

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### A. Proponents:

University of Washington School of Law  
Seattle University School of Law  
Gonzaga University School of Law  
Washington State Bar Association

### B. Spokespersons:

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### C. Purpose:

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

The proponents also propose suggested amendments to allow LLM graduates of ABA approved law schools who qualify to sit for the bar exam in Washington to be eligible for the Rule 9 license, to clarify possible action by the WSBA for licensed legal intern misconduct, and to update various terms throughout the rule to allow for electronic processing and handling of Rule 9 documents and procedures.

**I. APR 9(b)(A) – Law School Clinic Eligibility**

**a. Overview**

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

This amendment is supported by the Deans of all three law schools and was approved by the WSBA Board of Governors on July 16, 2021.

**b. Rationale in Support of Suggested Amendment to APR 9(b)(A)**

**i. The Suggested Amendment is Consistent with Trends in Legal Education**

Legal education has been on a slow but steady path of change in response to pressures from a wide range of constituencies including students, the bench, the bar, and broader society. Calls to recognize the profession's exclusivity and the law's effects on social justice, both for good and ill, have re-emerged and grown increasingly urgent. Law schools are called to admit, retain, and prepare a more diverse student body to enter an increasingly complex and demanding legal profession. In this context, it is critical that law students have a curriculum deliberately designed to ensure their success and readiness to enter the profession. APR 9, commonly known among educators as the Student Practice Rule, is a key element in that curriculum design.

The pressure on law schools to develop new pedagogies with clear learning objectives relevant to the practice of law has been building for a considerable amount of time. At least three influential reports in the past three decades have asked legal education to re-imagine itself. In 1992, the ABA's Task Force on Law Schools and the Profession issued what is commonly referred to as the *MacCrate Report*, which enumerated and called upon law schools to address the fundamental professional skills and professional values necessary for competent, ethical representation.<sup>1</sup> The *MacCrate Report* emphasized the importance of clinical and other experiential learning opportunities.<sup>2</sup> In 2007, *The Carnegie Report* was published, exhorting law schools to rethink their curricula to be more in line with other professional schools providing students with opportunities to develop not only an intellectual understanding of the discipline at

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

<sup>2</sup> *Id.*

hand but also a professional identity attained through opportunities to practice.<sup>3</sup> Also in 2007, a group of law faculty issued *Best Practices*,<sup>4</sup> which sought to operationalize the concerns of both the *MacCrate Report* and the *Carnegie Report* by recommending a curriculum that would better prepare students for practice upon graduation.

The integration of experiential learning into the law school curriculum expanded in 2017 when the American Bar Association (ABA) amended its accreditation standards, requiring each student to take one or more experiential courses totaling at least 6 credit hours.<sup>5</sup> The pace of curriculum reform in legal education may be slow, but today's law schools do provide more opportunities to learn lawyering skills than law schools of the pre-*MacCrate Report* era. All three of Washington's law schools have well-established and robust clinical law programs. At the University of Washington, students can choose from among eleven different clinical offerings, staffed by 16 faculty.<sup>6</sup> Seattle University offers thirteen different clinical courses taught by 11 faculty.<sup>7</sup> Gonzaga law students have nine clinics from which to choose with 11 faculty at the helm.<sup>8</sup>

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

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

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

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

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

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

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

Clinical law programs offer students a balanced blend of substantive knowledge, practice opportunities, and reflection on both their individual performance and the law’s capacity to effectuate social justice. While clinical learning goals vary based upon the unique clinical offering, the typical clinic pedagogy—prepare, perform, and reflect—allows clinic students to practice law in slow motion. The critical role of reflection teaches students the critical skill of how to learn from practice, a skill that is essential and transferable to all practice settings.

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

Supervision meetings are a critical part of clinical teaching. In most clinics, students work in teams of at least two, which also enables them to learn the important professional skills of collaboration and joint problem-solving. The professor meets with each clinical team on a weekly basis, sometimes more often when case needs demand it. Every step in a case is analyzed

and prepared for—from the client interview to research of possible strategies, to the drafting of pleadings, through participation in any court proceedings.

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

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

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

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

APR 9 determines when law students will begin to exercise their lawyering skills in the real world of state-court practice under the supervision of a qualified supervising lawyer. It allows the licensed legal intern to engage in most critical lawyering functions either with or without the presence of the supervising lawyer. The rule itself details the functions that can be performed and in what context, but in general the licensed legal intern can engage in interviewing, counseling, and negotiation without the presence of the supervising attorney, can draft pleadings and correspondence if also signed by the supervising attorney, and can appear without the attorney for the presentation of agreed and *ex parte* orders.<sup>9</sup> After “a reasonable period of in-court supervision” or supervised appearances in administrative hearings, a licensed intern can also appear without supervision for misdemeanor matters, for hearings before courts of limited jurisdiction, and can appear in administrative proceedings in which a nonlawyer representative is not permitted.<sup>10</sup> However, licensed legal interns may not conduct depositions or appear in superior court or the Washington Court of Appeals without the presence of a supervising lawyer.<sup>11</sup>

Washington’s current student practice rule only allows those law students who have completed the equivalent of the second year of law school to be recognized as licensed legal

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

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

interns.<sup>12</sup> Given that most clinics are only offered during the academic year, this means that students who wish to gain experience in state court must wait until their third year of law school to work under the close supervision of a faculty member.

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

The suggested amendment also makes for a more rational sequencing of experiential courses. As described above, clinics allow students the opportunity to practice law in slow motion with a focus on skill development and professional identity. By contrast, externships introduce law students to the often fast-paced real world of law practice where they often engage in high volume case work. Very few externship field supervisors who have their own caseloads have the time for role plays, mock hearings, or multiple drafts of documents characteristic of clinical practice. Research shows that externships provide fewer opportunities for students to discuss ethical issues than clinics do.<sup>13</sup> This discrepancy is likely due to the constraints of client confidentiality that inhibit discussions of specific case work in the externship seminar as well as the difference in role of the externship law office supervisor and a faculty member with clear teaching goals. These same confidentiality concerns also restrict the ability of students to engage in reflection on what they are learning from their cases in the externship seminar. Therefore, the

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

<sup>13</sup> LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, LESSONS FROM LAW STUDENTS ON LEGAL EDUCATION: 2012 ANNUAL SURVEY RESULTS 14–15 (2012), [hereinafter LSSSE LESSONS FROM LAW STUDENTS] [https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE\\_2012\\_AnnualReport.pdf](https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE_2012_AnnualReport.pdf) [<https://perma.cc/55JG-BV89>].

foundational skill of learning from practice is not as easily developed in the externship seminar as it can be in the clinic seminar where students freely exchange the details of their cases with one another.

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

In short, clinics and externships are both integral pieces of preparing students for practice. Maximizing the benefit to be gained from each requires a more deliberate sequencing that will be supported by the suggested amendment allowing second-year clinic students a limited license to practice law under APR 9.

## **ii. The Suggested Amendment is Consistent with National Norms**

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

States allowing students to practice during the second year vary in the specifics of their rules. A large number take the moderate approach suggested here and allow clinic students to

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

practice sooner than non-clinical students who must wait until the third year.<sup>15</sup> Even more states allow all second-year students to practice, without reference to clinic enrollment.<sup>16</sup> Another large group of states use the halfway mark as the dividing line, allowing all students to practice in the

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<sup>15</sup> Kan. Admin. R. 719 – Legal Intern Permit (Attorney Admission), [https://www.kscourts.org/Rules-Orders/Rules/Legal-Intern-Permit#:~:text=\(1\)%20With%20the%20supervising%20attorney's,presence%20of%20the%20supervising%20attorney.&text=\(B\)%20approve%20any%20other%20legal,the%20client's%20rights%20or%20interests.\[https://perma.cc/5PXE-CFWD\]](https://www.kscourts.org/Rules-Orders/Rules/Legal-Intern-Permit#:~:text=(1)%20With%20the%20supervising%20attorney's,presence%20of%20the%20supervising%20attorney.&text=(B)%20approve%20any%20other%20legal,the%20client's%20rights%20or%20interests.[https://perma.cc/5PXE-CFWD]); Mass. Sup. Jud. Ct. Rule 3:03 – Legal Assistance to the Commonwealth and to Indigent Criminal Defendants and to Indigent Parties in Civil Proceedings, <https://www.mass.gov/doc/massachusetts-supreme-judicial-court-rules-and-orders/download> [https://perma.cc/9DDY-HTCR]; Miss. Code Ann. 73-3-205 – Definitions; Qualifications, [https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=2c010bbe-e7a9-44c4-b47e-5bb875c4e3b6&nodeid=ABMAADAADAAD&nodepath=%2fROOT%2fABM%2fABMAAD%2fABMAADAAD%2fABMAADAADAAD&level=4&haschildren=&populated=false&title=%c2%a7+73-3-205.+Definitions%3b+qualifications.&config=00JABhZDIzMTViZS04NjcxLTQ1MDItOTIiOS03MDg0ZTQxYzU4ZTQKAFBvZENhdGFsb2f8inKxYiqNVSiHJeNKRIUp&pddocfullpath=%2fshared%2fdocument%2fstatures-legislation%2furn%3acontentItem%3a8P6B-8682-D6RV-H2N5-00008-00&ecomp=L38\\_kkk&prid=351c49fa-f7f5-44a7-93e8-fe2855f94269](https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=2c010bbe-e7a9-44c4-b47e-5bb875c4e3b6&nodeid=ABMAADAADAAD&nodepath=%2fROOT%2fABM%2fABMAAD%2fABMAADAAD%2fABMAADAADAAD&level=4&haschildren=&populated=false&title=%c2%a7+73-3-205.+Definitions%3b+qualifications.&config=00JABhZDIzMTViZS04NjcxLTQ1MDItOTIiOS03MDg0ZTQxYzU4ZTQKAFBvZENhdGFsb2f8inKxYiqNVSiHJeNKRIUp&pddocfullpath=%2fshared%2fdocument%2fstatures-legislation%2furn%3acontentItem%3a8P6B-8682-D6RV-H2N5-00008-00&ecomp=L38_kkk&prid=351c49fa-f7f5-44a7-93e8-fe2855f94269) [https://perma.cc/P9H8-T22T]; N.H. Sup. Ct. Rule 36 – Appearances in Courts by Eligible Law Students and Graduates, <https://www.courts.state.nh.us/rules/scr/scr-36.htm> [https://perma.cc/6SY5-LGL3]; Tex. Temp. Trial Card Req. – Rules and Regulations Governing the Participation of Qualified Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas, [https://www.texasbar.com/AM/Template.cfm?Section=Law\\_Student\\_Info1&Template=/CM/ContentDisplay.cfm&ContentID=30272](https://www.texasbar.com/AM/Template.cfm?Section=Law_Student_Info1&Template=/CM/ContentDisplay.cfm&ContentID=30272) [https://perma.cc/NR9P-Y9SX].

<sup>16</sup> Cal. R. of Court, R 9.42 – Certified Law Students, [https://www.courts.ca.gov/cms/rules/index.cfm?title=nine&linkid=rule9\\_42](https://www.courts.ca.gov/cms/rules/index.cfm?title=nine&linkid=rule9_42) [https://perma.cc/8M9A-TUFL]; Conn. P.B. 2014 §§ 3-14 through 3-21 – Application for Appearance of Legal Intern, <https://www.jud.ct.gov/webforms/forms/es096.pdf> [https://perma.cc/6JBV-P7KA]; Ga. S. Ct. R 92 Activities Permitted by a Registered Law Student, 93 — Requirements for Registration, and 94 — Procedure for Registration, <https://www.gasupreme.us/rules/rules-of-the-supreme-court-of-georgia/#XV8-15-15> [https://perma.cc/X2KC-M6XC]; Haw. R. Sup. Ct. 7.1 – Supervised Student-Practice of Law. Definitions, [https://www.courts.state.hi.us/docs/court\\_rules/rules/rsch.pdf](https://www.courts.state.hi.us/docs/court_rules/rules/rsch.pdf) [https://perma.cc/UFD2-K473]; Mich. R. MCR 8.120 – Law Students and Recent Graduates; Participation in Legal Aid Clinics, Defender Offices, and Legal Training Programs, <https://michigancourtrules.org/mcr/chapter-8-administrative-rules-of-court/rule-8-120-law-students-and-recent-graduates-participation-in-legal-aid-clinics-defender-offices-and-legal-training-programs/> [https://perma.cc/M987-S39Z]; Minn. Ct. R. 2– Professional Rules-Student Practice Rules, [https://www.revisor.mn.gov/court\\_rules/pr/subtype/stud/id/2/](https://www.revisor.mn.gov/court_rules/pr/subtype/stud/id/2/) [https://perma.cc/R57E-TUDS]; N.Y. Admissions Rule 805.5 – Activities of Eligible Law Students and Law School Graduates Authorized by Sections 478 and 484 of the Judiciary Law, [http://www.courts.state.ny.us/ad3/admissions/805.5\\_ActivitiesOfEligibleLawSTudents.pdf](http://www.courts.state.ny.us/ad3/admissions/805.5_ActivitiesOfEligibleLawSTudents.pdf) [https://perma.cc/EC4B-3JUB]; Utah R. 14-1807 – Law School Student and Law School Graduate Legal Assistance, <http://www.utcourts.gov/resources/rules/ucja/ch14/08%20Special%20Practice/USB14-807.html> [https://perma.cc/XHJ7-ZD97]; Wyo. R. 9 – Limited Practice by Law School Clinic Supervising Attorneys and Law Students, <https://www.courts.state.wy.us/wp-content/uploads/2017/05/RULES-GOVERNING-THE-WYOMING-STATE-BAR-AND-THE-AUTHORIZED-PRACTICE-OF-LAW-March-2020.pdf> [https://perma.cc/AH2D-2AHS].

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

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

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

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

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

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

### **iii. The Suggested Amendment Yields Significant Ancillary Benefits**

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

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

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

These pressures have led to calls for practice-ready law graduates.<sup>21</sup> Given that the practice of law is increasingly specialized and always changing, it is unrealistic to demand that each law graduate be fully practice-ready for all of the possible types of opportunities that exist.<sup>22</sup> However, allowing students to begin building their skills in the second year will provide the graduating law student with a better developed set of foundational lawyering skills and a stronger sense of professional identity.

The benefits of this expanded access rule would also extend to summer employment between the second and third year of law school. Those students with clinical experiences in state court practice in their 2L year will be that much more prepared to be effective contributors to the law offices that hire them. Ultimately, these benefits to future employers redound to the

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

<sup>20</sup> *Id.* at 11–12.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 13.

benefit of clients who will not only have more efficient junior counsel working on their matters but also will have more experienced, competent services rendered.

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

In the wake of the uprisings of 2020, the call for diversity, equity, and inclusion within legal institutions has grown increasingly louder. Washington General Rule 12.2 charges the Washington State Bar Association (WSBA) with the mission to “promote diversity and equality in the courts and in the legal profession.”<sup>23</sup> In furtherance of this goal, the WSBA has joined the Washington Race Equity & Justice Initiative,<sup>24</sup> which acknowledges that “[t]he effects of bias and structural racialization are especially damaging to the social fabric of our democracy when they are woven into the law, legal profession and justice system, where they can weaken the ability of these systems to safeguard equity and justice under the rule of law.”<sup>25</sup> The WSBA is committed to “change structures, policies, processes, and practices in the law, legal profession, and justice system that allow harm and disparate outcomes for Black, Indigenous, and communities of color to continue unabated.”<sup>26</sup>

Among the racialized harms and disparate outcomes that land right on the doorstep of law schools is the ongoing structural racism that excludes people of color from the profession itself. Structural racism embedded in legal education deters people of color from applying.<sup>27</sup> It keeps

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

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

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Recent data from the Law School Admissions Council (LSAC) show that while 12.4% of the US population is Black, only 11.7% of those applying to law school are Black. An even deeper rate of disproportionality can be found when examining the statistics for American Indian and Alaskan Native communities, which make up only .7% of the US population but .4% of those applying. Similarly, even though the Latinx community comprises 18.4% of the US

law schools from admitting people of color when they apply.<sup>28</sup> And it subsequently drives people of color out of the institution once they are admitted.<sup>29</sup> While the suggested amendment to APR 9 cannot address the problems surrounding admissions criteria and its impact on recruiting students of color is not well-studied, an amended APR 9 would contribute to creating learning environments early in the curriculum that support the retention of students of color.

Law students of color report that they lack a sense of belonging in law school.<sup>30</sup> These feelings of alienation and isolation are likely among the drivers for the high attrition rates experienced by Black, Indigenous, and Latinx law students. Certainly, achieving a critical mass of students of color through better recruitment and admission practices will go a long way towards creating learning environments that embrace all students. However, curriculum also matters in retaining students once they are admitted. Expanding Rule 9 clinical offerings to the second year has a significant impact on the law school curriculum.

A recent national survey of law students of color indicated that curricular offerings that acknowledge privilege and equity concerns can make a difference in the well-being and sense of belonging that students of color experience. Students of color reported a dearth of learning

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population, it comprises only 10.3% of law school applicants. LSAC, DIVERSITY IN THE US POPULATION & THE PIPELINE TO LEGAL CAREERS (2020).

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

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

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

opportunities that allow them to “reflect on their own backgrounds, connecting these with ongoing racial tensions, gender equity, and broader social justice goals.”<sup>31</sup> There are many ways that law schools can address this need for change in every aspect of their curriculum. However, clinics are already meaningfully engaging in the type of teaching and learning that answers these needs. The small, collaborative environment of clinics is an ideal place for community building, critical thinking about privilege and equity, and learning through the dynamic teachable moments that practice provides.

Prior research has established the critical role that clinics play in student engagement and academic success.<sup>32</sup> Students who may have felt intimidated in the larger doctrinal classrooms often regain their confidence and sense of achievement in clinics.<sup>33</sup> Furthermore, students who participate in clinics are more likely than non-clinical students to receive feedback that nurtures their ongoing interest in the practice of law.<sup>34</sup> Allowing students access to clinics with Rule 9 practice opportunities sooner rather than later will support the well-being and academic success of all students.

### *3. The Suggested Amendment Will Expand Access to Justice*

There is no shortage of unmet legal need in Washington.<sup>35</sup> The demand for legal assistance continues to expand and diversify. The longstanding vacuum in legal services for family law

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<sup>31</sup> *Id* at 15.

<sup>32</sup> LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, STUDENT ENGAGEMENT IN LAW SCHOOL: KNOWING OUR STUDENTS 8 (2007), [https://lssse.indiana.edu/wp-content/uploads/2016/01/EMBARGOED\\_\\_LSSSE\\_2007\\_Annual\\_Report.pdf](https://lssse.indiana.edu/wp-content/uploads/2016/01/EMBARGOED__LSSSE_2007_Annual_Report.pdf) [<https://perma.cc/KJ8C-SFL4>].

<sup>33</sup> LSSSE LESSONS FROM LAW STUDENTS , *supra* note 13, at 14 .

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

<sup>35</sup> WASHINGTON STATE SUPREME COURT, CIVIL LEGAL NEEDS STUDY UPDATE (Oct. 2015), [https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy\\_October2015\\_V21\\_Final10\\_14\\_15.pdf](https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf) [<https://perma.cc/N75H-6CRG>].

matters is well known, but more recently, unmet legal needs surrounding housing, health care, consumer credit, employment, and the collateral consequences of the criminal legal system are being recognized.<sup>36</sup> The Washington Supreme Court Task Force on Civil Legal Needs' most recent report found that “[m]ore than three-quarters (76%) of those who have a legal problem do not get the help they need.” Most low-income people, particularly those who are the survivors of domestic violence or sexual assault, face not just one legal problem, but a complex web of legal challenges.<sup>37</sup> Clinical law programs provide representation to clients whose legal needs would otherwise not be met. Allowing 2Ls to practice in the state courts of Washington will augment the resources available to address this staggering need.

The exclusion of 2Ls from the student practice rule has shaped the clinical offerings that are available to students, which in turn has artificially constrained law schools' full participation in educational programming that could help to improve access to justice. Due to the inability to involve 2Ls in state-court practice and the demand among 2Ls for clinical opportunities, the three law schools have looked to other types of clinical offerings that would allow 2L participation outside of state court proceedings. To the extent that state-court practice clinics are offered, they often are undersubscribed because students have opted for a 2L clinic experience and 3L externship. With the opening of the student practice rule to 2Ls, the ability to satisfy unmet legal needs in state courts will expand as clinical programs are freer to design a broader range of clinics to meet the 2L demand that will arise for them.

While it is true that clinic student caseloads are deliberately small, the typical approach with each client is very thorough, which often leads to uncovering and addressing the multiple

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<sup>36</sup> *Id.* at 3.

<sup>37</sup> *Id.*

legal needs that the client faces. In this way, clinics are ideally situated to provide holistic and effective representation for those most in need.

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

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

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

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

These sentiments are consistent with an ABA Coalition for Justice survey of judges on the impact of *pro se* litigants in the courts.<sup>40</sup> Not surprisingly, 86% of the respondents felt that courts

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

<sup>39</sup> WASHINGTON COURTS, SUPERIOR COURT STATISTICAL REPORTING MANUAL 2. Cases with *Pro Se* Litigants, [https://www.courts.wa.gov/jislink/index.cfm?fa=jislink.codeview&dir=stats\\_manual&file=ct1prose](https://www.courts.wa.gov/jislink/index.cfm?fa=jislink.codeview&dir=stats_manual&file=ct1prose) [<https://perma.cc/N844-8ZDH>].

<sup>40</sup> ABA COALITION FOR JUSTICE, REPORT ON THE SURVEY OF JUDGES ON THE IMPACT OF THE ECONOMIC DOWNTURN ON REPRESENTATION IN THE COURTS (PRELIMINARY) (July 12, 2010), <https://legalaidresearchnlada.files.wordpress.com/2020/02/aba-coalition-justice-survey-judges-2010.pdf> [<https://perma.cc/2BGN-VA9S>].

would be more efficient if all parties were represented.<sup>41</sup> The impact on the administration of justice goes beyond merely slowing down processes as *pro se* litigants struggle to find their way through a foreign system. Having unrepresented parties affects the quality of justice itself. Judges also expressed concerns that *pro se* litigation decreased the likelihood of a fair representation of the facts and compromised the impartiality of the court as it sought to aid *pro se* litigants in the interests of avoiding injustice.<sup>42</sup>

Amending APR 9 to expand clinical law student access to the state courts is an important step towards decreasing the overall rate of *pro se* appearances, which will benefit not only the litigants themselves but the courts as well.

#### **iv. Rationale for Specific Language in the Suggested Amendment**

The current APR 9 provision requires the law student to have “successfully completed not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed 4-year course of study.” The proponents of this suggested change believe that the reference to a 4-year course of study was intended to reference Seattle University’s part-time law school program, which itself has evolved over time.

The proponents have simplified the reference to the law school curriculum by eliminating the three-year versus four-year distinction, instead referencing only that the student must have completed one-third of the prescribed law school curriculum if enrolled in a clinic or two-thirds if not. This choice was made in order to be inclusive of all of the varieties of law school curriculum that have arisen or may arise in the future. For example, since this rule was established Gonzaga University has both a part-time program and the “3+3 Program,” which

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<sup>41</sup> *Id.* at 14.

<sup>42</sup> *Id.* at 4

prescribes specific pathways for students to earn their undergraduate and law degrees in six years instead of seven.”<sup>43</sup> Given the possibility for these and other unanticipated innovations in legal education in the future, the proponents believe that the suggested amendment will allow for maximum flexibility while maintaining the structure that adheres closely to the more common 3-year full-time student trajectory.

**c. APR 9(b)(4) – APR 6 Eligibility**

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

**d. APR 9(b)(5) – LL.M. Graduate Eligibility**

This amendment would allow certain LLM graduates of ABA approved law schools to qualify for the rule 9 license. Currently, under APR 3(b)(4), J.D. graduates of non-ABA law schools and graduates of foreign law schools can qualify for the bar exam if they earn an LLM from an ABA approved law school, but they are not eligible for a rule 9 license. This amendment is intended to address this discrepancy and increase equitability of the rule 9 license. In the past

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<sup>43</sup> See Gonzaga University School of Law, 3 + 3 Programs, <https://www.gonzaga.edu/school-of-law/admission/3-plus-3-programs> [<https://perma.cc/83VW-3258>].

few years, the WSBA has received inquiries from some LLM graduates who would like to have a rule 9 license while they are in the exam and admission process. These LLM graduates who are intending to practice law in Washington and who qualify for the bar exam in Washington should be afforded the same opportunity to gain practical experience prior to entering the profession just as J.D. graduates would.

**e. APR 9(d) – Application**

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

**f. APR 9(h) – Term of Limited License**

The suggested amendment to increase the maximum period of the Rule 9 license follows from the suggestion to begin the license 12 months earlier under the law clinic proposal. This would allow those law students who receive a Rule 9 license in their second year to be able to have a sufficient license period after graduating while awaiting bar exam results and admission to practice. APR 9(h) limits the validity of the license to no later than 18 months after graduation which will prevent law students who receive the Rule 9 license late in law school from having the license for an unreasonable length of time after graduation.

**g. Technical Amendments and Modernization**

There are several suggested amendments that are technical in nature or serve to update the procedural rules regarding administration of the of the application and licensing processes in APR 9. These amendments would allow for electronic delivery and other alternative methods of

handling the administrative procedures rather than through the use of physical documents or “snail” mail.

**D. Hearing:**

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

**E. Expedited Consideration:**

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

**F. Supporting Materials:**

1. Suggested Amendments to APR 9 (Blackline)
2. Suggested Amendment to APR 9 (Clean Draft)
3. Joint letter from Washington law school deans dated May 3, 2021
4. Letter from University of Washington School of Law leadership team dated May 5, 2021
5. Letter from University of Washington School of Law Externship Program Director dated September 24, 2021
6. Letter from Seattle University School of Law Externship Director dated September 24, 2021
7. Order dated May 15, 2020, temporarily amending Admission and Practice Rules

**SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES**

**RULE 9 – LICENSED LEGAL INTERNS**

**RULE 9. LICENSED LEGAL INTERNS**

(a) Unchanged.

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

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

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

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

(2) Be an enrolled law clerk who:

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

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

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

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

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

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

4 (c) Unchanged.

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

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

15 (2) The application must include:

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

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

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

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

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

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

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

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

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

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

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

15 (9~~10~~) A Licensed Legal Intern who has completed at least two-thirds of a prescribed law  
16 school course of study or five-eighths of the APR 6 law clerk program may have up to two  
17 supervising ~~attorneys~~ lawyers in different offices at one time. A Licensed Legal Intern who  
18 qualifies under this section may submit an application for approval to add a supervising  
19 attorney in another office or to change supervising attorneys any time within the term of the  
20 limited license. A Licensed Legal Intern who was licensed prior to completing at least two-  
21 thirds of a prescribed law school course must pay the application fee if the new supervisor will  
22 not be at a law school clinic and submit written approval of the law school's dean or a person  
23 designated by such dean and a certification by the dean or designee that the applicant has met  
24 the educational requirements. When a Licensed Legal Intern applies to add a concurrent  
25 supervising attorney in another office, the Intern must notify both the current supervising  
26 attorney and the proposed new supervising attorney in writing about the application, and both

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

8 (e) – (f)(6) Unchanged.

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

13 (f)(8) – (g) Unchanged.

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

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

26 (2) – (3) Unchanged.

**SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES**

**RULE 9 – LICENSED LEGAL INTERNS**

**RULE 9. LICENSED LEGAL INTERNS**

(a) Unchanged.

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

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

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

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

(2) Be an enrolled law clerk who:

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

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

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

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

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

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

3 (c) Unchanged.

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

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

14 (2) The application must include:

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

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

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

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

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

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

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

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

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

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

## SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

### RULE 9 – LICENSED LEGAL INTERNS

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

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

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

**SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES**

**RULE 9 – LICENSED LEGAL INTERNS**

1 (e) – (f)(6) Unchanged.

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

6 (f)(8) – (g) Unchanged.

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

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

19 (2) – (3) Unchanged.

20  
21  
22  
23  
24  
25  
26

May 3, 2021

Ms. Susan L. Carlson  
Clerk of the Washington Supreme Court  
Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504

Re: Proposed Amendments to Admission to Practice Rule 9

Dear Ms. Carlson:

As deans of the three Washington law schools, we are writing to voice our unified support for the proposed amendments to APR 9 being put forward together by our Clinical Law Programs. These proposed amendments would expand APR 9 eligibility to second-year students enrolled in clinical courses at each of our law schools.

The suggested amendments to APR 9(b)(1)(A) not only comport with national student practice norms but, more importantly, they support best practices in legal education. Allowing second-year law students the chance to appear in state court under close clinical faculty supervision provides students the opportunity to engage earlier in their law training with matters of professional identity and the ethics of practice, while learning the importance of pro bono service and the competent representation of actual clients. This solid foundation will enable students to move more effectively into externships, summer employment, and their future careers.

As deans, we have heard the repeated calls from the bench and bar for law schools to graduate students who understand not only how to *think* like lawyers, but who also know how to *do the actual work* of lawyers. Our law schools seek to graduate students with a strong sense of professional identity and a firm grasp of the basic lawyering skills needed to succeed in the ever-changing practice of law. A deliberately structured and sequenced experiential learning curriculum is essential to achieving these goals. Having a variety of clinics available to students in their second year of law school is a fundamental part of such a sequential curriculum, and the proposed broadening of Licensed Legal Intern status to second-year students enrolled in clinics will support this effort.

The expansion of APR 9 to second-year clinical students also resonates with the strong public service missions held by all three law schools. Whether as a public law school or one with a social justice mission grounded in Jesuit values, each of our law schools seeks to introduce our students to the value of public service as early as possible in their law school careers. Currently, second-year students are unable to participate in clinics that address the many legal needs of unrepresented people in our state courts. We support amending Rule 9 so that our students

can help meet these needs and learn about the meaningful contributions they can make at an earlier and more formative stage of their legal education.

Finally, as deans, we understand the vital role that quality clinical programming plays in attracting and retaining an engaged and diverse student body. By aligning our law schools with national norms as to student practice, we will be strengthening our clinical programs and improving our attractiveness to a wider range of students. Clinics also play an important role in student retention. Clinical education gives students a place to work together in small groups to problem-solve and to reflect on the law's potential, its limitations, and even its harmful effects. It gives them the opportunity to learn from and interact with the community outside the walls of the law school. These benefits help all students to find meaning in, and remain engaged with, their legal education. This sense of belonging is especially essential for those students who are struggling to find their place in what can otherwise be a foreign legal culture. Thus, allowing students to have a full range of clinical opportunities in their second year will support a thriving student body.

Based on the foregoing considerations, we enthusiastically embrace the expansion of APR 9 to allow second-year JD students enrolled in clinics to be eligible to serve as Licensed Legal Interns. Thank you for your consideration of this letter.

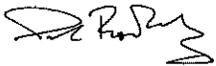
Sincerely,



Mario L. Barnes  
Toni Rembe Dean and Professor of Law  
University of Washington School of Law  
William H. Gates Hall Box 353020  
4293 Memorial Way NE, Seattle, WA 98195



Annette Clark  
Dean and Professor of Law  
Seattle University School of Law  
901 12th Ave, Seattle, WA 98122



Jacob H. Rooksby  
Dean, School of Law  
Professor of Law and Leadership Studies  
Gonzaga University  
502 East Boone Avenue  
Spokane, WA 99258-0102

May 5, 2021

Ms. Susan L. Carlson  
Clerk of the Washington Supreme Court  
Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504

Re: Suggested Amendments to Admission to Practice Rule 9

Dear Ms. Carlson:

We are writing as the leadership team of the University of Washington School of Law to voice our support for the suggested amendments to APR 9 proposed by the Clinical Law Programs of all three WA law schools. We also support the suggested amendments of the Washington State Bar Association that are intended to modernize and clarify existing practices and allow graduates of LLM programs who meet the requirements of Admission to Practice Rule 3(b)(4) to obtain Licensed Legal Intern status.

The suggested amendments to APR 9(b)(1)(A) not only comport with national student practice norms but, more importantly, support best practices in legal education. Allowing second-year law students the chance to appear in state court, under close clinical faculty supervision, provides students the opportunity to engage early with professional identity, the ethics of practice, the importance of pro bono service, and diligent client service. This solid foundation enables students to move more effectively into externships, summer employment, and their future careers.

The current APR 9 has unintended consequences for our Clinical Program that results in the near exclusion of state court practice opportunities. This stems from the confluence of student demand, the yearlong nature of most of our clinics, and the realities of our quarter system. The demand for clinics is often the highest among second-year students who are eager to emerge from the rigors of the doctrinal first year and apply their new analytical skills to actual practice. Within the strictures of a quarter system, clinical pedagogy favors yearlong clinics, particularly when the case work is likely to take an academic year to complete. Given that the quarter extends into late May, some third-year students try to finish law school requirements a quarter early so as to avoid studying for the bar while finishing classes. This means that we have less demand from third year students, who are currently APR 9 eligible, than from second-year students who are currently APR 9 ineligible.

Given that second-year students cannot practice in state court, most UW clinics focus on matters that do not require state court practice, and those that have some state court practice element struggle to find Rule 9 eligible students to enroll. While there is much to be learned from clinics that flourish in the policy, transactional, administrative, or tribal contexts, the near exclusion of state court practice from our Clinical Law Program is problematic. There are lawyering skills and substantive knowledge that we are unable to share with students. In addition, allowing qualifying students to be APR 9 eligible will add to the law

school's ability to provide free legal services to those most in need while exposing students to access to justice issues they can carry into their future careers.

In addition to the curricular benefits, amending APR 9 to allow second-year clinical participation will improve student well-being from early integration of practice into legal education. Clinical education gives students a place to work together in small groups to problem-solve and to reflect on the law's potential, its limitations, and even its harmful effects. It gives them the opportunity to learn from and interact with the community outside the walls of the law school. These benefits help all students to find meaning in and remain engaged with their legal education and seems especially essential for those who are struggling to belong in what can otherwise feel like a foreign legal culture. Allowing students to have a full range of clinical opportunities in their second year will support a thriving student body.

We also endorse the WSBA's proposed amendments to APR 9(b)(3) to make clear that graduates of the LLM program who are eligible to sit for the bar examination under APR 3 are also eligible to apply to practice as Licensed Legal Interns under APR 9. As the primary provider of the qualifying LLM graduates under APR 3 in Washington state, we want to voice our support for this proposed change which treats LLM graduates the same as all others who are eligible to sit for the bar. This result is not only equitable, but is obviously beneficial to the graduates, their employers and the community of clients who will receive the benefit of their work under supervision.

In conclusion, we enthusiastically embrace both suggested changes to APR 9.

Sincerely,

Mario L. Barnes  
Toni Rembe Dean &  
Professor of Law

Cristina Artega  
Assistant Dean for Admissions & Financial Aid

Jessica Brase  
Assistant Dean for Finance & Operations

Christine N. Cimini  
Associate Dean for Experiential Education  
Professor of Law

William Covington  
Associate Dean for Diversity, Equity and Inclusion  
Teaching Professor

Sellyna Ehlers  
Director of Human Resources, Equity and Engagement

Anna Endter  
Associate Dean for Students

Kerry Godes  
Assistant Dean for Advancement

Mary Hotchkiss  
Chair, Faculty Executive Committee  
Teaching Professor

Elana Matt  
Assistant Dean of Student and Career Services

Elizabeth Porter  
Associate Dean for Academic Administration  
Professor of Law

Terry Price  
Director of Graduate Education

Zahr K. Said  
Associate Dean for Research and Faculty Development  
Charles I. Stone Professor of Law

Staishy Bostick Siem  
Director of Marketing and Communications

Jessica West  
Assistant Dean of Academic Success Programs

Alena Wolotira  
Leadership Team Staff Council Representative  
Head of Public Services

Thayer York  
Director of Technology Services

October 15, 2021

The Honorable Steven González  
Chief Justice  
Washington Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929

Re: Proposed Amendments to Admission and Practice Rule 9

Dear Chief Justice González:

We write to submit proposed amendments to Admission and Practice Rule 9 for the Court's consideration. The proposed amendments resulted from a collaboration between the University of Washington School of Law, Gonzaga University School of Law, Seattle University School of Law, and the Regulatory Services Department of the WSBA.

We believe it is important to note that the WSBA is operating under the Court's May 20, 2020 order that temporarily modified APR 9 through December 31, 2021. We ask that one of the three provisions temporarily modifying APR 9 be extended beyond the temporary order and that is that LL.M. and APR 6 law clerk graduates be eligible for the license.

The attached GR 9 cover sheet provides a comprehensive discussion of the proposed amendments. Below is a summary of the primary purposes of the suggested amendments to APR 9:

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

If we can provide additional information, please don't hesitate to contact us.

Sincerely,



Brian Tollefson  
President, WSBA



Mario L. Barnes  
Toni Rembe Dean, University of Washington School of Law



Annette Clark  
Dean, Seattle University School of Law



Jacob H. Rooksby  
Dean, Gonzaga University School of Law

cc: Terra Nevitt, WSBA Executive Director  
Renata de Carvalho Garcia, WSBA Chief Regulatory Counsel  
Lisa Kelly, University of Washington School of Law

Attachment:

1. GR 9 Cover Sheet re Suggested Amendments to APR 9

September 24, 2021

Ms. Susan L. Carlson  
Clerk of the Washington Supreme Court Supreme Court  
Temple of Justice  
P.O. Box 40929 Olympia, WA 98504



Re: Proposed Amendments to Admission to Practice Rule 9

Dear Ms. Carlson,

I am writing in support of the proposed amendments to Admission to Practice that would allow students to practice as Rule 9 Licensed Legal Interns (LLI) if they have completed one third of their law school curriculum and are supervised by a clinical faculty member. By way of introduction, I have been the Director of the Externship Program at Seattle University School of Law for the past twelve years. In this role, I guide students individually to create a plan for multi-semester, broad range enrollments in clinics and externships. Prior to this I taught a Refugee and Immigrant Advocacy Clinic at the University of Washington School of Law for fifteen years. I served as a Staff Attorney and then Senior Attorney at the Seattle Office of the Northwest Justice Project and before that worked for six years representing migrant farmworkers at Evergreen Legal Services, where I also supervised Jesuit Volunteers. These experiences have given me a unique perspective on the training of law students and on their important role in increasing access to justice throughout the state.

As detailed in the original proposal, allowing 2Ls to practice as Rule 9 Licensed Legal Interns has many benefits. It is consistent with the practices of many other states and with the increased law school focus on experiential learning as required by the ABA Standards on Legal Education. It allows more students to gain experience working in court by giving them two years of eligibility instead of one. And it provides benefits to low- and middle-income Washington residents in need of legal services by increasing the numbers of students who are able to take their Rule 9 skills into externships in their third year of law school.

Seattle University Law offers a robust clinic and externship program, with 11 clinics and over 700 available externship placements. Students in our program gain a broad range of experience in judicial, transactional, and litigation settings, and acquire the skills needed to promote racial equity and social justice within the law. The majority of our students graduate with at least one clinic or externship, and many have done two or more. Ideally, students would take a clinic in which they receive careful and close education in skills and values before they enter externship placements that more closely mirror post-graduation work and that reach a larger number of Washington residents in need of legal assistance.

The proposed amendment would enable more students to take better advantage of both clinics and externships. Many of our externship placements require or prefer Rule 9 experience and most are located in Washington State. Under the current rule, many students are not as well prepared for the Rule 9 externships because they cannot currently take a clinic until their 3L year. Allowing students to practice as a Rule 9 LLI in a clinic during their second year will give them an earlier start on closely supervised training, which in turn will enable them to use their skills and knowledge in a wider array of externship placements in their third year. Seattle University School of Law enrolls up to 40% students of color and many students who come from marginalized

#### EXTERNSHIP PROGRAM

Gillian Dutton, Associate Professor of Lawyering Skills and Director | (206) 398-4010 | [duttong@seattleu.edu](mailto:duttong@seattleu.edu)  
Samira Sharif, Assistant | (206) 398-4128 | [sharifs@seattleu.edu](mailto:sharifs@seattleu.edu) • Carina Garcia, Assistant | (206) 398-4006 | [cgarcia3@seattleu.edu](mailto:cgarcia3@seattleu.edu)  
1215 E. Columbia | Seattle, WA 98122-4340  
F: (206) 398-4136 | [www.seattleu.edu](http://www.seattleu.edu)

communities. Providing more clinical experiences early on and improved access to externship sites following their second year Rule 9 experience will further our mission to support and enhance diversity and equity in the legal profession.

The proposed amendment benefits the broader community as well. Many externs provide critical legal assistance in a range of criminal and civil settings. Earlier Rule 9 eligibility and experience increases student skills, knowledge, and values, which leads to more efficient and even higher quality representation in their externships. This increased competence will allow externship placement sites to supervise at a different level and will maximize the number of community members they can serve while supervising externs.

Our experiential learning program at Seattle University School of Law is explicitly designed to encourage students to move from basic to advanced levels in all three years of schooling while they pursue their unique career paths. This expansion of Rule 9 eligibility is a significant gain in support of this goal of better sequencing of skills development and will support access to justice needs throughout the state.

Kind regards,



**Gillian Dutton** (she/her)

Associate Professor of Lawyering Skills  
Externship Director, Korematsu Center Fellow  
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# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE	)	ORDER TEMPORARILY
BY WASHINGTON STATE COURTS TO THE	)	MODIFYING ADMISSION
COVID-19 PUBLIC HEALTH EMERGENCY	)	AND PRACTICE RULES
	)	
	)	No. 25700-B-623
	)	

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WHEREAS, the COVID-19 pandemic necessitates special measures to allow for the safe administration of the bar exam and may affect the ability of some applicants to take the Bar exam in July, and

WHEREAS, Washington’s Admission and Practice Rule (APR) 9 permits eligible law school and law clerk students and graduates to engage in limited and supervised legal practice within the delineated scope of their APR 9 licenses, and

WHEREAS, the Court recognizes the benefit to members of the public who need legal services of continuing to authorize educated and trained APR 9 Licensed Legal Interns to provide assistance to clients, within the scope of their APR 9 licenses and supervision, and

WHEREAS, the Court has reviewed Washington’s APRs to consider whether any of its provisions should be modified in light of the COVID-19 pandemic,

The Court hereby unanimously enters the following order establishing temporary modifications to some provisions of the current APRs:

- 1) APR 4(d)(1) is temporarily modified for the bar exams to be administered in Washington in July and September 2020 only, to allow for a minimum passing score of 266;

- 2) Notwithstanding any provision of APR 3, the court authorizes the WSBA to modify exam procedures to the extent necessary for the safe and effective administration of the bar exam in July and September 2020.
- 3) The provisions of APR 9(h) regarding the term of the license are modified so that no APR 9 license will be subject to termination solely because the APR 9 Licensed Legal Intern has been licensed for more than 30 consecutive months or for more than 18 months after graduation from an approved law school or completion of the APR 6 Law Clerk program;
- 4) The provisions of APR 9(f)(6) regarding the limits on the number of Licensed Legal Interns that one Active lawyer may supervise at one time are modified so that: an Active lawyer in private practice may supervise up to three APR Licensed Legal Interns at one time; and an Active lawyer employed by a recognized institution of legal aid, legal assistance, public defense or similar programs furnishing legal assistance to indigents, or by the legal department of a state, county or municipality may supervise up to six APR 9 Licensed Legal Interns at one time; and
- 5) The provisions of APR 9(b)(3) are modified to clarify that the term “graduate of an approved law school” includes all applicants with the educational requirements to qualify to sit for the lawyer bar examination, as established in APR 3(b)(1), (2), and (4).

The temporary modifications stated above will remain in effect until December 31, 2021, or until further order of the Court.

In recognition of the economic realities facing recent law school graduates, the Court takes this opportunity to express its support for efforts to ensure that any Licensed Legal Intern

who is covered by the eligibility provisions of APR 9(b)(3) shall receive monetary compensation in compliance with federal and state law governing employment or monetary compensation provided through grants or other funding sources.

DATED at Olympia, Washington this 15<sup>th</sup> day of May, 2020.

For the Court

  
CHIEF JUSTICE