

June 19, 2020

Justices of the Washington Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504

Re: Washington Supreme Court Vote to Sunset the LLLT License

Dear Justices:

We, the Limited License Legal Technician (LLLT) Board, are very concerned about not only the decision that you, the Supreme Court, made regarding sunseting the LLLT program but also and more importantly we are very concerned about the process, or lack thereof, used to accomplish that decision.

You are seen as the keeper of “rules and process.” When the Court acts in a quasi-legislative or rule-making role, it ought to be 100% in public and transparent. Deliberations should be open and with due process. We are of the mind that at a minimum the Court should hold hearings and invite stakeholders on all sides of the issue to present relevant evidence and arguments to discuss this program which embraces hundreds and hundreds of stakeholders (community colleges, students, LLLTs, trial judges, persons interested in access to justice and finally and certainly not last, the consuming public).

The time to complete the LLLT license requirements should be extended. As you will learn about later in this report, there are numerous students who have loans they took out to obtain a LLLT license. These funds are not transferable and will be lost. In addition, community colleges have invested heavily in this program over the last seven years. It is false economy to remove a program that trains people to provide the public with meaningful access to the courts. The provision of the legal services continues throughout the career of a LLLT with only regulatory oversight. Even if you sunset the program, there will still be expenses in connection with maintaining the licenses of the existing LLLTs.

The Court at a minimum should continue the program until the National Center for State Courts completes its study, which will be perhaps as long as two years. This study has been in the works for at least two years but had been awaiting funding from Congress. It would seem that the Court would be interested in the information and conclusions that such a study might shed on this topic. This study will undoubtedly answer the question of whether the LLLT program is “worth it.”

Some of you have suggested that the license and the LLLTs are not serving the clients as originally intended. This license was never conceived to serve only those with incomes of 0% to 200% of the federal poverty level. It was always designed to serve those who have some money (200% to 400%), but not enough to hire a lawyer. However, most LLLTs do also serve clients in the 0% to 200% portion of the market. In addition, they do more pro bono per capita than most lawyers.

As you may be aware, Utah has adopted a similar rule. There are other states and provinces which are seriously contemplating adopting similar licenses, including but not limited to: Oregon, California, Arizona, New Mexico, Colorado, Minnesota, Connecticut, Massachusetts, Ontario. This clearly is an idea whose time has come. This visionary program was initiated after much study, by GR 25 in 2001.

The LLLT program is not *the* solution to the access to justice problem, but it is a “tool in the toolbox” to help address this problem. It serves a public need. Our government has given the judicial branch of government and our profession a monopoly, and with that comes the obligation to deliver legal services to all so that they can effectively participate in this concept of governance.

If not this, then what? If not now, then when? We implore you to reinstate the license and allow us to inform you about all aspects of the license.

***There are other stakeholders who are harmed by sunseting the program and whose voices should have been considered.***

The Court did not fully consider the harmful impact of its sudden decision to sunset the LLLT program. The LLLT program was an investment in time and money not only from the WSBA, but also from LLLTs, potential LLLTs, community colleges, and UW and Gonzaga law schools. Stakeholders other than just the WSBA Board of Governors’ Budget and Audit Committee should have a voice in the Court’s consideration of the fate of the LLLT program.

***There are immediate concerns that should be remedied for existing candidates in the LLLT pipeline. The date for completion of the LLLT license requirements should be extended for an additional three to four years.***

Students are reeling from the Court’s decision. These are people who can ill-afford to absorb the loss of money and time spent pursuing the LLLT license. Students rely on career education programs offered by colleges and the expertise of advisors to make career choices. Their course of study dictates where they spend their limited financial resources -- whether it be financial aid, personal loans, personal funds, GI bills, grants, disability and worker retraining funds, or some combination of financial aid. Many students in the current LLLT candidate pipeline received funding from a State disability retraining program or a similar program. Student funds and the available funding for retraining are now lost; students will be repaying loans for classes in a career path no longer available due to the Court’s decision.

The LLLT core education takes two years of full-time attendance to complete, assuming the community college is offering the required classes in perfect order. The candidate must have another 1.5 years of full-time work to obtain the necessary work experience. The timeline for those who cannot afford school, have demands of family, are unable to navigate traditional education, and those who cannot find work experience will be longer.

Seven colleges relied on the promises of APR 28, outreach by the WSBA, and marketing for the LLLT program. Both the WSBA and the LLLT Board did outreach to schools and groups to inform people about

and to encourage them to pursue the LLLT license. People relied on those representations and began their coursework. Many of the students in the core curriculum classes would not be pursuing a paralegal degree but for the opportunity for a LLLT license.

The colleges offering LLLT pathway courses are reeling from the Court's decision and now must redesign programs in an effort to salvage students' education and expended funding. These schools have devoted countless hours, energy, and funds to create the core education programs for both a two-year A.S. degree and a LLLT certificate awarded to people who already have a bachelor's degree. The colleges designed classes, aligned class schedules, and marketed a new profession, only to have the Court take it away. The sunset of the program was without any input from those who have much to lose – the students and the institutions. The colleges modified their curriculum and some had to undergo an extensive on-campus program review by the LLLT education committee. The schools offering the LLLT core curriculum are:

- Edmonds Community College
- Highline College
- Spokane Community College
- Tacoma Community College
- Whatcom Community College
- University of Washington Continuum College
- Portland Community College

Under most educational structures for post-secondary institutions, student consumer protection laws and Title IV of the Higher Ed Act generally expect that colleges discontinuing operations or programs will engage in a three- to four-year “teach-out.” When phasing out any program, the college gives students already in the program an opportunity to complete their degree. The sunset deadline for completing LLLT license requirements should be extended by three to four years so that the schools can complete their obligation to their students.

The Washington State Board for Community and Technical Colleges (SBCTC) oversees the program approval process for professional and technical programs in the community and technical college system. This process includes guidance to colleges about how to assess program viability and the process to follow if they decide to close a program. SBCTC defaults to the three-year teach-out; colleges are required to continue offering those programs for three or four years if there are currently enrolled students. SBCTC guidelines should be considered and their input heard regarding the program and the timelines.

By imposing the arbitrary thirteen-month deadline to finish the license requirements, the Court has not fully considered all of the stakeholders. The closed-door decision of the Court did not give the stakeholder institutions or their students an opportunity to be heard. The decision disregards the time required for completing the path to becoming a LLLT and what the “pipeline” entails. Schools and students are severely and negatively impacted, both financially and by reputation, for having pursued the LLLT curriculum, which they now must abandon.

The efforts of the colleges to provide the education for the LLLT license has been tireless. For example, as recently as May 8, 2020, Spokane Community College completed the program review and approval process administered by the State Board for Community and Technical Colleges to add a LLLT Certificate to their program roster. Also recently, Whatcom Community College worked with UW and Gonzaga law professors over the last year to offer the Family Law Practice Area curriculum designed by the law schools. Since the UW Continuum College could not offer the classes, the LLLT Board and the law schools scrambled to move the classes so that LLLT students would not be further delayed in taking these courses.

The LLLT Board requests the Court reverse/reconsider the decision based in part on the following issues:

- **Loss of Irreplaceable Student Funding** - There are at least 275 students in the pipeline who have invested time and thousands of dollars pursuing the core education and the LLLT substantive education. Some of the funds used by students are specialized educational funding that cannot be replaced. Most of the 275 students cannot complete licensure requirements by June 31, 2021. Especially hard-hit are those students with disabilities.
- **COVID-19 Impairments** - Students in the educational pipeline, attorneys who provide supervision, and community college stakeholders are affected by COVID-19 restrictions which significantly impair timely completion of education, testing, and the experience hour requirements. Due to the physical and economic shutdown, LLLT candidates cannot find employment or even volunteer opportunities where they could obtain the required 3,000 hours of experience.
- **Community College Investment** - Seven Washington community colleges invested significant resources and hundreds of thousands of dollars in curriculum, staffing, faculty, and marketing to develop and implement the LLLT core curriculum and practice area classes. Those colleges are left holding the bag because to their detriment they relied on the promise of the LLLT license.
- **Teach-Out Requirements** - Community colleges are expected to provide a three- or four-year phasing out of educational offerings. To fulfill their obligations under Title IV, colleges should have a significant amount of time before program sunset so their students can complete the core curriculum.

Other stakeholders were adversely impacted and should have an opportunity for their voice to be heard:

- **No Cost Legal Resources** - Public law libraries and legal aid clinics developed LLLT-specific resources for indigent litigants and depend on LLLT volunteers for their clinics and workshops.
- **Practicing LLLTs and Attorneys** - Both LLLTs and attorneys have relied upon the growth of the profession and public awareness to build their businesses. Attorneys who developed profitable relationships with LLLTs have relied upon those relationships and referral sources to sustain their business models

- **The Legal Consumer** - Thousands of Washingtonians are now permanently priced-out of the legal marketplace.

***Even if sunseting the program, the Court should change the rules to facilitate completion of the license requirements for those people already in the pipeline.***

There are rule changes which should be adopted even if the program is sunset. At the May 12th meeting with the court, the LLLT Board requested a change in program test certification requirements, specifically changing the rule so that LLLT candidates do not have to take unnecessary redundant tests from the national organization (i.e. as addressed in GR 9 cover sheet, require either the PACE or the PCCE, but not both). Also requested was the reduction in the experience hours, from 3,000 to 1,500. The reduction in hours would help mitigate the COVID-19 impact on candidates who because of the shutdown are unable to obtain work or volunteer hours. The proposed rule changes regarding testing and experience hours should be adopted.

***There should be further opportunity to be heard. Please hear us and the other stakeholders in the LLLT program.***

The LLLT Board received no notice the Court was considering immediate termination of the Limited License Legal Technician license. Rather, we were working on the Court's prior requests for areas of practice that would align with the Civil Legal Needs Studies. No rule to terminate the license was proposed, nor was a comment period provided. The LLLT Board was not given the opportunity to explore and present information on alternative fundraising or program modifications that may have better informed the Court on the budget issue. The rule provided for self-sufficiency after a reasonable period. The Board believed that, similar to the nurse practitioner program, 10 to 15 years would be a reasonable period. Other scenarios are available and should be considered.

Neither the WSBA Board of Governors (BOG) nor the Budget and Audit Committee of the BOG had a public meeting or public vote to request an immediate sunset of the license. It was not until January 2020 that the Budget and Audit committee requested a business plan, which the LLLT Board provided in April 2020. Unlike the BOG's Memorandum of Understanding with the Access to Justice Board, which contains a provision for good faith in resolving disputes, the LLLT Board had no opportunity to engage in good faith discourse with the BOG about the LLLT Board's business plan.

In citing a "small number of interested individuals" as a reason to terminate the license, the Court seemingly overlooked hundreds of people (at least 275) who are and have been actively involved in developing and/or earning the LLLT license. There are numerous steps to becoming licensed: completion of core and practice area classes, passing multiple exams, working 3,000 supervised hours, obtaining malpractice insurance, and being sworn in. The LLLT process was developed with all the phases to help ensure quality services are provided to the public. Completion of all phases is time-consuming and delays the immediate licensing of LLLTs.

The pathway to becoming an LLLT was designed for inclusion. Community colleges have as a mission an inclusive learning environment that meets the needs of the local community. Often non-traditional students who cannot attend classes full-time, must drive hours to attend community college, while continuing to support their family, or those students who need a reasonable disability accommodation must take additional time to complete their degree. Students from underrepresented and rural populations needed time to find and start the program. Now that they have, they should be allowed to finish. Their voices should be heard and their needs considered.

Members of the public should have been given the opportunity to be heard. LLLTs have provided access to the courthouse that offers self-represented family law litigants both hope and actual results in obtaining fair and reasonable outcomes for their cases. If these members of the public had been given the opportunity to comment, the Court would have heard personal and agonizing stories about their difficulties in understanding court rules and unwritten court procedures, and understanding the law and their rights under those laws. Their needs are not met by a packet of materials mailed to them by NJP or purchased at a law library.

Everyone, from students to educators to LLLTs and attorneys, and most importantly, the public, should have been provided the opportunity to be heard. The Court made its decision without the necessary input from all stakeholders. We request the Court reverse its decision to sunset the LLLT license on that basis. If the Court will not consider ensuring all stakeholders are heard, then we ask that the Court extend the deadline for completing the requirements for licensure to at least August 1, 2023, which is enough time for a “teach-out” and for the National Center for State Courts to complete its study.

We ask the Court to respond as soon as reasonably possible. In particular, because students are registering for their classes, we request the Court extend the time for students in the pipeline to complete their education. We ask for enactment of the proposed changes in the rules regarding the duplicative national tests and reducing the experience hours in order to accommodate the difficulties caused by COVID-19. We request the Court reverse or defer the sunseting of the program until the National Center for State Courts completes its study.

Thank you for your further consideration.

Respectfully,



Stephen R. Crossland  
Chair, Limited License Legal Technician Board

LLLT Board Committee Chairs:

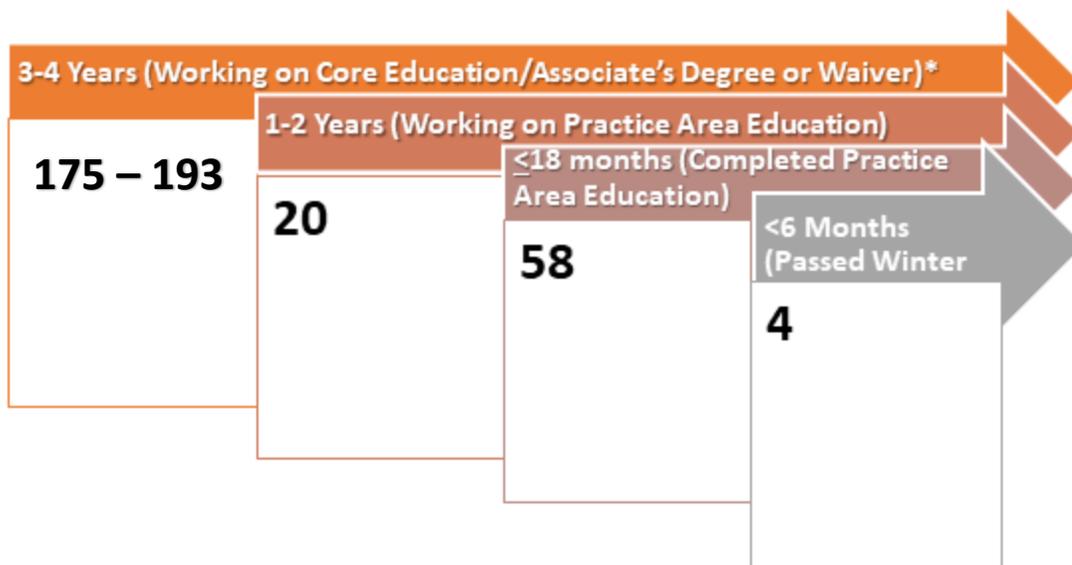
Sarah Bove  
Christy Carpenter  
Nancy C. Ivarinen  
Jennifer Ortega  
Jennifer Petersen  
Amy Riedel

Enclosures:

1. Illustration - Students in LLLT Pipeline
2. Timeline to Complete LLLT Licensing
3. SBCTC 2012 Program Approval Guidelines
4. GR 9 Cover sheet re: PCCE/PACE requirements
5. Memorandum of Understanding - Access to Justice Board

Cc: Terra Nevitt  
Rajeev Majumdar

## Illustration – Students in LLLT Pipeline



We estimate 275 students are presently enrolled in core education/Associate's Degree programs with the goal of becoming a LLLT.

- 20 students are currently enrolled in the practice area education.
- 58 students have completed the Practice area education in less than the last 18 months, are working toward their 3,000 hours, and are studying for the LLLT licensing exam.
- 4 students passed the winter exam in February 2020 and are working towards their license.

## Timeline to Complete LLLT Licensing

**PCCE:** Candidates must take and pass the Paralegal Core Curriculum Exam (PCCE), administered by the National Federation of Paralegal Associations (NFPA). This test is controlled by the NFPA and availability to take the exam is beyond the control of the candidate, colleges, LLLT Board or Court. Current candidates in the Practice Area Curriculum have contacted NFPA and have been advised the administration of the test is provided by a third party and NFPA has limited control over the test availability – students are awaiting confirmation from NFPA whether NFPA can do anything to work with students on testing availability.

Also, to even test for the PCCE, candidates must meet certain criteria, which many in the pipeline do not meet yet. This criteria was just changed a few weeks ago in response to COVID:

### FastTrack PCCE® Synthesized Pathways

Education, Military Service, CRP credentials	Years of Substantive Paralegal Experience	CLE
Bachelor Degree or higher	6 months	1 hour of NFPA-approved ethics CLE, within 2 years preceding application
Associate Degree	1 year	1 hour of NFPA-approved ethics CLE, within 2 years preceding application
Paralegal Certificate[4]	1 years	1 hour of NFPA-approved ethics CLE, within 2 years preceding application
Military Paralegal Rate (Job)[5]	Defined by rank	1 hour of NFPA-approved ethics CLE, within 2 years preceding application
NFPA Assurance of Learning Education Partner Students[6]	N/A	N/A
High School or GED	5 years	12 hours of NFPA-approved CLES, including 1 CLE hour of ethics, within 2 years preceding the Application

<https://www.paralegals.org/i4a/pages/index.cfm?pageid=3813>

**PACE/Waiver Students:** The Court had the opportunity to fix this issue as a barrier to licensing and did not address the Board’s request. Students who have already taken and passed the Advanced Competency Exam (vs. the Core Competency Exam) will have to study and sit for the lower level exam. Even though it is theoretically less difficult, one cannot assume they do not need to study or that it is an easier exam. Test availability is again an issue.

**LLLT Licensing Exam:** LLLT licensing exams are offered in February and July each year. Those currently enrolled in the practice area curriculum will complete the curriculum on December 11, 2020 – which means they have to pay for and apply for the exam before beginning FL3 to avoid late fees (and pay FL3 tuition and exam fees almost simultaneously). The deadlines to apply for the exams are as follows:

## Timeline to Complete LLLT Licensing

Examination	Applications Accepted	First Deadline	Late Filing Deadline with \$150 late fee	Failed Previous LLLT Exam Deadline With No Late Fee
Summer Exam	February 1	March 5	April 5	May 5
Winter Exam	September 1	October 5	November 5	October 5

If a candidate does not pass the February 2020 exam, the first exam date available to current practice area students, is taking the July 2021 exam even a viable option? How would one take the July 2021 exam and be licensed by the end of the month, considering:

- Exam grading and opportunity to challenge by the candidate
- Character and Fitness Review
- Criminal History Record Check
- Proof of Malpractice Insurance
- Proof of IOLTA

No lawyer is expected to pass the bar exam with only one opportunity, nor has this ever been the case for the LLLTs. **APR 28, Reg. 8(e)**: “An applicant who passes the practice area examination but fails the professional responsibility examination or vice versa may retake the failed exam at the next two administrations of the exam. The passing score shall be valid for one year from the date the applicant is notified of the exam results. If the applicant does not pass the failed exam within one year of such notification, the applicant shall be required to retake the exam he or she passed.”

**3,000 Hours:** Candidates in the pipeline have relied on **APR 28, Regulation 9**, which provides a candidate for licensure forty (40) months after passing the exam to get licensed. Most students are not in the position to complete the **RIGOROUS** education requirements and obtain all of their 3,000 hours simultaneously. 3,000 hours equals approximately eighteen-months of full-time employment. Most candidates do not receive credit from a supervising attorney on an hour-for-hour basis, as much time spent in a law office by a non-lawyer cannot be classified as “work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.”

**As of June 5, 2020, the date of the Court’s letter, the court provides 60 weeks and 1 day to attain licensing:**

Candidates who begin working on their hours as of the dates of the Court’s letter = 60 weeks to obtain 3,000 hours or 50 hours/week

Candidates who pass the July 2020 exam (assuming grade by Aug. 1) = 52 weeks to obtain 3,000 hours or 58 hours/week (although there will not be an exam due to the Court’s order on Admission by Diploma, 3,000 hours will still have to be worked)

Candidates who pass the January 2021 exam (assuming grade by Feb. 1) = 25.7 weeks to obtain 3,000 hours or 117 hours/week

Candidates who pass the July 2021 exam = zero weeks to obtain 3,000 hours



## Professional-Technical Program Approval Process

Effective 2/10/12 (Revised July 2013)

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All professional-technical degree and certificate programs must be approved by the State Board for Community and Technical Colleges (State Board) prior to program implementation (see excerpts from the State Board [Policy Manual](#) (Chapter 4, 4.40.00). As part of this responsibility, the State Board sets rules/procedures/guidelines, developed in cooperation with the college system, that provide for the approval of all proposed new professional/technical programs, curriculum modifications, and program title changes. Following are the guidelines for approval of professional-technical programs.

### DEFINITIONS

- A. A **professional-technical** program prepares students for employment in a specific industry.
- B. An **associate degree** program conventionally entails approximately two academic years of study, i.e., 90 credits, or two years of 45 credits each. WAC 250-61-050 defines “associate degree” as a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours. Some highly technical programs may require more than this to ensure that students have the necessary preparation to succeed.

RCW 28B.50.140(12) states, “May grant to every student, upon graduation or completion of a course of study, a suitable diploma, degree, or certificate under the rules of the state board for community and technical colleges that are appropriate to their mission. The purposes of these diplomas, certificates, and degrees are to lead individuals directly to employment in a specific occupation or prepare individuals for a bachelor’s degree or beyond. Technical colleges may only offer transfer degrees that prepare students for bachelor’s degrees in professional fields, subject to rules adopted by the college board.”

RCW 28B.50.215 states, “Technical colleges may, under the rules of the state board for community and technical colleges offer all specific academic support courses that may be at a transfer level that are required of all students to earn a particular degree or certificate. This shall not be interpreted to mean that their mission may be expanded to include transfer preparation, nor does it preclude technical colleges from voluntarily and cooperatively using available community college courses as components of technical college programs.”

- C. An **associate in applied science–transfer (AAS-T)** degree is built upon the technical courses required for job preparation but also includes a college-level general education component, common in structure for all such degrees. Further, the general education courses for the degree are drawn from the same list as those taken by students completing the Direct Transfer Agreement (DTA) associate degree or the Associate in Science-Transfer (AS-T) degree. These degrees are consistent with the dual purpose of transfer and preparation for direct employment.

The general education component of the transferable technical degree is to be comprised of not less than 20 credits of courses generally accepted in transfer. These 20 credits must include as a **minimum** the following:

5 credits in Communication	English Composition
5 credits in Quantitative Skills	Any course from the generally accepted in transfer list with Intermediate Algebra as a prerequisite
10 credits in Science, Social Science, or Humanities	Courses selected from the generally accepted in transfer list including a course meeting the human relations requirement.

The 20 credit **minimum** is proposed in recognition of the difficulty that some technical programs would have in adding even more general education credits to their degree. Yet other technical degrees would go beyond the 20 credits minimum because the technical program may already include transferable courses including the introductory course in the technical field.

- D. A **certificate** is an award which may be made for completion of the competencies and requirements for an occupational program. Certificates less than 45 credit hours in length do not necessarily include related instruction. Certificates 45 credit hours or longer must include related instruction as a component. The requirement for related instruction can be found in [Standard Two, section 2.C.9](#) of the Accreditation Standards from the Northwest Commission on Colleges and Universities ([Home - NWCCU](#)).
- E. A **primary program** is any prescribed program of studies 20 credits or greater of instruction leading to initial employment or improvement of occupational skills. A primary program may have options.
- F. A **program option** is a variant of a primary program. At least 50 percent of the option must be drawn from the technical core of the primary program curriculum. (If less than 50 percent of the curriculum is from the technical core of the primary program, the college must apply for a new primary program.) Options are inventoried as separate programs and listed under the umbrella of the primary program.
- G. An **individualized education program** is a program that offers unique opportunities for a few students, and is designed to meet the career goals of the individual student. The education is to be accomplished on an individual basis with the technical portion of the program occurring in a work environment as contracted instruction or a cooperative arrangement. Degrees or certificates are issued for these programs. The total state completions in one occupation should not exceed probable job opportunities, but no more than four students should be enrolled at any point in time.

**APPROVAL CRITERIA AND PROCESS**

- A. **Programs of Less than 20 Credits.** No formal approval is required, but short-term certificates must be registered with the State Board office. Colleges will submit to the State Board staff, at a minimum, the program title, CIP and EPC codes, program description or learning outcomes, course listing, and number of credits.

- B. **Programs 20 Credits or Greater.** After the State Board staff endorses the “Professional-Technical Program Approval Request” (form *PAR*) for a new primary program, the college will submit any additional documentation required for final approval within six months. The State Board staff will notify the college within two weeks of receipt of the documentation as to any additional documentation that will be required before final approval is granted. Once final approval is granted, the program will be recorded on the college’s inventory of approved vocational programs.
- C. **AAS-T Degree Programs.** If a professional-technical associate degree program is already approved, the college need submit only the title of the approved professional-technical degree for which the AAS-T degree will be offered, the appropriate CIP and EPC codes, and a program/curriculum guide (list by course number, course title, credits per course, and total credits). If a professional-technical degree is not already approved, the college must submit appropriate documentation to support the addition of a primary or option.

#### D. Sequence of Actions

1. A college determines to seek approval for a new professional-technical program. Collaboration between colleges contributes to informed program decision-making, which benefits the state as well as the local community. Colleges should work collaboratively before submitting a request for a new program to the State Board office, avoiding overly competitive or adversarial approaches to new program startups. The proposing college will provide evidence of collaboration with those colleges that have programs that are the same or similar to that which is being proposed.

Some of the questions that need be answered when proposing a new program include:

- Who are potential regional and statewide colleges (those with similar programs) that might be impacted by this program start-up? (You may contact the State Board for a list of similar currently-approved programs.)
- How might start-up of this program at your college impact those programs (including, but not limited to, student base, employment opportunities, clinical space, and work-based learning sites)?
- Does the program prepare graduates to obtain living wage employment?
- Does the program require approvals/accreditations/certifications external to the State Board (e.g. Nursing Commission - See Page 6-J)?

2. In the case of a new **primary** program:

- a. The college submits a “Professional-Technical Program Approval Request” (form *PAR*) to the State Board office, along with documentation described on that form.
- b. The State Board staff will notify all community and technical colleges concerning the *PAR* via e-mail. A community or technical college **opposing** a *PAR* must provide written/e-mail notification of such opposition and rationale to the initiating college and the State Board office within three calendar weeks of the date notification that was e-mailed from the State Board office. Objections will be discussed between the chief instructional officers of the initiating and objecting colleges before they are forwarded to the State Board office. c.

If a college objects:

- (1) The objecting college(s) must provide evidence of attempts to collaborate. They must also provide evidence of how the proposed program will negatively impact existing program, including, but not limited to, student base, employment opportunities, clinical space, and work-based learning sites. In the case of programs offered via distance education, school(s) opposing the offering must thoroughly explain the negative impacts expected if the program is approved; i.e., unnecessary duplication or unfair competition.
- (2) The colleges will attempt to resolve the opposition. If agreement cannot be reached, the opposing college(s) must submit documentation that shows evidence of harm and unsuccessful attempts to collaborate to the State Board office within three calendar weeks of the *PAR* e-mail notification to the system.
- (3) Within 14 working days the State Board staff will assemble an advisory panel that may include education representatives, other workforce education directors, and other experts in the field, if they are reasonably available. This panel will recommend to the Executive Director of the State Board whether to sustain or over-rule the opposition to the *PAR*. The results of the decision of the Executive Director of the State Board will be final; therefore, it is imperative that dissenting rationale be well thought out and documented appropriately.

Within seven working days after the advisory panel has met, the State Board staff will advise the originating community or technical college whether the proposed program has been endorsed or rejected. If opposed, the reasons for rejection will be explained.

- d. After the State Board staff endorses a *PAR*, the initiating community or technical college must submit to the State Board office any additional/final documentation within six months. Once all documentation is received and approved, the program will be entered on the college's inventory of approved vocational programs. If final documentation needed to complete the approval is not received within the six-month period, the request will lapse, and reactivation will require the initiation of a new *PAR*. The six-month limitation may be waived in relation to the capital budget request or other circumstances that are beyond the control of the initiating district.
3. In the case of a new **option or contract program** the documentation required for approval of an option is the same as that for a primary program. The process differs in that the *PAR* is not sent to the colleges for the three-week comment period.
  4. Courses must be offered and students enrolled in a program within one year of the date of approval. The State Board staff may grant an extension for cause; e.g., capital construction delays.
  5. Following approval by the State Board office, a college may advertise, offer, or conduct professional-technical programs. A degree, certificate, or diploma recognizing successful completion of the program or prescribed course of study covered by this policy shall be awarded students who satisfy program requirements. Degree, certificate, or diploma programs shall meet all requirements of the State Board for Community and Technical Colleges.
  6. The State Board staff will distribute a quarterly report of programs approved or modified during the preceding quarter to all community and technical colleges within the system. Once a program is formally approved and listed on the quarterly report, it will continue to be approved

as long as it is not “substantively” changed in such a way as to cause it to lose its original content or context.

- E. **Collaborative Programs.** When a college, without approval for a professional-technical program, wishes to collaborate with another college that does have approval, the college requesting the collaboration will send to the State Board office a signed memorandum of understanding between the colleges providing the details of the partnership. The program will be added to the requesting college’s inventory under a separate category titled Collaborative Programs. A unique EPC will be issued for collaborative programs.
- F. **State Funded Contract Programs.** There are four types of contracts under which a college may offer courses—regular, supplemental, shared funding, and international student (see Chapter 4, Appendix J and Chapter 5, Section 5.90.40 of the State Board [Policy Manual](#)). Contracted programs with Department of Corrections, Job Skills Program, military, private industry, or others 20 credits or greater shall be submitted to the State Board office using normal approval procedures described in section D.3 above.
- G. **Individualized Education Program Specialty Approval.** Each college shall submit to the State Board office a form IEP for each individual enrolled in an individualized education program prior to beginning of instruction. The approval will expire for each individual at the conclusion of that individual’s training or separation from the program.

Each community and technical college using work-based learning processes shall have on file contracts as outlined in the [Policy Manual](#) (Chapter 4, Appendix E) and a detailed program for each student. If an employer-employee relationship exists, each student enrolled must be paid by the employer at the minimum wage or greater. Internships or other employment-based training situations are treated on an individual basis by each campus, but in no case will these situations result in displacement of employed workers.

- H. **Program Curriculum Modifications and Title Changes.** Any change to program title or curriculum modifications which result in a change to total credits must be approved by the State Board staff prior to the college offering the modified program. The college must submit an email of request and include a copy of the revised program/curriculum guide.

A program modification which increases a program from a certificate to a degree requires a new program approval request as a primary or option.

- I. **Inactive and Intermittent Programs**

- 1. **Inactive Programs.** Approved programs or options that become inactive for any reason (i.e., budgetary, job needs fulfilled, housekeeping, start-up delayed, etc.) may be placed in the inactive category on the program inventory by campus request made in writing to the State Board office. The purpose of this category is to allow a campus ample time to study the continued need or allow some time for program modification and facility, equipment, or instructor acquisition.

Upon request, State Board staff is available to assist colleges with a program viability analysis by conducting an onsite program review with a team that may include other workforce education

directors, industry representatives, and others deemed appropriate. The format used in this process can be found in Appendix B.

The maximum time that a program may remain in an inactive status is three years. If a program is not reinstated to active status during the three-year period, it will be removed from the respective college's inventory.

To reinstate a program from inactive to active status, the campus must make the request on form REIN and include all information requested on the form.

2. **Intermittent Programs.** Approved programs or options that are conducted on an intermittent basis (i.e., every other quarter, once every two years, etc.) are listed on the program inventory in a separate category. This listing alerts the State Board office of possible voids in enrollment information, as well as notification to prospective students. A program may be placed in this category by written request of the campus to the State Board office.
- J. **Nursing Programs.** In the case of new Nursing program the documentation required for approval is the same for either a new primary or option program (see 2-D and 3). The process differs in that prior to approval and implementation of the program the college must submit to the State Board office the following documentation:
- a. The submitted Program Approval Request (PAR) must include assurances of clinical sites.
  - b. Before final approval of the program, the college must receive approval from the Nursing Commission. A copy of the Nursing Commission approval letter must be submitted to the State Board.

## **PROCESS FOR TERMINATION OF PROGRAMS**

A community or technical college district may, at its own discretion, terminate a program and shall notify the State Board office of such action within six weeks of the time that the program is terminated. Once a program is terminated, the State Board office will maintain as active for a maximum of three years the coding associated with that program.

If a college desires assistance in conducting a program analysis, the State Board staff will assemble an external team of experts to conduct the analysis, and will provide recommendations to the requesting college (see Appendix B).

### **List of Professional-Technical Program Approval Forms:**

ADV – Professional-Technical Advisory/Planning Committee  
IEP – Professional-Technical Individualized Education Program Approval  
PAR – Program Approval Request  
REIN – Request for Inactive Program/Option Reinstatement

## **APPENDIX A – BACKGROUND**

RCW 28B.50.090, College Board – Powers and Duties, states the following:

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(3) Ensure, through the full use of its authority:

(a) That each college district, in coordination with colleges, within a regional area, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education.

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW. (c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificate awarded by the colleges.

The State Board *Policy Manual*, Chapter 4, section 4.20.00, Degree Requirements, states in part:

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The content of the curricula and other educational and training programs (see RCW 28B.50.090(7)(c)) and the requirements for degrees, certificates, and high school diplomas awarded by the state's community and technical colleges must follow guidelines established by the State Board .

Section 4.40.00, Professional-Technical Programs, states in part:

All professional-technical degree and certificate programs must be approved by the State Board prior to course or program implementation (see RCW 28B.50.090(7)(c)). As part of this responsibility, the State Board:

1. Sets rules/procedures/guidelines, developed in cooperation with the college system, that provide for the approval of all proposed new professional-technical programs, curriculum modifications and program title changes.
2. Requires that colleges certify professional-technical staff and faculty as provided by WAC 13116-070 through WAC 131-16-095.

Section 4.40.20, Advisory Committees for Professional-Technical Programs, describes the requirement for each professional-technical program to have an industry advisory committee.

## **APPENDIX B – PROGRAM VIABILITY ANALYSIS**

All programs should be continually reviewed for their effectiveness in meeting the training needs of industry, as well as in fulfilling the mission of the college. Programs failing to meet these needs should be subject to review for viability. The outcome of the review may involve program revision or elimination. Many factors are considered during this process:

1. Is enrollment adequate? Each program has an established average enrollment number that is determined by the college, in collaboration with the faculty, program director, and advisory committee, following analysis of the program curriculum needs: facility and equipment availability, safety factors, and the optimal number of students that the instructor(s) can successfully manage at one time. Is this established average enrollment figure being met?

The established average enrollment is listed on the State Board's inventory of approved professional-technical programs for the college as "maximum enrollment."

Enrollment is determined to be inadequate when the program's average enrollment is 75 percent or less of the established average enrollment figure. A review of the program should be triggered at any point in time that the enrollment dips below the 75 percent standard. During the review, up to three years of enrollment figures may be analyzed.

2. Does the program meet industry standards? Are the industry-validated competencies being successfully met by program graduates? If industry certification/formal recognition exists, has the program achieved said certification/formal recognition?
3. Are there sufficient employment opportunities for program graduates, and are graduates obtaining employment in the field?
4. Do entry-level wages exceed minimum wage?
5. Are there career advancement opportunities available for those graduates who perform successfully on the job?
6. Is the program advisory committee actively involved and supportive of the program?
7. Is the program cost-effective/economically supportable?
8. Other factors that may be determined during the process that may impact program viability.

While enrollment is a key factor considered in the review process, all factors listed above are important considerations and any of them could be a determinant for program viability even though adequate enrollment may exist.

## **GR 9 COVER SHEET**

### **Suggested Amendments to ADMISSION AND PRACTICE RULES RULE 3 – APPLICANTS FOR ADMISSION TO PRACTICE LAW Submitted by the Limited License Legal Technician Board**

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**A. Name of Proponent:**

Limited License Legal Technician (LLLT) Board

Staff Liaison/Contact:

Renata de Carvalho Garcia, Innovative Licensing Programs Manager  
Washington State Bar Association (WSBA)  
1325 Fourth Avenue, Suite 600  
Seattle, WA 98101-2539 (Phone: 206-733-5912)

**B. Spokesperson:**

Stephen R. Crossland  
Chair of the LLLT Board  
P.O. Box 566  
Cashmere, WA 98815 (Phone: 509-782-4418)

**C. Purpose:**

The suggested amendments to APR 3(e)(3) seek to remove a redundancy and inconsistency regarding the requirement for a paralegal certification examination in order to qualify to sit for the Limited License Legal Technician (LLLT) examination. Currently, all LLLT candidates are required by APR 3(e)(3) to pass the Paralegal Core Competency Exam (PCCE), an entry level paralegal exam administered by the National Federation of Paralegal Associations. Applicants seeking a limited time waiver under APR 28 Regulation 4 are required to pass at least one of three LLLT Board approved national paralegal certification examinations [the Certified Paralegal (CP) Exam conducted by the National Association of Legal Assistants (NALA), the Paralegal

Advanced Competency Exam (PACE) conducted by the National Federation of Paralegal Associations (NFPA), and the Professional Paralegal (PP) Exam conducted by the Association for Legal Professionals (NALS)]. The three Board approved national paralegal certification examinations required for the limited time waiver are either equivalent or more advanced exams compared to the PCCE.

As written, a LLLT candidate who has passed one of the three equivalent or more advanced Board approved national paralegal certification examinations, must also pass the entry level paralegal examination (PCCE) in order to be eligible to sit for the LLLT exam.

For a candidate to sit for the LLLT exam, the current rule requires a LLLT candidate with a waiver (having already passed a more advanced paralegal exam) to take the less advanced and redundant PCCE exam.

These suggested amendments provide consistency by imposing equivalent testing requirement for all candidates. Furthermore, removing specific reference to the PCCE in APR 3(e)(3) will enable the LLLT Board to adjust the list of LLLT Board approved paralegal certification examinations in the future as needed.

Finally, the suggested amendments seek to eliminate the requirement for “original” proof of passing. The LLLT Board finds that electronic submission of proof of passage is sufficient to confirm passing. Electronic submission also streamlines workflow for staff and simplifies the application process for applicants.

**D. Hearing:** A hearing is not requested.

E. **Expedited Consideration:** Expedited consideration is not requested.

F. **Supporting Materials:** Suggested Rule Amendments to APR 3(e)(3).

**SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES**

**RULE 3 – APPLICANTS FOR ADMISSION TO THE PRACTICE OF LAW**

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**RULE 3. APPLICANTS FOR ADMISSION TO PRACTICE LAW**

(a) – (d) Unchanged.

**(e) Qualification for Limited License Legal Technician (LLLT) examination.** To qualify to sit for the LLLT examination, a person must;

(1) – (2) Unchanged.

(3) present original proof of passing ~~the Paralegal Core Competency Exam administered by the National Federation of Paralegal Associations~~ a LLLT Board approved paralegal certification examination.

(f) – (i) Unchanged.



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## MEMORANDUM OF UNDERSTANDING

### Relationships

The Washington State Access to Justice Board (the "ATJ Board"), an autonomous board that reports annually to the Washington State Supreme Court and the Washington State Bar Association ("WSBA") Board of Governors, was established in 1994 and reauthorized by an order of the Supreme Court, dated November 2, 2000 (the "Order"). The Order charges the ATJ Board with responsibility to assure high quality access for low and moderate income residents and others in Washington State who suffer disparate access barriers to the civil justice system. To that end, the Order provides that the ATJ Board shall work to:

- Establish, coordinate and oversee a statewide, integrated, non-duplicative, civil legal services delivery system that is responsive to the needs of poor, vulnerable and moderate means individuals;
- Establish and evaluate the performance and effectiveness of the civil legal services delivery system against an objective set of standards and criteria;
- Promote adequate levels of public, private and volunteer support for Washington State's civil equal justice network;
- Serve as an effective clearinghouse and mechanism for communication and information dissemination;
- Promote, develop and implement policy initiatives and criteria which enhance the availability of resources for essential civil equal justice activities;
- Develop and implement new programs and innovative measures designed to expand access to justice in Washington State;
- Promote jurisprudential understanding of the law relating to the fundamental right of individuals to secure meaningful access to the civil justice system;
- Promote widespread understanding of civil equal justice among the members of the public through public legal education;

- Promote the responsiveness of the civil justice system to the needs of those who suffer disparate treatment or disproportionate access barriers; and
- Address existing and proposed laws, rules and regulations that may adversely affect meaningful access to the civil justice system.

The Order provides that the ATJ Board shall be administered by the WSBA, and specifically states that the ATJ Board shall be funded and staffed by the WSBA, which shall have authority to establish a budget and approve expenditures. Pursuant to this Memorandum of Understanding, the ATJ Board and the WSBA agree to the following understandings with respect to the relationships between the parties under the Order:

### **Budget Considerations**

The parties agree that the ATJ Board will participate in the development of that portion of the WSBA annual budget that affects the operations of the ATJ Board. Such participation shall include:

(a) The ATJ Board's submission to the WSBA Department of Finance and Administration of a proposed budget in the same format used by the WSBA's own programs, together with such back-up information necessary to explain the proposed budget, or as requested in preliminary budget development. The budget submission will identify specific objectives and describe how progress will be evaluated; and

(b) The meaningful and timely opportunity for the ATJ Board to participate in WSBA's budget discussions and in making budget adjustments.

To the extent that the ATJ Board deems it necessary to request supplemental funding from the WSBA within a budget cycle, the ATJ Board will follow the above steps; provided, that budget changes of less than 10% in a line item do not require prior approval assuming that the overall budget remains constant.

To the extent that the ATJ Board seeks funding from outside sources, it shall do so in collaboration with the WSBA. WSBA shall be the contracting and grant agent for all outside funding received by the WSBA or the Washington State Bar Foundation and earmarked for the ATJ Board. Either the WSBA or the Washington State Bar Foundation, as appropriate, shall be responsible for reporting on the use of such funds to the outside funding source. Management of the funds may be delegated to the ATJ Board. Such funds shall only be used for the purpose(s) for which they were solicited, and subject to any conditions imposed by the grantor or donor.

### **Staffing Considerations**

The WSBA shall provide the ATJ Board with adequate staff to fulfill its mission. A manager-level employee with knowledge of civil access to justice issues shall be dedicated to supporting and coordinating the work of the ATJ Board with the understanding that this employee may be assigned to perform other responsibilities as a WSBA staff member. The WSBA shall also provide the ATJ Board with such other full or part-time staff as may be necessary to enable the ATJ Board to perform its

functions as set forth in the Order. Appropriate staffing levels shall be determined annually in the budget process. Staffing levels shall be monitored in good faith by both the WSBA and ATJ Board to assure that staff use complies with the parameters established in the budget. Any modifications to staffing allocations or duties shall only be made after mutual consultation between WSBA and the ATJ Board.

The ATJ Board understands that WSBA Personnel Guidelines shall apply in hiring, job classification, salary, and conditions of employment for all WSBA employees and that the WSBA Executive Director has sole authority to employ and compensate all WSBA employees. The WSBA Executive Director has sole authority to select or terminate any WSBA employee, although the ATJ Board shall have the opportunity to participate in the selection or termination of the ATJ manager. The formal job descriptions of staff assigned to work with the ATJ Board shall be available to the ATJ Board, and the ATJ Board shall have the opportunity to provide comments on those descriptions during the Annual Review process, or as necessitated by changes in functions, duties or personnel. The ATJ Board shall also have the opportunity to provide comments on the Annual Review of the ATJ manager and other WSBA staff supporting the ATJ Board.

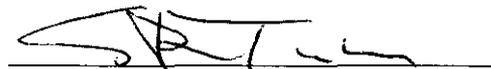
**Other Matters**

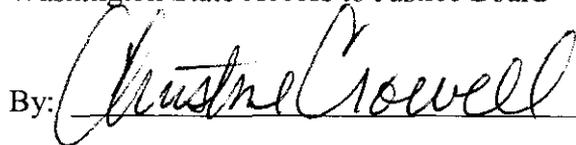
The ATJ Board shall be accountable to the WSBA for proper fiscal management and for using WSBA resources to carry out the mission as specified in the Order.

In the event that an issue arises that is not addressed in the Order or this Memorandum of Understanding, the WSBA and ATJ Board will work collaboratively to resolve the issue.

Washington State Bar Association

Washington State Access to Justice Board



By: 

S. Brooke Taylor  
WSBA President

Date: 4-27-06

Date: 5/8/06



M. Janice Michels  
WSBA Executive Director

Date: 4-28-06