

WSBA Family Law Executive Committee Meeting Minutes

Meeting date and place: September 17, 2022, by Zoom

FLEC member name	Present?	Proxy	Alternate proxy	Unexcused?
Zachary Ashby	no			
Deborah Bianco	yes			
Shelley Brandt	no	Kimberly Loges	Elizabeth Helm	
Cynthia Buhr	yes			
Christy Carpenter	yes			
Stephen Foster	yes			
Christopher Fox	yes			
Tamara Garrison	yes			
Nancy Hawkins	yes			
Elizabeth Helm	yes			
Jacqueline Jeske	yes			
La Vonna Jones	yes			
Kimberly Loges	yes			
Patrick Rawnsley*	yes			
Dawn Sydney	yes			
Boaz Weintraub	no	Jackie Jeske		
OTHERS				
*Non-voting member				
Alan Funk				

Chair began the meeting at 9:14am.

Secretary went through roll call and proxy votes.

Announcements: Jackie went through the FLEC election results. The results are posted on the webpage. This will be Christy’s last meeting and she and her service will be missed. Christy expressed her gratitude to FLEC. Although Zach is not present, his service will also be missed.

Christy: appreciates Jackie being gracious, consensus building, Pat’s analysis of proposed legislation is invaluable, and kudos to all who have worked tirelessly to organize midyear and wants to continue to attend, if Beth and Kim can continue to send agendas. She will be working on national level, invited to IFALS (institute for advancement of Legal system). Will continue to work with unrepresented litigant work group who are now working to establish a statewide website for pro se litigants in all areas of the law.

She was asked to participate in ABA/ATJ committee as rep of limited license professionals and will continue on LLLT board, while she is a little disappointed, she has a lot of other things in the works Jackie: her heart is in public service and knows she’ll be important voice in this work.

Adoption of the Agenda/Minutes: Jackie has a requested edit to the July minutes regarding her concern with FLEC’s bylaws. Kimberly will work with Jackie on those edits.

Jackie has thought about proposing an amendment to FLEC’s bylaws regarding absences and illnesses. She would like to see some accommodation for those that have medical reasons. Pat and Beth discussed

that the bylaws allow absences as long as they are excused, and the member provides proxy votes. Nancy suggests putting together a small committee to look at the bylaws and whether any should be revamped or amended. Jackie suggests this suggestion be tabled given this is the last meeting of the year and there will be a new Chair/new year. Nancy moves to have a committee to review our bylaws and suggest any changes. Jackie seconds. No opposition. Motion passes. Pat points out that from an editing standpoint the BOG liaison is not mentioned within the bylaws.

Discussions regarding elections and when they take place. Elections to take place at the first meeting of the next term.

Jackie comes back to minutes. She moves to approve the minutes with the edits. Kim seconds. The minutes are adopted.

Agenda: Jackie moves to adopt the agenda. Deb and Kim second the motion. No opposition. Motion passes, agenda is approved.

Review of the Mid-Year: Beth reviewed the mid-year. Generally, there was a very positive reception. They met with WSBA and went through the evaluations. Beth—one thing we need to do is confirm the dates for the 2023 Mid-Year. The venue is asking WSBA to sign the contract which is why we need to confirm the dates. Chris asked about the Mid-Year attendance. It was 189 this year. It was a little less last year. It has decreased from when the Mid-Year was in person.

Cynthia recalls we discussed moving the dates but not necessarily the in-person element. Jackie believes we can commit to the dates now and then revisit the room numbers at a later time. Further discussion regarding whether to do a remote versus live in person event. Christy suggests sending out a survey to engage membership with their preferences for remote versus in person.

General consensus is to commit to the current July 2023 dates and discuss the nature of the Mid Year (hybrid versus in person) at a later date.

Break

BOG Updates: The recommendations from the Supreme court was that there is no case that currently says we need to change structure and there is no reason to have a Plan B.

Another question re structure is should we still consider sending letter to WA S Ct w/ our own opinion?- that came up when it looked like there would be consideration

Nancy is ambivalent re whether that is needed-wait & see what rept says. If it has unusual comments, then maybe we should submit letter to S Ct. and Nancy doesn't remember whether we heard

Heard from Justice Yu that S Ct will not consider until October-

Let's see what comes up this week, and if we need to vote we can do that via email

Jackie: we should be on record somewhere for our colleagues

Maybe just bullet points, taking a position

Nancy: One of the governors has a name for new organization, its structure-so inapp for people to come up with new structure without our input or agreement-everyone who spoke at ETHOS was against

bifurcation-if something like this comes in, we would want to explain in detail why we do not recommend that

Nancy will be in touch with Pat; has long had a draft but will deal with Pat about it as needed in next week or so, depending on when materials are available

A few things from Board of Gov materials

New Keller deduction is \$6.90, subj to Board approval

About 13% of members opt for it and get it

The organization is going to consider some revised fiscal policies-they have had committee go thru old policies and clean them up; for most part they're similar-Nancy wd ask permission to comment on looking at cost of 3rd parties at Governor meeting (spouses, children, etc. of members and staff). Expense we may be able to reduce the overall budget. Nancy gets invited to go to the meals at the events and has long said why am I not being charged? Became clear that no one is being charged

Wd rather we pay for her meal rather than provide for 60 extra people to eat at these meetings?

It wd be prudent for them to look at it and reduce costs

Does anyone think that's too petty, or insignificant?

Jackie: doesn't seem like people in public service should be

Nancy: When we went to Skamania (very expensive) on Gov. brought spouse, two children, parents-there's a lot-everybody brings somebody-

Nancy: the other thing is when you do buffet style food, the hotel charges per person

When we used to meet in Olympia we had a \$12/lunch limit

It's a ton of food, but if people think it's too much, I won't raise it

Tamara: maybe limit to immed. Family-but they do commit to a lot of time and travel, away from their families-I could understand limiting it to immed. Family

Nancy is just saying that we should ask Budget to look at it

LaVonna-I'm conflicted-seems like an extra expense . I don't think the majority of bar realizes how much is spent for people who are non-bar people. I'm conflicted, I really am. It strikes me as when you work for the state, you are a public employee, you are limited in what you can spend on things. There are limits. They would have some limit. I don't know if it's our place to raise that.

Jackie: that's helpful

Nancy: Skamania cost \$75K

We were limited re what we could do, what kind of place we could have, etc.

DEB: I've had to pay for my meal at private meeting

Nancy: we should ask for the information, and if you don't have it, how can we calculate it?

Jackie: We should have the information before we say we're concerned about this. This is not like Hawaii.

Nancy: It is not in the fiscal policies that we don't meet in other states. No one seems to remember Alva Long any more.

Let's ask the question. Never hurts to have people know you're watching. It's a stewardship issue.

Chris: Would this be a question posed by FLEC only, or is it something that other sections would be interested in knowing? There may be a coalition of sections interested in this.

Nancy: meeting is next weekend. If all we're asking is info we can commit to getting others on board later.

There will be a screening of Who We Are put together by Jeff Robinson, Seattle atty , and Just McLeod? About racism in court system. A lot of Jeff talking about his experience as African-American atty. It's coming up and Nancy will find the date

Re: couple of interesting proposals

Bar has a group that proposes rule changes and they want to fix their version of the bylaws

Any person or entity can request notice of any rule changes

Their proposals are directed to S. Ct.

We should become one of those organizations that gets notice to give us more of a head's up. Wd help us stay on top of proposed rule changes

We mention that sections should be able to comment; that is not currently our right, but we should cont. to push that w BOG

A proposal from LLLT to amend APR 28. It's a long section of the BOG materials, and some of it should not be controversial (reducing Bd members from 15 to 11), but wd say that they can request changes directly from S Ct which is already their right because they are not a section, but also includes language that WSBA wd provide staff for them. Ongoing issue re how their budget should be paid, whose in charge and how much they get, and what it means to have reasonable staff support, and everything like that raises the cost of the work for the LLLT program which operated at a loss last year of \$111,000. We have taken position of being mindful of cost of LLLT program. In he long run we may not oppose some changes, but we have also been in favor of who pays for these groups

That policy needs to be adopted before we make any other changes to these boards or we will have same battles of entity requesting \$\$ and push-back from Budget and Audit. Already facing that

We should take position that there needs to be policy ahead of time. The more spent on other things, the more pressure to increase license Fees, or budget of Bar Assn, the more pressure on sections. There needs clarity and cont'd conversation w S Ct re unfunded mandates.

Jackie: my memory is that Columbia Legal Services is mainly funded by grants, LSC, either fed or state-how much is funded by public-How much are you funded by public? Federal is LSC; we do have grants, but hundreds of different grants-We are starting to do more-

Jackie: there is legitimate administrative licensing that has to be done by LLLTs and other pieces that I see as completely legitimate, but everything can be a slippery slope

Nancy: Part of regs. LLLT follow, if they request, as they have done periodically, then what is the fin. Responsibility of Bar Assn to fund training, paperwork, whatever for these new subject areas. This is where the real conversation has to be between the Bar Assn and S. Ct.

In terms of scope of practice 1 proposed change is to eliminate language re non-custodial actions and replaced it w minor guardianship provisions, which are being substituted as if it is a new name, rather than an entirely new area of law, and entirely new provisions

Every financial component has an effect on the organization-we should not necessarily Oppose, but unfunded mandates LLLT, Practice of Law, Law Clerks, etc.

Tamara: we just had a conversation about BOG spending \$75K over 1 weekend and having a concern for loss of \$111,000 over a year. I think we need to look at this in an equal way and not just based on whether or not we like the way it's administered, or for whatever reason. WSBA members are spending a whole lot more for food and accommodations than for a legitimate license. There are limitations that have been imposed on LLLT Board in terms of how they can raise money (they can't get grants, they can't do fund-raising)-they have been limited in doing that and WSBA is the one who has limited them. I could be wrong, and Christy probably has more knowledge. As LLLT it is really difficult for me to repeatedly hear the same concern about a license that is a legit license. And not an equal concern about hundreds of thousands spent for accommodations and food by BOG members. The concern is our licensing fees are being spent for these things. Your fees are spent for BOG meetings, too. I don't have a problem with making comments about wording to give specifics about financing is determined to determine staff members, but protections should be put in place. Valid concern that if there is change of guard in BOG they will try to reduce financing so much the LLLT can't function, and that's how they'll get rid of them. If they do put language in there, or propose language to constrain admin. Functions safeguards need to be in place so that BOG cannot do an end-run to eliminate the license

Jackie: members are required to pay fees to practice and have voice in who they elect and that is their voice on BOG. We don't have a choice over the S. Ct. imposing an unfunded mandate on our budget, as members. It's not the same voice. That's where I can see why the policy discussion has merit. BOG are still stewards, but it impacted members amt that they have to pay but they have no way to address the unfunded mandate.

Christy: Mission of WSBA is to serve public, members of bar, insure integrity of legal profession and champion justice. WSBA has to fund these boards as part of their mission. Had the program cont'd the shortfall wd have gone done and about 10 yrs out wd have been a profit. The #74K blown by BOG is a drop in the bucket. \$111K for incredible work that the Bd has done and engaging the public and making sure they have access to justice is a drop in the bucket.

Nancy: we have heard this argument before. Summarily rejected because based on assumptions w/ no basis in fact. S. Ct. made dec. to sunset the prog. Loss is about \$2K/LLLT member. BOG does do valuable work. Once the complaint was made, they stopped scheduling things at fancy places. Bar doesn't have obligation to pay for everything that champions justice. They have choices to make about what better

serves those purposes and that's where we're trying to push them. Our budget is not the same as NJP, which is much bigger.

We need to finish this discussion with S. Ct. re what it means for Bar Assn to provide staff support to counsils and boards that exist, and it can't just be whatever's demanded, and who determines what's reasonable, in advance, or as the BOG changes, every year

There needs to be a policy re what those terms mean, and can only come about with discussion with S. Ct. before we talk about 1 of unfunded mandates

Jackie: Are you proposing letter to S. Ct.?

Nancy: there was supposedly a committee working on this. I want them to complete their work and have a policy in place before we start addressing this.

LaVonna: Christy, I want to understand. Can you tell me more?

Christy: this was in June of 2020, LLLT board was brainstorming how to fund the Board. We had asked I believe BOG if we could fundraise through WSBA foundation and BOG denied that opportunity to the Board. Another example: U of W discontinued education (family law) required for license and we had to find another education facility and asked the Board to approve doing education through WSBA. I believe it would have brought about \$25K into board and the Board denied that. Those are 2 examples I can think of. It wasn't a CLE; it was the actual education. Family Law 1, 2, 3. Have you all done CLEs or things like that? Are you able to do the same things we can do, re CLEs? I don't believe we've done so-called CLEs. The education has been a requirement of the program, and that Bar has put that on.

LaVonna: So, because they are mandatory there's no room to charge for that?

Christy: Oh, we were charged!

LaVonna: Did you get that back?

Christy: I think we did. Or some of it.

LaVonna: Can you ask about that, and about the LLLTs being self-funded. I was trying to get at whether there's a rule. Are there rules that prevent LLLTs from doing what other organizations do, to self-fund, like everyone else does.

Nancy: Our section receives dues, we pay a per member charge to Bar. We put on events and share income with Bar Assn. We put a lot of work into raising money thru appropriate means, and I would imagine that the LLLT program has more difficulty doing some of those things but it doesn't mean they can't do them. Our section can't go to the Foundation and ask for money, or have a meeting with the Gov. to change a law that would give us state money. These are strategy decisions that LLLT Board made that didn't turn out well for them. They aren't the only unfunded group that is directed to be in existence by St. Ct. Practice of Law Board is asking for a lot more than they currently have. The BOG has to balance all sorts of competing interests for money. There are people who want to reduce license fees, people who want to increase license fees. Staff is pulled in a million directions trying to respond.

Jackie: I don't always know what BOG report will be. To me, this is a systemic issue that is likely to be ongoing. It will impact that way the organization functions, budgeting. A robust policy discussion. I don't

like that the Bar has the deal with these unfunded mandates. There's nothing to give overall guidance to BOG. Tamara is also right that having no policy doesn't protect the LLLT group. I can see having a systemic policy addresses both concerns.

I don't think we have enough information to make a decision today.

Do all of you feel like you know enough to take a position on whether there should be a policy in place that we recommend to the S. Ct. before they continue, for example, to expand scope of practice for LLLTs

We need more information. Ask Kim to put this on next month's agenda. Give some thought to what we have learned from Nancy and email Nancy re what more we need to know to make an informed decision.

Nancy: meeting is next weekend. We certainly don't have enough info to make dec. about how much staff support should be for each entity, but to ask for update on what is happening on Committee that is supposed to come up with policy with S.Ct. That's what needs to come about. Those questions will be asked by others at the BOG meetings as well. We can't make decisions about other entities w/o knowing what a policy is.

Jackie: I'd like to know that, and last time scope of practice was enlarged for LLLTs. Wd be helpful to know what that differential is.

Ask for update and delay decision.

Speak up if you're opposed

Jackie: motion to ask for update as recommended by Nancy and current position that no decision until we have that information for consideration.

Cynthia seconds.

All who are not in favor? None; no hands raised.

Unanimous, with proxies.

Anything else, Nancy?

Nancy: BOG demographic report shows increase in membership from last year. Final category if 41 years or higher. Nancy's 41 years is February, but there are still thousands of us in that category. From 988 to 1007. People retire and come on board every year.

Onboarding new members. Important to welcome new members. If each of you know any new members or feel so inclined send quick email to welcome them. Let's just make the door really wide open and welcoming and help them feel comfortable.

Second Jackie wd like to ask folks what they feel about winter CLE. We couldn't do a hybrid for mid-year. Pandemic still somewhat uncertain. Important to serve all of our membership. Lots of good reasons. Need to be thoughtful of budget and stewardship. Money in budget right now. Last month as chair. She explored with WSBA staff. A day or less. Also circulated ideas re topics. Feedback from WSBA staff is they wd love to do a winter CLE, early February or late January, at Bar Offices which wd cost little and

make it a hybrid. Won't impact us in terms of costs for hotels, food, budget. Good opportunity to explore hybrid. Jackie will do leg-work and put it on. How to prepare for mediation or Arbitration. Maybe combining with ethics component and/or report of FLAA that is likely to pass. Pat wd be willing to be a presenter and has reached out to mediators locally and across the state IF we did this, and has gotten good response.

I will work on it with Jackie. She will work with WSBA staff, set a date. Thank all of you for being brave enough. Kim could help too.

Meeting schedule for next year. Jackie tried to set schedule in conjunction with BOG, and to avoid holidays, etc. Really helpful to have schedule ahead of time so we can plan around it.

Christy has been great at helping with polls. One question is to send out some test dates and Jackie will figure out how to do that. She'll pick dates that avoid holidays. Beth may need to shift some dates, depending on BOG schedule Jackie also wants to close by saying it's been a privilege. She is personally and professionally proud to have served as Chair, and also feels she has been swimming through mud this whole year and appreciates the hard work of all on the board. She wants to continue to push forward on some of the issues. What we do together is of great benefit to the bar and to the public.

Thank you, and I hope I get to see you all in some iteration or other.

Meeting adjourned.