

April 22, 2020

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

Re: LLLT Board Annual Report

Dear Justices:

It feels somewhat unnatural to write to you with an update on our work during the current health crisis that is affecting our state and nation, and the world. Although there is nothing we can do as a Board to prevent the physical suffering being experienced or to provide medical support to those impacted by this health crisis, we strongly believe we can help address at least some of the economic and legal ripple effects our communities will face by offering a process for licensing LLLTs to assist families going through debilitating issues such as denial of public benefits, eviction, and debt collection.

Included in the LLLT Board's annual report this year are proposals for licensing LLLTs in two areas of law – Washington Administrative Law and Eviction and Debt Assistance – that deeply affect people in low and moderate income households, so they can provide future assistance in these practice areas.

Currently, the vast majority of people requesting administrative hearings are self-represented. Most of the approximately 50,000 requests for administrative hearings received by OAH in a given year involve public benefits issues in the Employment Security Department, Department of Social and Health Services, and the Health Care Authority. That number is likely to increase dramatically in the months to come. In addition, according to the Employment Security Department, over 600,000 unemployment insurance initial claims were filed between March 8 and April 11. The Unemployment Law Project has seen a 150% increase in calls from people needing assistance with unemployment benefits. This upsurge means more people will be experiencing severe debt related problems in the immediate and near future, including a significant amount of medical debt incurred due to treatment for the novel coronavirus infection. It is likely that many people will need legal assistance to help them navigate the administrative and other legal processes that will result.

The LLLT Board therefore urges the Court to act quickly to authorize the LLLT Board to fully develop the two proposed new practice areas, described in the attached report, for LLLT licensure and practice. A draft of the Washington Administrative Law scope of practice, developed in collaboration with Chief Administrative Law Judge Lee, is included in the report, as is an outline and chart demonstrating potential scope of practice for an eviction and debt relief practice area (ideas related to

this type of practice area were circulated for discussion previously). The LLLT Board believes that, if authorized to move forward with development of the Washington Administrative Law practice area, licensing could start within six to nine months.

For the reasons stated above, and to assist the LLLT Board in planning its work for this year and next, the LLLT Board would be extremely grateful to receive some prompt feedback from the Court about the following topics covered in this annual report:

1. The proposed new practice area of Washington Administrative Law;
2. The proposed new practice area of Eviction and Debt Assistance;
3. The proposal to consider modifying the experience waiver requirement, which allows paralegals with appropriate experience to meet some of the education requirements;
4. The proposal to consider reducing the number of paralegal practical experience hours required for licensure.

Finally, as this Court is aware, the WSBA Board of Governors requested the LLLT Board develop a “business plan” for the LLLT program to become a financially self-sustaining program.<sup>1</sup> The Board and WSBA staff have worked diligently to develop a dynamic business plan tool, which required many hours of work and discussion, development and drafting, and inserting and testing hypotheses and assumptions. In the creation of the business plan tool, the LLLT Board engaged in meetings with some members of the BOG Budget and Audit Committee. This is not to say that all participants agree with the details and assumptions of the business plan; but all were able to see and contribute to the plan through the drafting process. Members of public and the Bar were also able to attend the LLLT Board meetings where drafts of the business plan were reviewed by the LLLT Board.

The Court will notice immediately that the assumptions in the plan are intertwined with the proposals to the Court for new practice areas, for modifications of some regulatory requirements, for increases in the LLLT fee structure, and for other means of raising revenue for the LLLT program. The LLLT Board would appreciate prompt feedback from the Court as to the appropriateness of this business plan.

Finally, the LLLT Board asserts that one thing that would greatly increase the number of participants in the LLLT pipeline and the number of licensed LLLTs, is the current strong, vocal support of the Court and the WSBA for LLLT licensure and practice. A strong statement that the Court continues to support the licensing of LLLTs, and that the Court encourages (or directs) the WSBA Board of Governors to actively support the license so as to encourage its growth, would help achieve greater LLLT licensing and the BOG’s own stated goal for the program to be self-sustaining.

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<sup>1</sup> We note here that the LLLT Board believes it would have been a better approach to start by asking the question of whether being self-sustaining should truly be the first and guiding force in LLLT licensing and program administration, or whether the focus instead should be on the delivery of affordable legal services and access to justice even if the program is not completely self-sustaining until fully realized. However, the LLLT Board and WSBA staff in fact put in the time and effort to develop a business plan.

Approval of the attached proposals is one way to make such a showing, as would be a public statement or order supporting the LLLT license and program.

Respectfully,



Stephen R. Crossland  
Chair, Limited License Legal Technician Board

Enclosures:

LLLT Board Annual Report to the Court, plus attachments

Cc: Terra Nevitt  
Rajeev Majumdar

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REPORT OF THE LIMITED LICENSE LEGAL TECHNICIAN BOARD  
TO THE WASHINGTON SUPREME COURT

*The Challenges of Being First in the Nation*

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March 2020

*Executive Summary*

The purpose of this report is to provide an overview of the LLLT Board's work in the past year, provide information about the social impact LLLTs are making in their communities, share some of the challenges the program is facing, and provide ideas for potential solutions, which we hope to discuss with the Court.

Seven years have passed since the LLLT Board began its work to implement APR 28. At first blush - especially when looking at the program surface, i.e., number of licensed LLLTs and dollars identified by WSBA as spent on the program - it is understandable that some may look to question the effectiveness, impact, and sustainability of the LLLT license. The LLLT Board urges, however, that a deeper, more in-depth analysis of the actual workings and impacts of the program is warranted and demonstrates a different level of effectiveness and value of the program.

In order to take this deeper look, this report goes beyond the surface numbers and examines the social and equity impacts of the LLLT program. This report and the supporting documentation will cover:

- how this program affects entry into the legal profession for the people of Washington, which can help to diversify the legal profession over time;
- how this program provides greater access to justice through the work of the LLLTs licensed to date and the public protection aspects of the program; and
- how public and private outreach efforts are expanding public knowledge of and access to this limited license to practice law.

No review of this program would be complete without also examining the challenges faced by the program. These challenges affect:

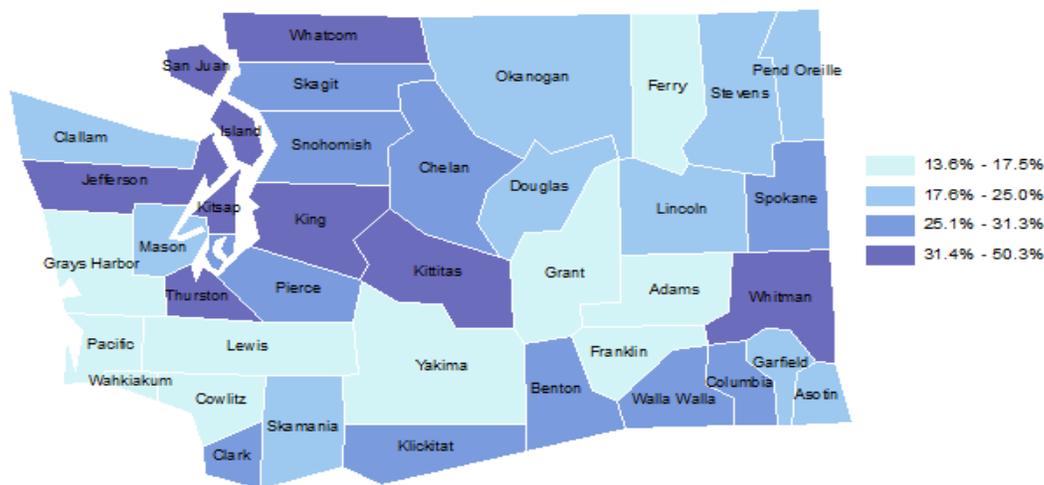
- the number of people in the LLLT educational pipeline,
- the number of LLLTs actively licensed, and
- the number of clients who know about and can access affordable legal services through an LLLT.

*Creating More Equitable Pathways to the Legal Profession*

*LLLT Required Education Is Accessible for Many People:*

One positive outcome of the LLLT profession is its effect on providing access and entry into a career in the legal profession. This is ideal for people who would enjoy and be good at a career in the law providing direct legal advices and services to others, who might not otherwise be able to consider such a career. Washingtonians are likely to view a legal career as being more attainable because the LLLT educational requirements align with the educational attainment levels of the population in this state.

Only 35.5% of the Washington population over the age of 25 has a Bachelor’s degree or higher,<sup>1</sup> and the education levels in many areas of the state are significantly below that percentage. See map below. The percentage of people from historically marginalized groups, lower income levels, and English language learner populations who leave the educational system prior to earning a Bachelor’s degree is significantly higher than it is for other populations. Although this diversity has not yet carried over significantly into the LLLT profession, we expect it will over time.



This map also demonstrates that rural communities in Washington have an even lower percentage of people over 25 with a Bachelor’s degree. Rural communities already face a disproportionate lack of legal services. Providing a pathway for someone from a rural community to enter the legal profession without having to relocate and incur a significant amount of debt<sup>2</sup> could transform a legal career from

<sup>1</sup> 2018 Data and map from the Washington Office of Financial Management

<sup>2</sup> The full costs of LLLT core and practice area education is still approximately \$15,000, and can be less with new state policies about funding college education.

impossible to possible within these rural communities. This becomes even more likely with the greater accessibility to paralegal and LLLT education now available, due to recent changes in ABA accreditation requirements for paralegal programs that permit greater use of synchronous learning.

The LLLT license can offer a more accessible entry point to the legal profession than requiring a Bachelor's degree plus an additional three to six years of education (low of three years for law school, or maximum of six years for the longest possible length of the law clerk program). Although the LLLT profession is still novel and most people are not aware of it, at least 272 people have expressed to the schools or to WSBA that they are interested in or are currently working on requirements to become an LLLT, including 21 approved students waiting for the Family Law Practice Area classes to start in early April.

When looking at the potential for equity and diversity in the LLLT profession, we must look at some objections that have been raised about the fact that the majority of currently licensed LLLTs are female. There are probably several reasons for this, but primarily, many currently licensed LLLTs took advantage of the ability to waive the core education requirements (available to people who have at least 10 years of paralegal experience), and many of the others were already gaining or had some years of paralegal experience (currently, 3,000 hours are required for licensure). In general, most paralegals currently working in Washington are female; therefore, entry into the LLLT profession by way of a paralegal experience-based education waiver would skew toward licensing more women than men.

However, also consider that for many LLLT licensees, becoming an LLLT was/is embarking on a second career that allows them to build on legal knowledge and skills they already have to expand their careers and the services they can provide to clients. Many of these LLLTs would not ever have become a lawyer. And some will go on to become lawyers – with the ability to earn money, practice law, and gain practical experience while they do so. And, as the license becomes more well-known, as we engage in more outreach efforts, and as we work to limit some of the barriers rural communities face in accessing the core education, a broader swath of the population will choose to pursue this career.

### *Social Impact*

#### *LLLTs Provide Affordable Legal Services to People Who Need Them:*

According to a recent survey, the 20 LLLTs who responded have served a total of **1,527 paid clients**; most of the respondents exclusively served clients in the 0-300% of the federal poverty level. Based on the survey and other information available on LLLTs' websites, many LLLTs offer unbundled legal services, free initial consultations, sliding fee scales, and reasonable hourly rates for their services.

*85% of the respondents serve clients in 0-200% of the federal poverty level.*

**MODERATE MEANS PROGRAM**

LLLTs were integrated into WSBA's Moderate Means Program less than five months ago. Since then, 29% of active LLLTs have signed up for the program and therefore agreed to reduce their fees by 50% when serving clients in the 200-250% FPL.

**PRO BONO SERVICE**

In addition to paid legal services, LLLTs provide a significant amount of pro bono services. According to the most recent WSBA licensing data, 34% of LLLTs reported performing a total of 929 pro bono hours.

**PUBLIC PROTECTION**

LLLTs are required to carry malpractice insurance. LLLTs contribute to the Client Protection Fund and their clients are eligible for a gift in case of LLLT malfeasance. To date, no LLLT has ever been disciplined. Over 50% of all LLLTs have at least 10 years of substantive law related experience. And all LLLTs are required to have at least 3,000 hours of experience (equivalent to 18 months of full time employment) before being eligible to be licensed.

*Outreach*

*Increased Outreach Efforts Will Increase Number of LLLTs and Number of Clients Served:*

To the extent possible, considering our modest \$3,000 budget for outreach, we continue to engage in outreach efforts to reach the public, potential LLLTs, and the legal community. Our outreach efforts, which are mostly done by staff and board members without compensation, are somewhat hampered by the small amount budgeted for this purpose and by resistance from some quarters to permitting outreach that would increase public awareness and use of LLLTs.

**THE BENCH**

In an effort to foster a relationship with judicial officers and increase judges' knowledge of courtroom activities LLLTs are authorized to provide, the LLLT Board has developed a bench card to provide information about the role of LLLTs in the courtroom and provide information about the LLLT scope of practice. The original draft of this bench card included the WSBA logo in a bottom corner of the card, since the WSBA administers the program and license and maintains the licensing information for LLLTs. We were asked to remove this logo from the bench card, which we have done, but some copies of the draft with the WSBA logo may still be circulating for review and input. Many people seem unclear about who is authorized to approve bench cards, so the status of this project is slightly unclear now. Some input from this Court might help to move this project along.

Judicial officers have also participated in courtroom training sessions that provided LLLTs with supplemental education about the enhanced scope of LLLT practice that went into effect in June 2019. And some LLLTs are providing authorized services in courtrooms and receiving positive feedback from the judicial officers in those courtrooms.

#### THE PUBLIC

The LLLT Board also developed and approved LLLT “rack cards,” the first print materials created specifically for the public to raise awareness of LLLT services. WSBA staff, Board members, and LLLTs have distributed over 500 rack cards to law libraries, courthouses, and other organizations. We have been directed to revise the rack cards before distributing any more (such as removing the WSBA logo and a reference to lower costs for services), so creation and distribution of new rack cards is on hold for now.

#### *Current Challenges*

Over the last year, we have been working to identify and overcome challenges within the LLLT program to determine how to continue to grow the program, increase the number of LLLT members, and make the program self-sufficient.

In 2019 and 2020, WSBA staff distributed surveys to approximately 250 LLLT candidates considered to be in the “pipeline” to LLLT licensure. This includes 41 students who successfully completed the Practice Area education, but have not yet passed the licensing examinations. Based on the feedback from these candidates, we have identified three main challenges potential LLLTs may be facing:

#### DIVERSITY OF PRACTICE AREAS

Many people who have taken the LLLT education but not gotten licensed, and even some who are licensed, have expressed they are waiting for new practice areas to be developed before they can or will become licensed or more active in representing clients. Although many LLLTs are very interested in practicing in family law, many legal professionals (including lawyers) have little desire to work in the family law area, which can be a very intense, contentious, and emotionally draining area. In addition, it can be difficult for any legal professional to limit their practice to just one area of law, especially in rural areas.

There are so many areas of legal need for people of low or moderate income that it makes sense to increase the practice areas available for LLLT practice. The LLLT Board has been working on developing two new practice areas which have been identified as areas of great need with very high levels of pro se representation: Washington administrative law, and eviction and debt assistance. The first of these, Washington administrative law, is an area where the vast majority of people are pro se, and is also one in which participants in the system can be represented by people with no legal training.

After discussions with the Chief Administrative Law Judge, it has become clear LLLTs could provide a valuable, trained legal service to participants, which would also allow ALJs to have more efficient hearings. In consultation with Judge Lee and Assistant Chief Johnette Sullivan, we have developed proposed scopes of practice and done some very preliminary drafting of rules in order to provide a framework for the Court to consider this proposal. See Proposal No. 1.

The LLLT Board has also been considering licensure in the areas of eviction and debt assistance for some time. Other states that are licensing, or are considering licensing, legal professionals like LLLTs (for example, Utah) are developing licensure in these areas of great need for low to moderate income populations.

In previous efforts at considering these areas, the LLLT Board received some feedback and information from Northwest Justice Project and other groups and collaborated with several subject matter experts. Based on this feedback, the LLLT Board developed a practice area designed to provide an affordable legal assistance option for low and moderate income people facing certain housing and financial issues. The LLLT Board is mindful that certain aspects of the outlined scope, such as allowing LLLTs to assist individual debt collectors can be seen as counter to the purpose of the LLLT license. However, the LLLT Board is also mindful that people of moderate means face those legal issues and are often unable to afford legal services. Furthermore, limiting LLLTs to assist only lower income populations would not be sustainable as a standalone practice for LLLTs. The LLLT Board therefore developed specific limitations, such as limiting LLLTs to assist individual landlords only and limiting debt collection matters to less than two times the jurisdictional limit of small claims court (\$20,000) and would appreciate guidance from the Court as to the scope of this practice area. *See Proposal No. 2.*

#### EXPERIENCE REQUIREMENT

Many people interested in pursuing LLLT licensure have stated the experience requirement is a barrier. 3,000 hours of experience as a paralegal working under the supervision of a lawyer is the equivalent of approximately one and a half years of work. Some paralegals, for various reasons including disabilities, are not able to work full time. Some lawyers, because of a resistance to LLLT practice, are resistant to hiring someone as a paralegal if they know the person eventually wants to become licensed as an LLLT. Other states embarking on licensing of LLLT-like practitioners are setting their experience hours requirements at a lower level – 1,500 seems to be the most common. These factors combined to make the LLLT Board take a look at the requirement of 3,000 hours of experience and consider whether it should remain that high or be reduced. The LLLT Board is recommending the Court consider reducing the experience requirement. *See Proposal No. 3.*

#### WAIVER REQUIREMENTS

In our years of experience with the program, we have come to believe that experienced paralegals may be qualified candidates for the LLLT profession, but may not necessarily have 10 years of experience. In the same way the 3,000 hours of paralegal experience can be a barrier, the 10 years of paralegal experience plus current paralegal certification and testing needed to qualify for the waiver of the core paralegal education courses can prevent experienced paralegals from qualifying for the waiver of core education classes. Some paralegals have worked for lawyers who are now deceased and can't certify to their work, or have worked for lawyers who don't approve of the LLLT license and won't sign their certifications for that reason.

Since many LLLTs have become licensed through the waiver method, and the LLLT Board wants to capture this knowledge base into the future, the LLLT Board believes it would be wise to remove the sunset date of the waiver, and make it a permanent pathway into the LLLT profession.

For these reasons, the LLLT Board is recommending the Court change the limited time waiver to a permanent one, consider reducing the years of work experience requirement, and consider options for national paralegal certification. *See Proposal No. 4.*

#### LACK OF EDUCATION IN RURAL COMMUNITIES

The lack of core education providers in rural communities in Washington prevents access to the LLLT pathway for students who do not live near the ABA or LLLT-Board approved paralegal programs. In January 2020, the ABA amended the paralegal program approval guidelines, which no longer require traditional classroom instruction, allowing many core education classes to move to a synchronous format. We are already seeing some of the colleges move to this format, which will hopefully create a more equitable pathway for students in rural areas to complete the LLLT core education.

#### ADMINISTRATIVE CHALLENGES

In addition to the above areas for improvement, we also have identified some administrative challenges that have been burdensome on the growth of the LLLT program. The recent difficulties in determining points of authority between the BOG and LLLT Board hinder our ability to work efficiently.

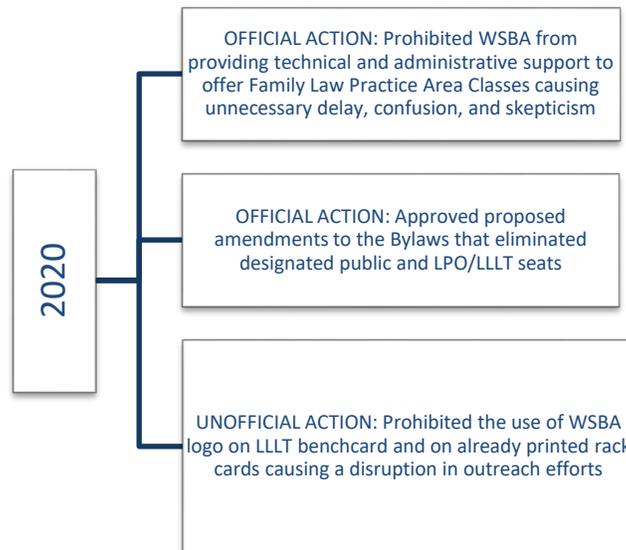
#### *Practice Area Courses*

The next series of Practice Area education courses, previously slated to begin at the University of Washington in fall 2019, had to be postponed when the University of Washington could not agree to teach or host them due to reorganizations that had occurred at the law school. 21 students approved for the “fall 2019” cohort had been eagerly waiting to begin these courses while the LLLT Board has worked to recruit a new provider. During this time, WSBA staff and instructors from previous Practice Area courses developed an alternative plan to have WSBA host the courses through a remote conferencing platform. By using WSBA technology and limited administrative assistance, we anticipated being able to make the classes more affordable to students by charging less than what was previously charged by UW while creating a revenue stream of at least \$15,000 for the LLLT budget which would help with WSBA’s budgetary concerns regarding the LLLT program.

Cutting off an obvious revenue source for the LLLT program, on [January 17, 2020](#) the Board of Governors voted not to approve WSBA taking action to provide the LLLT education courses despite the fact that these classes could have been offered at very low cost by WSBA, simply to provide the technology platforms to be used by the independent contractor educator and minor financial processing time for handling payments in and payments out.

The Practice Area courses began the week of April 7<sup>th</sup>, 2020, at Whatcom Community College. Given the delay caused by the BOG, this group of students will not be eligible to sit for the summer 2020 LLLT exam, and they will need to finish the last quarter of Practice Area courses in fall 2020. Successful completion of these courses and approved applications for the exam will qualify them for the February 2021 exam.

Other administrative concerns related to BOG oversight may be discussed during the meeting between the LLLT Board and the Supreme Court.



### *Proposed Solutions and Request for Court Action*

- Proposal Nos. 1 and 2: New Practice Areas
- Proposal No. 3: Reduce Legal Experience Requirement
- Proposal No. 4: Change the Limited Time Waiver to a Permanent Waiver; Reduce the Years of Work Experience; Consider Options for National Paralegal Certification Requirement

### *Fiscal Impact*

The LLLT Board is in the process of finalizing a business plan with the ultimate goal of achieving self-sufficiency which based on current projections is projected to occur in 2029. See LLLT Business Plan Overview. Although reducing certain costs and increasing license fees play a role, the main driver for self-sustainability is the number of LLLTs. As such, the LLLT Board created a methodology for calculating projections based on key assumptions, including adoption of the proposals mentioned above. The LLLT Board is exploring fundraising as a way to help offset WSBA’s costs for administering the program and reduce the strain on license fee revenues. See LLLT Board memo to the WSBF requesting the creation of a LLLT designated fund and LFW’s responsive letter.

### *Conclusion*

The LLLT Board greatly appreciates its annual meeting with the Supreme Court, and would actually appreciate even greater and more frequent input from the Court in order to be sure the LLLT Board is

doing the work the Court expects, in the manner the Court expects. In particular, the Board would very much appreciate specific and timely feedback regarding the proposals that are being presented to the Court.

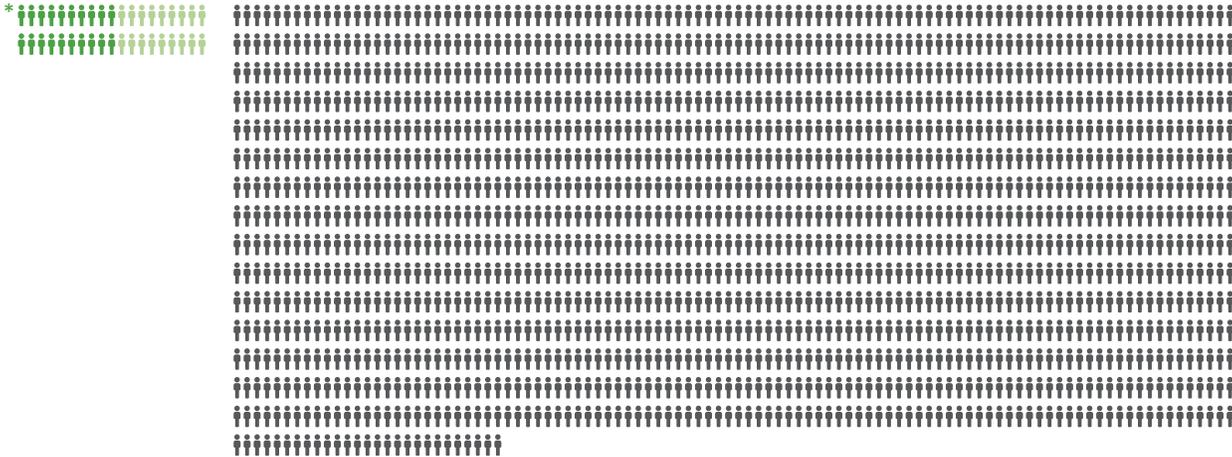
The Board has been working very hard this year. LLLT Board members have provided countless hours of volunteer service and exerted an extensive effort to develop plans and take actions to ensure it is on the right path to a secure and viable future for this valuable profession.

# ATTACHMENTS

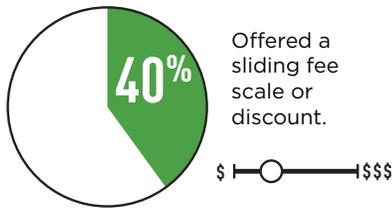
# LLLT Social Impact

Based on data from a voluntary survey conducted in December 2019; with 20 out of 38 active LLLTs\* responding:

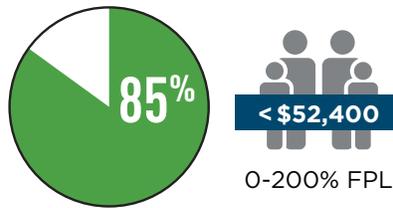
## OVER 1,500 PAID CLIENTS RECEIVED LEGAL SERVICES



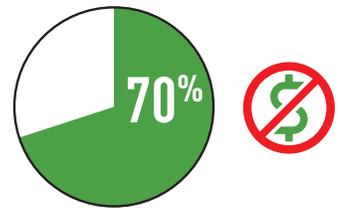
### LLLTs PROVIDED AFFORDABLE SERVICES



### LLLTs SERVED LOW TO MODERATE INCOMES



### LLLTs OFFERED PRO BONO LEGAL SERVICES



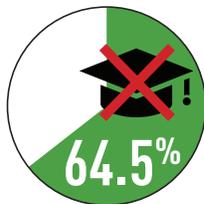
### PROTECTION OF THE PUBLIC



Over half of LLLTs have over **10 years** law-related experience.

All LLLTs have over **3,000 hrs** experience = **18 months** full-time employment.

## A MORE EQUITABLE ENTRY INTO THE LEGAL PROFESSION

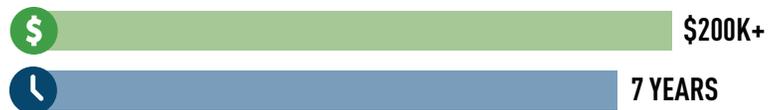


In WA state, nearly 2/3 of adults *do not* have a Bachelor's Degree<sup>1</sup>. The LLLT License, with reduced educational cost and time expenditure, offers an accessible career path to residents of Washington who want to serve their communities in the legal system.

### THE LLLT PIPELINE



#### HS DIPLOMA TO JD: Estimated Cost and Completion Time<sup>2</sup>



#### HS DIPLOMA TO LLLT: Estimated Cost and Completion Time<sup>3</sup>



- 1 As of 2017, number is significantly higher in rural areas.
- 2 Estimates based on average four-year college and three-year law school programs in Washington.
- 3 Estimates based on average AA program and LLLT program requirements.

# LLLTs in the Courtroom

*When and how LLLTs can assist clients in the Courtroom*

## When

The Washington Supreme Court under APR 28\* has authorized LLLTs to assist and confer with their pro se clients at certain hearings:

- **Motion for Temporary Family Law Orders**
- **Enforcement of Domestic Relations Orders**
- **Domestic Violence Protection Orders** (and other protection or restraining orders arising from a domestic relations case)
- **Modification of Child Support**
- **Reconsideration/Revision**
- **Adequate Cause: Non-parental Custody and Parenting Plan Modifications**

With or without their client, LLLTs may also:

- **Present agreed, uncontested, and default orders\*\***
- **Attend trial setting calendar procedures\*\*\***

\* See Appendix APR 28, Regulation 2(B)(2)(h)

\*\* See Appendix APR 28, Regulation 2(B)(2)(g)

\*\*\* See Appendix APR 28, Regulation 2(B)(2)(h)(viii)

## How

**Clients assisted by LLLTs are considered self-represented and should advance their own legal arguments.**

LLLTs may answer only direct factual and procedural questions from the court and only in the types of hearings listed above on this bench card.

LLLTs cannot present their pro se client's cases or make legal arguments in court.

QUESTIONS about LLLTs and APR 28? Contact the Washington State Bar Association: 800-945-9722 or email [LLLT@wsba.org](mailto:LLLT@wsba.org).

### VERIFICATION

LLLTs are licensed members of the Washington State Bar Association and are provided a bar card with their license number.

- You can easily verify a LLLT license by searching for the LLLT's name via the Legal Directory at [www.wsba.org](http://www.wsba.org).
- For a list of all LLLTs use the Advanced Search in the Legal Directory.

For the most up-to-date LLLT license information visit the LLLT page at [www.wsba.org/LLLT](http://www.wsba.org/LLLT)

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## About

**APR 28 authorizes LLLTs to represent pro se clients in matters concerning family law** (additional practice areas are under consideration). Some of the issues a LLLT may assist with are divorce/legal separation, paternity/parentage, parenting-plan modifications, child-support modifications, non-parental custody, and protection.

In brief, LLLTs may render these legal services to a pro se client\*:

- Obtaining relevant facts and records and reviewing documents or exhibits and explaining them to the client
- Informing the client of applicable procedures, including deadlines, and documents that must be filed
- Informing and assisting with service of process and filing of legal documents
- Selecting, advising on significance of selection, completing, filing, and effecting service of forms that have been approved under APR 28 as well as forms prepared by a Washington lawyer
- Performing legal research
- Drafting letters setting forth legal opinions
- Drafting documents beyond what is permitted if the work is reviewed and approved by a Washington lawyer
- Negotiating the client's legal rights or responsibilities, provided that the client has given written consent defining the parameters
- Communicating and negotiating with the opposing party or the party's representative regarding procedural matters

\*See APR 28 for the full text and description of all services LLLTs may provide.

“We have a duty to ensure that the public can access affordable legal and law related services, and that they are not left to fall prey to the perils of the unregulated market place.”

—Washington Supreme Court  
Order 25700-A-1005 at 5-6  
in its order adopting APR 28

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## FAQs

**Q. Do LLLTs file a notice of appearance?**

A. No. LLLTs assist pro se clients who appear on their own behalf.  
See *LLLT RPC 1.0B(h) and 1.16 Comment [1]*

**Q. Do LLLTs accept service on behalf of their clients?**

A. No. Clients of LLLTs are pro se and therefore must be served directly.  
See *LLLT RPC 1.0B(h)*

**Q. May LLLTs speak on behalf of their clients in court?**

A. Generally, no. LLLTs may however speak on behalf of their clients in trial-setting calendar proceedings and negotiations, including mediation and arbitration, with certain limitations.  
See *Appendix APR 28, Regulation 2 (B)(2)(h)(viii) and APR 28(F)(13)*

**Q. Do LLLTs have to comply with ethical rules?**

A. Yes. The LLLT RPCs are based on lawyer RPCs and require similar ethical requirements for LLLTs.

**Q. What protection do LLLT clients have from potential LLLT malpractice?**

A. LLLTs are required to have professional liability insurance. See *APR 28(I)(2)*. In the event of professional dishonest conduct, LLLT clients are eligible for seeking a gift from the Client Protection Fund.

# FILE DIVORCE PAPERS



## NEED HELP?

**A Limited License Legal Technician** (LLLT—“triple LT”—for short) is a new type of legal professional licensed by the Washington Supreme Court who can help you with family law issues like divorce, child custody, parenting plans, and domestic-violence protection orders. A LLLT generally **costs less** than a lawyer and can get you started and guide you through the legal process.

**Call a LLLT**  
Limited License Legal Technician

*To get started, turn this card over  
for more information.*

**WASHINGTON STATE**  
BAR ASSOCIATION

# Find a LLLT

go online:

[www.wsba.org](http://www.wsba.org)

- ▶ Click “Legal Directory” at top of page
- ▶ Select “Advanced Search”
- ▶ Select “Limited License Legal Technician” under License Type
- ▶ Click “Search”
- ▶ Click a License Number on the list of LLLTs which loads their contact information

or call **206-727-8289**

## A LLLT can help you with:

- Divorce
- Legal Separation
- Child Custody
- Child support and maintenance
- Parenting Plans
- Parentage and Paternity Actions
- Domestic violence protection orders
- Relocation actions for parents

## A LLLT...

- is licensed for **limited** family law practice
- is **not** a lawyer, but can
  - explain procedures
  - complete and file forms
  - provide legal advice
  - assist with mediation

**PLEASE NOTE:** The Washington State Bar Association cannot provide legal advice or referrals to legal technicians or lawyers.

**WASHINGTON STATE**  
BAR ASSOCIATION

# FILE CUSTODY DOCUMENTS



## NEED HELP?

**A Limited License Legal Technician** (LLLT—“triple LT”—for short) is a new type of legal professional licensed by the Washington Supreme Court who can help you with family law issues like divorce, child custody, parenting plans, and domestic-violence protection orders. A LLLT generally **costs less** than a lawyer and can get you started and guide you through the legal process.

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BAR ASSOCIATION

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- ▶ Click “Search”
- ▶ Click a License Number on the list of LLLTs which loads their contact information

or call **206-727-8289**

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  - assist with mediation

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**WASHINGTON STATE**  
BAR ASSOCIATION

# FILE A PROTECTION ORDER



## NEED HELP?

**A Limited License Legal Technician** (LLLT—“triple LT”—for short) is a new type of legal professional licensed by the Washington Supreme Court who can help you with family law issues like divorce, child custody, parenting plans, and domestic-violence protection orders. A LLLT generally **costs less** than a lawyer and can get you started and guide you through the legal process.

**Call a LLLT**  
Limited License Legal Technician

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for more information.*

**WASHINGTON STATE**  
BAR ASSOCIATION

# Find a LLLT

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- ▶ Click “Search”
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or call **206-727-8289**

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- Legal Separation
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  - explain procedures
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**WASHINGTON STATE**  
BAR ASSOCIATION

# LLLT BOARD PROPOSAL No. 1

## NEW PRACTICE AREA: WASHINGTON ADMINISTRATIVE LAW

DEVELOPED IN CONSULTATION WITH CHIEF ADMINISTRATIVE LAW JUDGE LORRAINE LEE

### PURPOSE

Provide a legal assistance option for pro se parties that appear in administrative hearings before the Office of Administrative Hearings (OAH). Most of the approximately 50,000 requests for administrative hearings received by OAH annually are from self-represented parties. 96% of new cases involve public benefits in the Employment Security Department, Department of Social and Health Services, and the Health Care Authority.

### BACKGROUND

Under general administrative procedure, lay representation is allowed when permitted by agency rules. (RCW 34.05.428). In addition, OAH initiated a suitable representative program as a form of ADA accommodation to address the needs of persons with disabilities. Lay persons can become suitable representatives by completing approximately 4.5 hours of self-study training.

In addition to collaborating with Chief Administrative Law Judge Lorraine Lee, the New Practice Area Committee of the LLLT Board consulted Unemployment Law Project (ULP) Executive Director John Tirpak who indicated that ULP is unable to meet the demand (even before the public health crisis) and would welcome new practitioners to serve claimants.

### DESCRIPTION

Assisting pro se clients in disagreements with administrative agency decisions when:

- the agency uses the Washington State Office of Administrative Hearings (OAH)
- lay representatives or LLLTs are permitted to represent a party at the hearings

Scope overview:

- advise and assist clients with initiating and responding to actions and related motions, discovery and hearing preparation, and initiating and responding to any additional appeal or review
- write and file briefs on behalf of their clients (not to Superior Court)
- accompany clients at hearings conducted by the OAH. May present the case, make legal arguments, and respond to any questions from the administrative law judge, to the same extent that a lay representative could engage in such activities
- present to OAH agreed orders, uncontested orders, a client's withdrawal of request for hearing, and accompanying documents

### IMPACT

- Increased access to legal assistance by licensed and trained legal professionals
- More efficient hearings, because parties will be better prepared
- Better service for LLLT family law clients facing public benefits issues
- Increased interest and participation in the LLLT profession due to diversity of practice areas

### COURT ACTION REQUESTED

Approve the LLLT Board to fully develop Washington Administrative Law as a practice area and present related suggested amendments to the APR for the Court's consideration

### SUPPLEMENTAL MATERIALS

1. OAH Overview
2. Lay Representatives Agency Comparison Table
3. Suitable Representative Training
4. Chief Administrative Law Judge Lorraine Lee OAH Presentation to the LLLT Board

5. Letter of Support from Chief Administrative Law Judge Lorraine Lee
6. Email from Unemployment Law Project Executive Director Documenting the Increase Demand for Legal Assistance
7. Draft Suggested Amendments Developed in Conjunction with Chief Administrative Law Judge Lorraine for Discussion



# Washington State Office of Administrative Hearings

Independent | Very Accessible | Expert

**Mission:** We independently resolve administrative disputes through accessible, fair, prompt processes and issue sound decisions. *Holding independent, fair hearings since 1982*

## Vision:

We offer a convenient, easy to navigate system to request and receive fair, impartial hearings on appeals of government actions. Washingtonians and government agencies trust OAH as the best neutral adjudicative forum to resolve administrative disputes.

## History:

The Legislature created OAH in 1981, adopting the recommendation of the Washington State Bar Association Administrative Law Task Force to *“improve the appearance of fairness”* in the administrative hearing process.

The Legislature also intended administrative hearings to be easily accessible for the public: *“Hearings shall be conducted with the greatest degree of informality consistent with fairness and the nature of the proceeding.”*

**RCW 34.12.010**

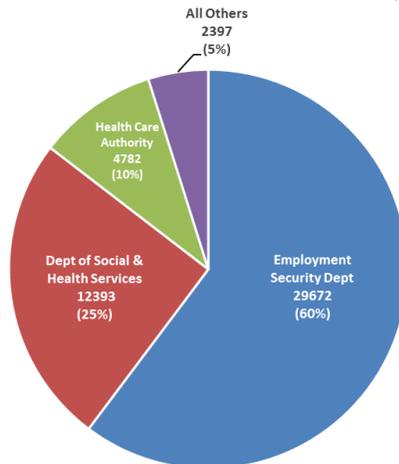
**WWW.OAH.WA.GOV**

1-15-2020

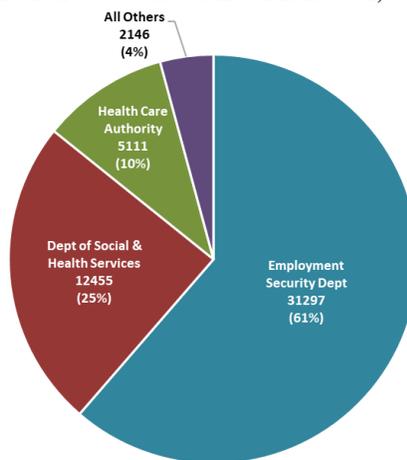
## Why we hold hearings:

So that citizens and businesses who disagree with decisions made by state and some local government agencies have the opportunity to be heard. The Administrative Law Judge presiding over the hearing issues a written order deciding whether to affirm, modify or reverse the agency decision.

**Number of Cases Received in CY 2019 – 49,244**



**Number of Cases Closed in CY 2019 – 51,009**

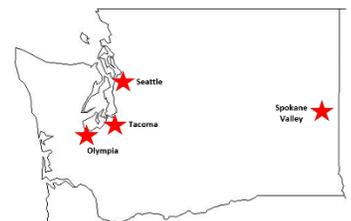


All Other Agencies	# Received	# Closed
Dept of Children, Youth & Families	1250	1011
Labor & Industries	333	331
Superintendent of Public Instruction	305	279
Liquor & Cannabis Board	179	222
Other Agencies	157	133
Gambling Commission	70	71
Office of Insurance Commissioner	29	22
Dept of Financial Institutions	27	26
Department of Licensing	26	30
Washington State University	21	21

**Who hearings involve:** People of Washington, Employment Security Department - Department of Social and Health Services - Health Care Authority - Department of Licensing - Gambling Commission - Washington State Patrol - Liquor and Cannabis Board - Office of the Insurance Commissioner - Executive Ethics Board - Department of Labor and Industries - Office of the Superintendent of Public Instruction - Washington State University - State Human Rights Commission - Department of Financial Institutions - Office of Minority and Women's Business Enterprises - Department of Children, Youth & Families - Department of Retirement Systems - Local Government Agencies.

## OAH Workforce:

- 111 Administrative Law Judges
- 74 Field Office Support and HQ Administrative Staff



## WA AGENCIES THAT PERMIT LAY REPRESENTATIVES AT HEARINGS

Agency - Referring to Office of Administrative Hearings	Lay Reps Permitted*	Notes	WAC
Attorney General's Office for Executive Ethics Board	Yes		292-100-006
Department of Agriculture	Yes		16-08-011
Department of Children, Youth & Families	Yes		110-03-0100
Department of Financial Institutions	No		460-16A-010
Department of Labor and Industries	Yes		296-128-840
Department of Licensing	Yes		308-08-006
Department of Retirement Systems	No		415-08-040
Department of Services for the Blind	Yes		67-25-600
Department of Social and Health Services	Yes		388-02-0155
Department of Transportation	Yes		468-51-150
Employment Security Department	Yes		192-04-110
Gambling Commission	No	But maybe LLLTs: "hardship that would make it unduly burdensome"	230-17-045
Health Care Authority	Yes		182-526-0155
Human Rights Commission	No		162-08-021
Liquor and Cannabis Board	No		314-42-020
Lottery Commission	No	But maybe LLLTs: "hardship as would make it unduly burdensome"	315-20-020
Office of Financial Management	Yes		82-04-030
Office of Insurance Commissioner	Yes		284-02-070
Office of Minority, Women and Business Enterprises	No		326-08-040
Office of Superintendent of Public Instruction	Yes		392-101-005
Washington State Patrol	No		446-08-010
Washington State University	No	But maybe LLLTs: "persons admitted to the practice of law in the state of Washington"	504-04-130
Washington Student Achievement Council	Yes		250-61-210
Workforce Training and Education Coordinating	Yes		490-08B-010

\*There may be additional rules or laws that limit who may appear at hearings involving these agencies. In addition, most agencies have more than one program that they administer. The WAC cited here is just an example of one program administered by the agency. Additional research and contact with the agency is required to verify that lay representatives may appear at a hearing involving the specific program.



## Suitable Representative Uniform Qualification Training--WAC 10-24-010

### Introduction to OAH and the Suitable Representative Accommodation

#### Module 1

- Watch me first: [Introduction to Training](#) (13-18 min)
- Read [Overview of New Accommodation Rule WAC 10-24-010](#) (2 pages)
- Read [Suitable Representative Role and Responsibilities](#) (4 pages)
- Watch [Scope of Duty](#) (11:25 min)
- Watch [How to Participate in Your Hearing – OAH Brochures](#) (3-5 min)
  - Read one brochure (2 pages)
    - [Unemployment Insurance](#)
    - [Public Assistance](#)
    - [Child Support](#)
    - [Washington Apple Health](#)
    - [Hearing – Other Types](#)
- Watch [Overview of Common Forms and Pleadings](#) (optional for attorneys) (13:40)
- (Optional) Read [Communicating with a Client through an Interpreter](#) (2 pages)
- (Optional) Read [Costs and Requests for Reimbursement](#) (1 page)

### Advocating for People with Disabilities

#### Module 2

- Read [Introduction to the ADA](#) (33 slides)
- Read [Strategies for Working with People who have Disabilities](#) (10 sections)
- Read [Communicating With and About People with Disabilities](#) (1 page)
- Read [Guide to Etiquette and Behavior for Working with People with Disabilities](#) (9 pages)  
or Watch Northwest ADA Center video [Introduction to Respectful Interactions](#)
- Watch at least two [Northwest ADA Center videos](#)
  - Select from people who are [blind](#), have [speech disabilities](#), [use wheelchairs](#), are [deaf or hard of hearing](#), have [non-apparent disabilities](#), or use [service animals](#) (5-20 minutes)
- Read [Rules of Professional Conduct Preamble & Scope, 1.0A, 1.2, 1.3, 1.4, 1.6, 1.14, 2.1](#)
- Read [Respecting Choice and Preferences of the Client](#) (4 pages)
- (Optional) Take the [Disability Implicit Association Test](#)
  - This link is not to this specific test. You will need to “agree to proceed” and then select the Disability test from a list.

Or

- Equivalent experience or training



### Adjudicative Proceedings—Procedural Rules

#### Module 3

- Watch [Appointment Process, the Case Record, and NOA](#) (16:36 min)
  - (Video is titled Expectations and Procedural Rules)
- Watch [Administrative Law](#) (14:08 min)
- Read selections from the Administrative Procedure Act
  - [APA Chapter Headings](#)
  - [RCW 34.05.425](#) Presiding officers-Disqualification, substitution
  - [RCW 34.05.434](#) Notice of hearing
  - [RCW 34.05.437](#) Pleadings, briefs, motions, service
  - [RCW 34.05.440](#) Default
  - [RCW 34.05.446](#) Subpoenas, discovery, and protective orders
  - [RCW 34.05.449](#) Procedure at hearing
  - [RCW 34.05.452](#) Rules of evidence-Cross-examination
  - [RCW 34.05.455](#) Ex parte communications
  - [RCW 34.05.461](#) Entry of orders
  - [RCW 34.05.464](#) Review of initial orders
  - [RCW 34.05.470](#) Reconsideration
  - [Read entire APA](#) (optional)
- Read [Model Rules WAC 10-08](#)
- Watch one mock hearing video
  - [OAH Unemployment Insurance](#) (32:15 min)
  - [OAH Child Support](#) (27:32 min)
  - [Oregon Unemployment Insurance Phone Hearing](#) (12:34 min)
- Arrange to listen to a live hearing (optional)
  - Contact the ADA Coordinator

Or

- Equivalent experience or training

### Adjudicative Proceedings—Substantive Law

#### Module 4

- Watch [Substantive Law](#) (15:11 min)
- Skim two typical formats on Washington Law Help
  - [Do You Owe Child Support?](#)
  - [Questions and Answers on Medicaid for Nursing Home Residents](#)

Or

- Equivalent experience or training



### Resources Upon Appointment (not required for training)

#### Procedural Rules

Read procedural rules for the case type

- [WAC 192-04](#) Unemployment Insurance
- [WAC 388-02](#) DSHS Hearing Rules
- [WAC 110](#) DCYF
- [182-526](#) HCA Medical Services Programs
- For other case types, go to [OAH website](#) for links

#### Substantive Law

Review program rules for the specific case type. Here are some links:

- [OAH website](#)
- [Washington Law Help website](#)

### General Resources (not required for training)

#### Optional Videos

- [Using a screen reader](#)
- [Making an Accessible Video](#)
- [CART video](#)
- [Invisible Disabilities](#)
- [Skill Boosters for dealing with disabled people](#)
- [TED talk - The Disability Conversation](#)
- [Too Quick to Judge](#)
- [State of Oregon – Mock telephone hearing \(unemployment\)](#)
- [Generic administrative hearing from Canada's Justice Education Society of BC](#)
- [Kids Meet a Deaf Person](#)
- [Kids Describe Color to a Blind Person](#)
- [Video Relay Service](#)

#### Optional Articles

- [Accommodating Parties with an Intellectual Disability](#)
- [Accommodating Parties with a Learning Disability](#)
- [Accommodating Parties with a Psychiatric Disability](#)
- [Accommodating Parties with a Head Injury](#)
- [Accommodating Parties with Low Vision or Blindness](#)



### PDF Reference Documents for OAH Videos

These documents are copies the slides shown during the OAH videos.  
You may use them for easy access to the hyperlinks or for future reference

- [Introduction to Training - Slides](#)
- [Scope of Duty - Slides](#)
- [How to Participate in Your Hearing – OAH Brochures - Slides](#)
- [Overview of Common Forms and Pleadings - Slides](#)
- [Appointment Process, the Case Record, and NOA - Slides](#)
- [Administrative Law - Slides](#)
- [Substantive Law - Slides](#)



# Office of Administrative Hearings (OAH)

WSBA LLLT Board

New Practice Area Committee

February 3, 2020

- Lorraine Lee
- Chief Administrative Law Judge
- [Lorraine.Lee@oah.wa.gov](mailto:Lorraine.Lee@oah.wa.gov)
- (360) 407-2710



# Background

---

**Mission:** To hold fair and independent hearings for the public and for government agencies, and to issue quality and timely decisions.

## History:

The Legislature created OAH in 1981, adopting the recommendation of the Washington State Bar Association Administrative Law Task Force to “***improve the appearance of fairness***” in the administrative hearing process.

Washington 7<sup>th</sup> state in the country to adopt the “central adjudicatory panel” model of administrative adjudications.



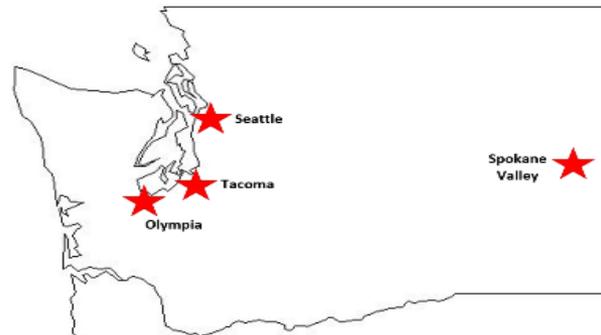
## Who we are:

- Chief Administrative Law Judge
- 110 Administrative Law Judges
- 74 field office support & administrative staff

*"OAH staff are passionate about the agency mission and take pride in doing meaningful work, particularly valuing their role of independence."*

Stellar Associates Report on Fee Structure, Billing Methodology, Productivity, and Organizational Structure Review" (June 2019)

- OAH Locations





# OAH Hearings

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- **Informal**

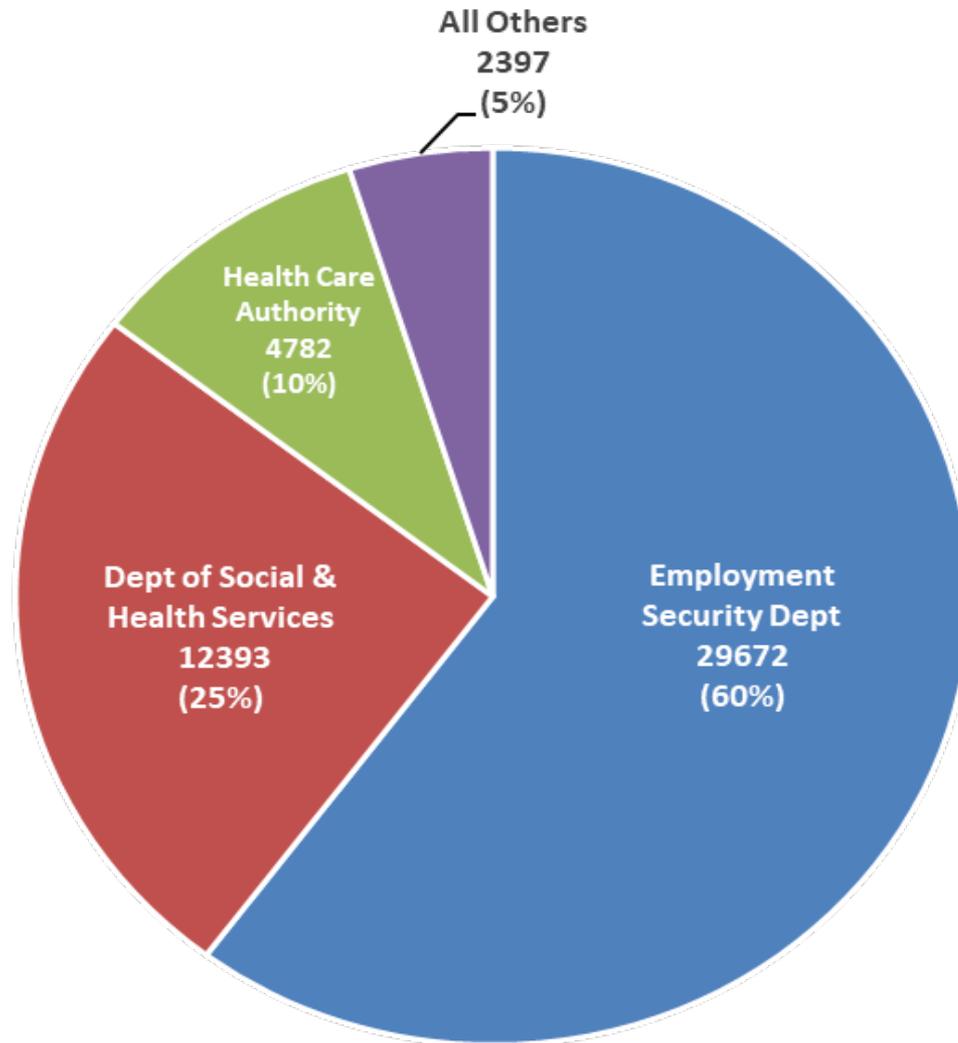
The Legislature also intended administrative hearings to be easily accessible for the public: ***“Hearings shall be conducted with the greatest degree of informality consistent with fairness and the nature of the proceeding.”*** RCW 34.12.010

- **Non-agency parties mostly pro se**

- **Mostly by phone**

- **No filing fee**

# OAH Workload CY 2019 – Intake 49,244 cases





# OAH Workload CY 2019

<b>All Other Agencies</b>	<b># Received</b>	<b># Closed</b>
Dept of Children, Youth & Families	1250	1011
Labor & Industries	333	331
Superintendent of Public Instruction	305	279
Liquor & Cannabis Board	179	222
Other Agencies	157	133
Gambling Commission	70	71
Office of Insurance Commissioner	29	22
Dept of Financial Institutions	27	26
Department of Licensing	26	30
Washington State University	21	21



# Types of Disputes

## OAH Hearings involve

- Unemployment insurance
- Child Support Establishment / Modification
- Food Assistance
- Temporary Assistance for Needy Families
- Child or vulnerable adult abuse findings
- Medicaid
- Washington Apple Health/MAGI
- Special education
- Business license revocation / suspension
- Student misconduct & Title IX
- Paid Family Medical Leave (new)

## Other state adjudicatory entities

- Board of Industrial Insurance Appeals (Worker's compensation)
- Dept of Health (Health providers regulation)
- Dept of Licensing (Driver's license suspension / revocation)
- Dept of Revenue & Board of Tax Appeals (tax)
- Environmental Land Use Hearings Office (environmental)



# Laws Involved in OAH Hearings

## Example: Unemployment Insurance

RCW 50.20.050(2)(b) provides eleven “good cause” reasons to quit work:

1. a bona fide offer of new work;
2. the death, disability, or illness of oneself or an immediate family member;
3. relocation for a spouse or domestic partner's employment;
4. protection of self or an immediate family member from domestic violence or stalking;
5. 25 percent or greater reduction in pay;
6. 25 percent or greater reduction in hours;
7. increased commute because of employer worksite change;
8. deterioration of worksite safety;
9. illegal activities at the worksite;
10. change in work duties that violates religious convictions or sincere moral beliefs; and,
11. beginning an apprenticeship program.



# Case Example – Unemployment Insurance Benefits

- News article in Seattle Capitol Hill Times, Jan. 30, 2020:

## Nearly 8,000 Nurses and Caregivers Continue Strike at Swedish-Providence

“Multiple studies have proven that unsafe staffing levels in hospitals can lead to lower quality care, including falls, infections, medication errors, and increased deaths. Recently, the [Washington State Office of Administrative Hearings found that](#), in the Swedish First Hill Organ Transplant Center, “The employer’s failure to respond to the severe staffing shortages and manager hostility and retaliation, all of which jeopardized patient health and staff health, shows a complete disregard for patient care and safety as well as a complete lack of regard for their own employees.”

- OAH ALJ reversed ESD’s denial of unemployment insurance claim, finding that the nurse claimant had established good cause for quitting.



# Representation

## RCW [34.05.428](#) Representation.

(1) A party to an adjudicative proceeding may participate personally or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, **if permitted by provision of law, other representative.**

## (OAH Model Rule) WAC 10-08-083 - Notice of appearance.

If a party is represented, the representative should provide the presiding officer and other parties with the representative's name, address, and telephone number. The presiding officer may require the representative to file a written notice of appearance or to provide documentation that an absent party has authorized the representative to appear on the party's behalf. If the representative is an attorney admitted to practice in this state, the attorney shall file a written notice of appearance and shall file a notice of withdrawal upon withdrawal of representation.

## (DSHS rule) WAC 388-02-0155 - Who represents you during the hearing process?

- (1) You may represent yourself or **have anyone represent you**, except a DSHS employee.
- (2) Your representative may be a **friend, relative, community advocate, attorney, or paralegal.**
- (3) You should inform DSHS or OAH of your representatives name, address, and telephone number.



# Demographics of non-agency parties in OAH Hearings

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- Wide spectrum
- Pro Se
  - 75% cases (approx 18,000 cases resolved on merits)
- Representation by attorneys
- Representation by non-attorneys
  - Unemployment Insurance
    - Unemployment law project (represents claimants)
    - Equifax (represents employers)
- May representatives charge a fee?



# OAH Suitable Representative Initiative

## An Access to Justice Program

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- **OAH Strategic Objective:** Provide equal access to administrative justice for those facing economic and other barriers.
- WAC 10-24-010 (effective Jan. 1, 2018)
- “Suitable representative” form of ADA accommodation to address needs of pro se parties with disabilities
- Training online & self-paced, available on OAH website
- WSBA Legal Lunchbox Oct 29, 2019



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Please visit our website:

[www.oah.wa.gov](http://www.oah.wa.gov)

*Thank you!*



STATE OF WASHINGTON

OFFICE OF ADMINISTRATIVE HEARINGS

2420 Bristol Court SW • PO Box 42488 • Olympia, Washington 98504-2488  
(360) 407-2700 • FAX (360) 664-8721 • [www.oah.wa.gov](http://www.oah.wa.gov)

March 24, 2020

The Honorable Debra L. Stephens  
Chief Justice, Washington State Supreme Court  
P O Box 40929  
Olympia, Washington 98504-0929

Re: LLLT Board's New Practice Area Proposal: Washington Administrative Law

Dear Chief Justice Stephens:

I am writing to support the proposal from the Limited License Legal Technician (LLLT) Board to add Washington Administrative Law as a new practice area for LLLTs. I welcomed the opportunity over the past few months to provide information and input in support of the New Practice Area Committee's consideration of administrative law as a potential new practice area.

When the 1981 Legislature created the Washington State Office of Administrative Hearings (OAH), it mandated the agency conduct administrative hearings with the greatest degree of informality consistent with fairness and the nature of the proceeding. RCW 34.12.010. OAH's mission is to independently resolve administrative disputes through accessible, fair, prompt process and issue sound decisions. OAH annually receives approximately 50,000 requests for administrative hearings, involving appeals of government determinations from more than 25 agencies and 164 programs. Most people who file an appeal request are self-represented. Many choose a friend, family member, or business associate to be a lay representative in the hearings, when permitted by law.

The rules for nearly all of the appeals at OAH permit the non-agency party to choose a lay representative. These appeals relate to child support, unemployment insurance, paid family medical leave, public benefits, Medicaid, and licensing and regulating actions by the Department of Social and Health Services, Health Care Authority, the Department of Children, Youth and Families, and the Employment Security Department.

Under the current authorized practice area of family law, it is permissible for LLLTs to assist and confer with their pro se clients in administrative proceedings relating to child support establishment and modification. Child support disputes arising from administrative determinations of DSHS is a high-volume caseload for OAH with more than 7,500 cases a year.

Chief Justice Stephens  
March 20, 2020  
Page 2

I support the LLLT Board's proposal. It would promote access to administrative justice for Washingtonians by addressing some of the need for civil legal services noted in the 2015 Civil Legal Needs Study.

Please let me know if I can answer any questions or provide additional information. I can be reached at (360) 407-2710 or [Lorraine.Lee@oah.wa.gov](mailto:Lorraine.Lee@oah.wa.gov).

Sincerely,



Lorraine Lee  
Chief Administrative Law Judge

cc: Stephen R. Crossland, Chair, LLLT Board  
Nancy Ivarinen, Chair, LLLT New Practice Area Committee  
Renata de Carvalho Garcia, Innovative Licensing Programs Manager, WSBA

---

**From:** John Tirpak <jtirpak@ulproject.org>  
**Sent:** Thursday, March 19, 2020 12:41 PM  
**To:** ATJ Community  
**Subject:** [atj-community] Fwd: A Message from the Unemployment Law Project

----- Forwarded message -----

**From:** **Unemployment Law Project** <[info@ulproject.org](mailto:info@ulproject.org)>  
**Date:** Thu, Mar 19, 2020 at 11:59 AM  
**Subject:** A Message from the Unemployment Law Project  
**To:** <[jtirpak@ulproject.org](mailto:jtirpak@ulproject.org)>

A Letter from ULP

Dear friend:

I am writing to update you on the Unemployment Law Project and the COVID-19 outbreak.

ULP is continuing to advise and represent claimants in telephone hearings. Staff and volunteers are working from home as much as possible. Calls for help have risen 150% in the past few days.

Unemployment claims in Washington State are surging. Some unemployed workers cannot even file a claim. The 800 number for the Employment Security Department is overwhelmed and calls are being rejected. Claimants without computers cannot file online because Worksource offices and public libraries are closed. Low income people of color and immigrants are most impacted by this lack of access.

ULP is working with other organizations to secure benefits for Uber/Lyft drivers and other gig workers. Currently they are being rejected without a right to appeal. We are collaborating with immigrant advocates to support a plan for undocumented workers. We are advocating for increased staffing at the Employment Security Department to process claims immediately.

We appeal to attorneys around the state to volunteer for telephone hearings. ULP will provide training and assistance. You can represent unemployed workers from your home. The number of hearings will increase in the coming weeks and increased volunteer support is critical at this time.

Our annual fundraiser Brew Review has been postponed from April 22 to September 23. Individual donations are a big part of our budget. Your financial support is needed now more than ever. Please donate today [here](#). No amount is too big or too small.

Share this letter with your friends. Thank you for your support.

John Tirpak  
Executive Director  
[jtirpak@ulproject.org](mailto:jtirpak@ulproject.org)  
206-441-9178 x102

[Donate Now](#)



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# LLLT BOARD PROPOSAL No. 1

## NEW PRACTICE AREA: WASHINGTON ADMINISTRATIVE LAW

### POTENTIAL SUGGESTED AMENDMENTS FOR DISCUSSION ONLY

#### **RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS**

#### **REGULATION 2: APPROVED PRACTICE AREAS--SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE**

##### **C. Washington Administrative Law**

1. *Washington Administrative Law, Defined.* For the purposes of these Regulations, Washington administrative law shall include those areas of Washington administrative law where: (1) a government agency makes a decision in that area of law; (2) and a party disputing the government agency's decision has a right to an administrative hearing conducted by an administrative law judge at the Washington State Office of Administrative Hearings (OAH), and the agency's reviewing authority; and (3) lay representatives or LLLTs are permitted to represent a party at the hearings and review proceedings.

2. *Scope of Practice for Limited License Legal Technicians – Washington Administrative Law.* LLLTs licensed in Washington administrative law may render legal services to clients as provided in APR 28F and this regulation, except as prohibited by APR 28H and Regulation 2C.

(a) Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients with initiating and responding to actions and related motions, discovery, and hearing preparation.

(b) LLLTs may advise and assist clients with initiating and responding to any appeal or review under the purview of the agency or the OAH.

(c) LLLTs may write and file motions or briefs on behalf of their clients.

(d) LLLTs may accompany clients at hearings conducted by the OAH and may present the case, cross-examine the agency's witnesses, make legal arguments, and respond to any questions from the administrative law judge, to the same extent that a lay representative could engage in such activities.

(f) LLLTs, when accompanying their client, may assist and confer with their clients at depositions.

(g) LLLTs may present to OAH agreed orders, uncontested orders, a client's withdrawal of request for

hearing, and accompanying documents.

(h) LLLTs may advise and assist clients with writing and filing a petition for review of the administrative law judge's initial order to the agency's reviewing authority, or filing a motion for reconsideration of the administrative law judge's final order, or filing a petition for judicial review of the administrative law judge's final order. LLLTs may advise and assist clients in filing a response to petitions and reconsideration motions filed by an opposing party.

3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28H, in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in Washington administrative law:

(a) unless otherwise permitted, a LLLT shall not initiate or respond to an appeal to state appellate courts or the federal courts.

### **REGULATION 3: EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS**

#### **B. Practice Area Curriculum.**

##### *2. Washington Administrative Law.*

As permitted by APR 3(e)(2), the provisions of APR 3(e)(2)(C) relating to the practice area education requirements are waived as to Washington administrative law, and instead applicants for Washington administrative law shall be required to complete: (a) the Suitable Representative Uniform Qualification Training as developed by the Office of Administrative Hearings under WAC 10-24-010; (b) a course on administrative law consistent with curricular requirements approved by the LLLT Board that is at least six credit hours, at an education institution approved by the LLLT Board.

# LLLT BOARD PROPOSAL No. 2

## NEW PRACTICE AREA: EVICTION AND DEBT ASSISTANCE

### PURPOSE

Provide an affordable legal assistance option for low and moderate income people who are:

- facing certain housing and financial matters and other problems which contribute to consumer credit problems
- seeking economic protection
- addressing legal financial obligations and other barriers to reentry for the formerly incarcerated

### BACKGROUND

The 2003 and 2015 Civil Legal Needs Studies identify consumer, financial services, and credit among the three most prevalent problems that people experience and seek legal help to address.

A sub-committee of the LLLT Board's New Practice Area Committee began studying unbundled personal services in August 2017, which led to the development of a new Consumer Law practice area. During the period of August 2017 through December 2018, the LLLT Board collaborated with eight subject matter experts and attended meetings with key agencies and stakeholders, described below.

#### **Subject Matter Experts**

Edgar Hall, Sam Leonard, Damian Mendez, Sheila O'Sullivan, Eric Theile, Scott Kinkley, Sart Rowe, and Jennifer Ortega.

#### **Meetings and Outreach to Stakeholders**

- May 7, 2018: Email to WBSA Section Leaders
- May 15, 2018: The LLLT Board requested comments from all members
- Outreach to members via social media channels, WSBA website, and WSBA TakeNote
- Meetings with the Access to Justice Board
- June 12, 2018: Northwest Consumer Law Center meeting
- June 15, 2018: Creditor Debtor Section Executive Committee meeting
- September 18, 2018: Washington Collection Agency Board meeting

#### **New Practice Area Committee Meetings**

The New Practice Area Committee held 15 meetings from August 2017 through March 2020 during which the Consumer, Money, and Debt practice area was developed and refined.

#### **Public Comments**

The LLLT Board posted a draft of the proposed new practice area, Consumer, Money, and Debt Law, on the WSBA website and solicited comments between May 15, 2018 and July 16, 2018. Staff received a total of 50 comments from lawyers, the Washington State Collection Agency Board, the Northwest Justice Project, the Access to Justice Board, and members of the public.

#### **Eviction & Debt Assistance**

At the New Practice Area Committee's January 13, 2020 meeting, Consumer, Money and Debt Law was reframed as Eviction and Debt Assistance to incorporate the committee's recommendations and research on landlord-tenant law and the public need for assistance with evictions.

## DESCRIPTION

Advise and assist pro se clients in unlawful detainer and debt defense matters including:

- unlawful detainer (evictions)
  - for tenant
  - for landlord (individual landlords only; no more than four units in the rental; no business entities)
- tenant's Rights
- medical bills
- identity theft
- Legal Financial Obligations
- protection Orders
- small claims
- student loans (federal)
- debt collection defense
  - debts valued at less than two times the jurisdictional limit of small claims court (\$20,000)
- debt collection (individuals only; no business entities)
  - debts valued at less than two times the jurisdictional limit of small claims court (\$20,000)
- garnishment (only debts valued at less than two times the jurisdictional limit of small claims court (\$20,000); LLLTs may assist only original creditor; no prejudgment attachments; no executions on judgments; no family law judgments)

## IMPACT

- Increased access to affordable legal assistance by licensed and trained professionals
- More equitable evictions and debt collection proceedings because parties are better prepared
- Better service for LLLT family law clients facing consumer and debt issues
- Increased interest in the LLLT license and profession due to diversity of practice areas

## COURT ACTION REQUESTED

- Approve the LLLT Board to fully develop Eviction and Debt Assistance as a practice area and present related suggested amendments to the APRs for the Court's consideration

## SUPPLEMENTAL MATERIALS

1. Draft Eviction and Debt Assistance Potential Permitted Actions for LLLTs for Discussion
2. Discussion draft for rule proposals (2018)
3. Utah's Licensed Paralegal Practitioner Rule 14-802. Authorization to practice law

## LLLT BOARD PROPOSAL No. 2

### NEW PRACTICE AREA: Eviction and Debt Assistance

#### POTENTIAL PERMITTED ACTIONS FOR DISCUSSION ONLY

Scope	Permitted Actions
<b>Unlawful detainer (evictions)</b> <ul style="list-style-type: none"> <li>▪ For Tenant</li> </ul>	<ul style="list-style-type: none"> <li>- Advise as to remedies prior to court action</li> <li>- Move-out plans, payment plans</li> <li>- Negotiations &amp; settlement offers</li> <li>- Respond to summons and complaint</li> <li>- Discovery</li> <li>- Show cause hearing</li> <li>- Stay/vacate writ of restitution</li> <li>- Advise as to resources for homelessness</li> </ul>
Tenant's Rights	<ul style="list-style-type: none"> <li>- Advise tenants about their rights</li> <li>- Advise tenants about landlord rights</li> <li>- Advise tenants about landlord responsibilities and duties</li> </ul>
Unlawful detainer (evictions) <ul style="list-style-type: none"> <li>▪ For Landlord</li> <li>▪ Individual landlords only (no business entities)</li> <li>▪ No more than four units in the rental</li> </ul>	<ul style="list-style-type: none"> <li>- Advise as to any duties necessary prior to court action</li> <li>- Summons and complaint (consider limiting to notices only)</li> <li>- Show cause hearing</li> <li>- Writ of restitution</li> <li>- Advise landlords about their duties and responsibilities (landlords with tools and knowledge are better landlords)</li> </ul>
<b>Medical bills</b>	<ul style="list-style-type: none"> <li>- Advice and assistance with health insurance disputes, including negotiation and writing appeal letters</li> <li>- Assistance with Charity Care applications and denials</li> </ul>
<b>Identity Theft</b>	<ul style="list-style-type: none"> <li>- Advice</li> <li>- Best practices for protecting information</li> <li>- Contacting credit bureaus</li> <li>- Reporting to law enforcement and other agencies such as Federal Trade Commission</li> </ul>
<b>Legal Financial Obligations (LFOs)</b>	<ul style="list-style-type: none"> <li>- Assistance filling out forms (e.g. Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)</li> </ul>
<b>Protection Orders</b>	<ul style="list-style-type: none"> <li>- Assistance completing and filing protection/anti-harassment orders</li> </ul>
<b>Small Claims</b>	<ul style="list-style-type: none"> <li>- Assistance preparing the Notice of Small Claims, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, Counterclaims</li> <li>- Preparation for mediation and trial</li> <li>- Obtaining and organizing exhibits</li> </ul>

Scope	Permitted Actions
<p><b>Debt Collection DEFENSE</b>            Debts valued at less than two times the jurisdictional limit of small claims court (\$20,000)</p> <p><i>Need an amendment to RCW 18.28.010, the Debt Adjusting statutes in order to negotiate and settle debt. The definition would need to exclude LLLTs as it does attorneys-at-law.</i></p>	<ul style="list-style-type: none"> <li>- Answer a Complaint</li> <li>- Drafting Answers and Counterclaims</li> <li>- Deadlines to file answer</li> <li>- Affirmative defenses including statute of limitations</li> <li>- Family expense statute, RCW 26.16.205</li> <li>- Discovery</li> <li>- Motion to set aside judgment</li> <li>- Reporting Fair Debt Collection Practices Act violation, including statute of limitations and state collection agency statute violations</li> <li>- Reporting to regulatory agencies</li> <li>- Negotiation and settlement of debt</li> </ul>
<p><b>Debt Collection</b>            Debts valued at less than two times the jurisdictional limit of small claims court (\$20,000)</p> <p>Individuals only (no business entities).</p> <p>Not allowed to represent any corporate entity, partnership or person in connection with the business of debt collection, debt buying or money lending.</p> <p><i>There's an issue with the Debt Collection statute and the possibility of being classified as a "collection agency". Need a court order invoking RCW 19.16.100(5)(c); "persons acting under court order" are not collection agencies.</i></p> <p><i>Eventually, better to have an amendment to RCW 19.16.100, the Collection Agency statutes.</i></p>	<ul style="list-style-type: none"> <li>- Draft a Demand Letter</li> <li>- Draft a Complaint</li> <li>- Answers to counterclaims</li> <li>- Discovery</li> <li>- Judgment</li> <li>- Negotiation and settlement of debt</li> </ul>
<p><b>Student loans – federal</b>  <i>Need an amendment to RCW 18.28.010, the Debt Adjusting statutes in order to negotiate and settle debt.</i></p>	<ul style="list-style-type: none"> <li>- Negotiation of debt or payment plans</li> <li>- Modifications, loan forgiveness and debt relief</li> <li>- Discharge</li> </ul>

Scope	Permitted Actions
<p><b>Garnishment</b>  <i>Need an amendment to RCW 18.28.010, the Debt Adjusting statutes in order to negotiate and settle debt. The definition would need to exclude LLLTs as it does attorneys-at-law.</i></p> <p><i>Need a court order invoking RCW 19.16.100(5)(c); “persons acting under court order” are not collection agencies.</i></p> <p><i>Eventually, better to have an amendment to RCW 19.16.100, the Collection Agency statutes.</i></p>	<p><b>Proposed Permitted Actions:</b></p> <ul style="list-style-type: none"> <li>- Negotiation</li> <li>- Voluntary Wage Assignments</li> <li>- Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, Satisfaction of Judgment)</li> <li>- Exemption Claims, including assistance at court hearings</li> </ul> <p><b>Proposed Limitations:</b></p> <ul style="list-style-type: none"> <li>- LLLTs can assist only with debts valued at less than two times the jurisdictional limit of small claims court (\$20,000)</li> <li>- LLLTs may render legal services for debt collection only when there is a direct relationship with the original creditor and may not act as or render legal services for collection agencies or debt buyers as defined under RCW 19.16.</li> <li>- No prejudgment attachments.</li> <li>- No executions on judgments.</li> <li>- No family law judgments.</li> </ul>

## LLLT BOARD PROPOSAL No. 2

### NEW PRACTICE AREA: RESIDENTIAL TENANT AND DEBT DEFENSE ASSISTANCE POTENTIAL SUGGESTED AMENDMENTS FOR DISCUSSION ONLY

#### **RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS**

#### **REGULATION 2: APPROVED PRACTICE AREAS--SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE**

##### **D. Residential Tenant and Debt Defense Assistance**

1. *Residential Tenant Assistance, Defined.* For the purposes of these Regulations, residential tenant assistance shall include only the following actions and subject matters: (a) the Washington State Residential Landlord-Tenant Act (RCW 59.18) and local landlord-tenant laws; (b) forcible entry and forcible and unlawful detainer including writs of restitution and related judgments (RCW 59.12); (c) foreclosure protection for renters, and (d) domestic violence and harassment protection for renters.

2. *Debt Defense Assistance, Defined.* For the purposes of these Regulations, debt defense assistance shall include only the following actions: (a) debt collection defense of amounts of up to \$10,000; (b) family expense statute; (c) reporting debt collection violations; (d) garnishment defense for amounts up to \$10,000; (e) health insurance dispute resolution; (f) Charity Care applications and denials; (g) legal financial obligations and restoration of civil rights; and (h) small claims.

3. *Scope of Practice for Limited License Legal Technicians – Residential Tenant and Debt Assistance.* LLLTs licensed in residential tenant and debt defense assistance may render legal services to clients as provided in APR 28F and this regulation, except as prohibited by APR 28H and Regulation 2D.

- (a) Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients with initiating and responding to actions and related motions, discovery, and hearing or trial preparation.
- (b) In forcible entry and forcible and unlawful detainer actions, LLLTs may draft documents necessary for a tenant to respond to a summons and complaint, or for show cause hearings.
- (c) In forcible entry and forcible and unlawful detainer actions, LLLTs may present to a court agreed and uncontested orders and accompanying documents.
- (d) In forcible entry and forcible and unlawful detainer actions, LLLTs, when accompanying their pro se client, may assist and confer with their pro se client and respond to direct questions from

the court or tribunal regarding factual and procedural issues at show cause hearings.

- (e) In debt collection defense actions, LLLTs may draft answers to a complaint including affirmative defenses and counterclaims.
- (f) In health insurance disputes, LLLTs may draft correspondence including appeal letters that are necessary for resolving the dispute, including appeals to an Independent Review Organization (IRO).
- (g) LLLTs, when accompanying their pro se client, may assist and confer with their pro se clients at depositions.

3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28H, in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in residential tenant and debt defense assistance:

(a) shall not render legal services:

- (i) in debt collection defense in which the debt is valued at over \$10,000;
- (ii) to a landlord; and
- (iii) regarding family law judgments in garnishment actions.

(b) shall not initiate or respond to an appeal to the superior courts in debt collection defense actions;

(c) shall not appear with or on behalf of their client in small claims court; and

(d) notwithstanding APR 28 F(13), shall not negotiate on behalf of their pro se clients but may assist their pro se clients in negotiating debt collection defense matters.

### **REGULATION 3: EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS**

#### **B. Practice Area Curriculum.**

##### *3. Residential Tenant and Debt Defense Assistance.*

As permitted by APR 3(e)(2), the provisions of APR 3(e)(2)(C) relating to the practice area education requirements are waived as to residential tenant and debt defense assistance, and instead applicants for residential tenant and debt defense assistance shall be required to complete: (a) a course on residential landlord-tenant law that is at least three credit hours, at a Washington state law school, or an educational institution in Washington state with an ABA approved paralegal program or an LLLT Board approved

LLLT program ; and (b) a course on debt collection and creditor/debtor rights that is at least three credit hours, at a Washington state law school, or an educational institution in Washington state with an ABA approved paralegal program or an LLLT Board approved LLLT program.

**RULE 4. EXAMINATIONS FOR ADMISSION; NOTIFICATION OF RESULTS**

- (iii) *Residential Tenant and Debt Defense Assistance.* For the residential tenant and debt defense assistance practice area, an online multiple choice examination with accompanying materials, similar to the Washington Law Component for applicants for admission as a lawyer.

DRAFT FOR DISCUSSION

## **Rule 14-802. Authorization to practice law.**

(a) Except as set forth in subsections (c) and (d) of this rule, only persons who are active, licensed members of the Bar in good standing may engage in the practice of law in Utah.

(b) For purposes of this rule:

(b)(1) The “practice of law” is the representation of the interests of another person by informing, counseling, advising, assisting, advocating for or drafting documents for that person through application of the law and associated legal principles to that person’s facts and circumstances.

(b)(2) The “law” is the collective body of declarations by governmental authorities that establish a person’s rights, duties, constraints and freedoms and consists primarily of:

(b)(2)(A) constitutional provisions, treaties, statutes, ordinances, rules, regulations and similarly enacted declarations; and

(b)(2)(B) decisions, orders and deliberations of adjudicative, legislative and executive bodies of government that have authority to interpret, prescribe and determine a person’s rights, duties, constraints and freedoms.

(b)(3) “Person” includes the plural as well as the singular and legal entities as well as natural persons.

(c) Exceptions and Exclusions for Licensed Paralegal Practitioners. A person may be licensed to engage in the limited practice of law in the area or areas of (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support; (2) forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

(c)(1)(A) Within a practice area or areas in which a Licensed Paralegal Practitioner is licensed, a Licensed Paralegal Practitioner who is in good standing may represent the interests of a natural person who is not represented by a lawyer unaffiliated with the Licensed Paralegal Practitioner by:

(c)(1)(B) establishing a contractual relationship with the client;

(c)(1)(C) interviewing the client to understand the client’s objectives and obtaining facts relevant to achieving that objective;

(c)(1)(D) completing forms approved by the Judicial Council;

(c)(1)(E) informing, counseling, advising, and assisting in determining which form to use and giving advice on how to complete the form;

(c)(1)(F) signing, filing, and completing service of the form;

(c)(1)(G) obtaining, explaining, and filing any document needed to support the form;

(c)(1)(H) reviewing documents of another party and explaining them;

(c)(1)(I) informing, counseling, assisting and advocating for a client in mediated

negotiations;

(c)(1)(J) filling in, signing, filing and completing service of a written settlement agreement form in conformity with the negotiated agreement;

(c)(1)(K) communicating with another party or the party's representative regarding the relevant form and matters reasonably related thereto; and

(c)(1)(L) explaining a court order that affects the client's rights and obligations.

(d) Other Exceptions and Exclusions. Whether or not it constitutes the practice of law, the following activity by a non-lawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

(d)(1) Making legal forms available to the general public, whether by sale or otherwise, or publishing legal self-help information by print or electronic media.

(d)(2) Providing general legal information, opinions or recommendations about possible legal rights, remedies, defenses, procedures, options or strategies, but not specific advice related to another person's facts or circumstances.

(d)(3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in the State of Utah when no fee is charged to do so.

(d)(4) When expressly permitted by the court after having found it clearly to be in the best interests of the child or ward, assisting one's minor child or ward in a juvenile court proceeding.

(d)(5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.

(d)(6) Representing without compensation a natural person or representing a legal entity as an employee representative of that entity in an arbitration proceeding, where the amount in controversy does not exceed the jurisdictional limit of the small claims court set by the Utah Legislature.

(d)(7) Representing a party in any mediation proceeding.

(d)(8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.

(d)(9) Serving in a neutral capacity as a mediator, arbitrator or conciliator.

(d)(10) Participating in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.

(d)(11) Lobbying governmental bodies as an agent or representative of others.

(d)(12) Advising or preparing documents for others in the following described circumstances and by the following described persons:

(d)(12)(A) a real estate agent or broker licensed by the state of Utah may complete State-approved forms including sales and associated contracts directly related to the sale of real estate and personal property for their customers.

(d)(12)(B) an abstractor or title insurance agent licensed by the state of Utah may

issue real estate title opinions and title reports and prepare deeds for customers.

(d)(12)(C) financial institutions and securities brokers and dealers licensed by Utah may inform customers with respect to their options for titles of securities, bank accounts, annuities and other investments.

(d)(12)(D) insurance companies and agents licensed by the state of Utah may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, the naming of beneficiaries, and the adjustment of claims under the company's insurance coverage outside of litigation.

(d)(12)(E) health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.

(d)(12)(F) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.

Advisory Committee Comment:

Subsection (a).

"Active" in this paragraph refers to the formal status of a lawyer, as determined by the Bar. Among other things, an active lawyer must comply with the Bar's requirements for continuing legal education.

Subsection (b).

The practice of law defined in Subparagraph (b)(1) includes: giving advice or counsel to another person as to that person's legal rights or responsibilities with respect to that person's facts and circumstances; selecting, drafting or completing legal documents that affect the legal rights or responsibilities of another person; representing another person before an adjudicative, legislative or executive body, including the preparation or filing of documents and conducting discovery; negotiating legal rights or responsibilities on behalf of another person.

Because representing oneself does not involve another person, it is not technically the "practice of law." Thus, any natural person may represent oneself as an individual in any legal context. To the same effect is Article 1, Rule 14-111 Integration and Management: "Nothing in this article shall prohibit a person who is unlicensed as an attorney at law or a foreign legal consultant from personally representing that person's own interests in a cause to which the person is a party in his or her own right and not as assignee."

Similarly, an employee of a business entity is not engaged in "the representation of the interest of another person" when activities involving the law are a part of the employee's duties solely in connection with the internal business operations of the entity and do not involve providing legal advice to another person. Further, a person acting in an official capacity as an employee of a government agency that has administrative authority to determine the rights of persons under the law is also not representing the interests of another person.

As defined in subparagraph (b)(2), "the law" is a comprehensive term that includes not only the black-letter law set forth in constitutions, treaties, statutes, ordinances, administrative

and court rules and regulations, and similar enactments of governmental authorities, but the entire fabric of its development, enforcement, application and interpretation.

Laws duly enacted by the electorate by initiative and referendum under constitutional authority would be included under subparagraph (b)(2)(A).

Subparagraph (b)(2)(B) is intended to incorporate the breadth of decisional law, as well as the background, such as committee hearings, floor discussions and other legislative history, that often accompanies the written law of legislatures and other law- and rule-making bodies. Reference to adjudicative bodies in this subparagraph includes courts and similar tribunals, arbitrators, administrative agencies and other bodies that render judgments or opinions involving a person's interests.

Subsection (c).

The exceptions for Licensed Paralegal Practitioners arise from the November 18, 2015 Report and Recommendation of the Utah Supreme Court Task Force to Examine Limited Legal Licensing. The Task Force was created to make recommendations to address the large number of litigants who are self-represented or forego access to the Utah judicial system because of the high cost of retaining a lawyer. The Task Force recommended that the Utah Supreme Court exercise its constitutional authority to govern the practice of law to create a subset of discreet legal services in the practice areas of: (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support; (2) unlawful detainer and forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases. The Task Force determined that these three practice areas have the highest number of unrepresented litigants in need of low cost legal assistance. Based on the Task Force's recommendations, the Utah Supreme Court authorized Licensed Paralegal Practitioners to provide limited legal services as prescribed in this Rule and in accordance with the Supreme Court Rules of Professional Practice.

Subsection (c)(1)(D)

A Licensed Paralegal Practitioner may complete forms that are approved by the Judicial Council and that are related to the limited scope of practice of law described in Subpart (c) of this rule. The Judicial Council approves forms for the Online Consumer Assistance Program and for use by the public. The forms approved by the Judicial Council may be found at <https://www.utcourts.gov/ocap/> and <https://www.utcourts.gov/selfhelp/>.

Subsection (d).

To the extent not already addressed by the requirement that the practice of law involves the representation of others, subparagraph (d)(2) permits the direct and indirect dissemination of legal information in an educational context, such as legal teaching and lectures.

Subparagraph (d)(3) permits assistance provided by employees of the courts and legal-aid and similar organizations that do not charge for providing these services.

Subparagraph (d)(7) applies only to the procedures directly related to parties' involvement before a neutral third-party mediator; it does not extend to any related judicial proceedings unless otherwise provided for under this rule (e.g., under subparagraph (d)(5)).

Effective May 1, 2019

# LLLT BOARD PROPOSAL No. 3

## CONSIDER REDUCING THE LEGAL EXPERIENCE REQUIREMENT

### PURPOSE

Provide a more equitable experience requirement while continuing to ensure protection of the public; remove barriers to entering the legal profession as a LLLT.

### BACKGROUND

The experience requirement initially set (3,000 hours) by the LLLT Board as a requirement for LLLT licensing was established out of an abundance of caution in an effort to ensure competence and acceptance of the law practitioners and protection of the public. The LLLT Board has determined that this requirement is, in practice, unnecessarily deterring growth of the profession and, consequently, impacting the number of clients who can be served. The LLLT Board now believes that a less onerous experience requirement can accomplish the same goals while promoting a more equitable pathway to the legal profession for those who are unable to work full-time, find paid law-related employment, or afford to work for no compensation.

The Board reached this conclusion after looking at information such as what other states are requiring when they adopt similar types of licenses. By way of comparison, Utah's Licensed Paralegal Practitioner Rule requires 1,500 hours of experience. Oregon is considering requiring applicants to complete 1,500 hours of experience.

### DESCRIPTION

Consider reducing the number of substantive law related experience hours required for licensure as a LLLT.

### IMPACT

- Increase accessibility of the license and consequently the pipeline to the LLLT profession
- Remove or reduce an unduly burdensome barrier that is not necessary for the protection of the public

### COURT ACTION REQUESTED

- Discussion purposes only, no action required

### SUPPLEMENTAL MATERIALS

1. Comparison with Utah's Licensed Paralegal Practitioner and Oregon's Licensed Paraprofessional
2. Utah's Rule 15-703. Qualifications for Licensure as a Licensed Paralegal Practitioner

	Washington	Utah	Oregon
Limited License Type	Limited License Legal Technician (LLLT)	Licensed Paralegal Practitioner (LPP)	Licensed Paraprofessional (LP)
Authority	APR 28	RGLPP 14-802	TBD
Approved Practice Areas	Domestic Relations (Family Law)	Temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support  Forcible entry and detainer; and  Debt collection matters in which dollar amount does not exceed statutory limit for small claims	Family Law Landlord-Tenant
“Core” Educational Requirements	Associate’s degree or higher; and 45 credits in legal studies, including: Civil Procedure (8) Contracts (3) Interviewing & Investigation Techniques (3) Intro to Law & Legal Process (3) Law Office Procedures & Technology (3) Legal Research, Writing, & Analysis (8) Professional Responsibility (3)	Law degree from ABA-approved law school; OR AA or Bachelor’s degree in paralegal studies from accredited school; OR Bachelor’s degree in any field from accredited school <b>plus</b> Paralegal Certificate from accredited program <b>or</b> 15 credit hours of paralegal studies from accredited school	Associate’s degree or higher; and paralegal certificate from an ABA approved or accredited paralegal studies program
Practice Area or Other Educational Requirements	15 credits of Practice Area education: <ul style="list-style-type: none"> <li>5 credit hours in basic domestic relations subjects</li> </ul>	If no law degree, must take LPP-approved professional ethics courses and approved course of instruction for each practice area they seek to be licensed	TBD

	Washington	Utah	Oregon
	<ul style="list-style-type: none"> <li>10 credit hours in advanced and WA specific domestic relations subjects</li> </ul>		
<b>Experience</b>	<p>3000 hours of substantive law-related experience</p> <ul style="list-style-type: none"> <li>Supervised by licensed lawyer</li> <li>Within 3 years before or 40 months after passing practice area exam</li> </ul>	<p>1500 hours of substantive law-related experience within last 3 years, under supervision of licensed attorney or LPP</p> <ul style="list-style-type: none"> <li>500 hours in specified family law/domestic relations topics for Family Law licensure</li> <li>100 hours experience in forcible entry and detainer or debt collection for other areas</li> </ul> <p>Not required if applicant has a law degree</p>	<p>1500 hours of substantive law-related experience under supervision of an attorney</p>
<b>Certification</b>	<p>None required (unless seeking a waiver; see Waiver section for requirements)</p>	<p>Certification by NALA, NALS, or NFPA:</p> <ul style="list-style-type: none"> <li>NALA: Certified Paralegal (CP) or Certified Legal Assistant (CLA)</li> <li>NALS: Professional Paralegal (PP)</li> <li>NFPA: CORE Registered Paralegal (CRP)</li> <li>Not required for applicants with a law degree</li> </ul>	<p>TBD</p>

	Washington	Utah	Oregon
<b>Waiver</b>	<p>Pass the NFPA PACE Exam, NALA CP Exam, or NALS PP Exam and have active certification</p> <p>Complete 10 years of substantive law-related experience within 15 years preceding application</p> <p>Proof certified by supervising lawyer</p> <p>Waives core education and Associate's degree requirements</p>	<p>Be at least 21 years old</p> <p>Complete 7 years of full-time substantive law related experience within 10 years preceding application (including practice area experience)</p> <ul style="list-style-type: none"> <li>• 500 hours in specified family law/domestic relations issues</li> <li>• 100 hours in forcible entry and detainer or debt collection</li> <li>• Proof certified by supervising attorney</li> </ul> <p>Waives minimum educational requirements</p>	<p>Waiver option for "highly experienced" paralegals and applicants with a law degree</p>
<b>Examinations</b>	<p>PCC Exam (NFPA)</p> <p>Practice Area exam</p> <p>Professional Responsibility exam</p>	<p>LPP Ethics Exam</p> <p>Practice area exam</p>	<p>Oregon's Task Force has not recommended an exam at this time</p>
<b>Authorized Scope of Practice</b>	<p>See <a href="#">APR 28(F)</a></p>	<p>Establish a contractual relationship with a client;</p> <p>Interview the client to understand the client's objectives and obtain facts relevant to achieving that objective;</p> <p>Complete forms approved by the Judicial Council;</p> <p>Inform, counsel, advise, and assist in determining which form to use and give advice on how to complete the form;</p> <p>Sign, file, and complete service of the form;</p>	<p>Select, prepare, file, and serve model forms and other documents in an approved proceeding;</p> <p>Provide information and advice relating to the proceeding;</p> <p>Communicate and negotiate with another party;</p> <p>Provide emotional and administrative support to the client in court.</p>

	Washington	Utah	Oregon
		<p>Obtain, explain, and file any documents needed to support the form;</p> <p>Review documents of another party and explain them;</p> <p>Inform, counsel, assist, and advocate for a client in mediated negotiations;</p> <p>Fill in, sign, file, and complete service of a written settlement agreement form in conformity with the negotiated agreement;</p> <p>Communicate with another party or party's representative regarding the relevant form and matters reasonably related thereto; and</p> <p>Explain a court order that affects that clients rights and obligations.</p>	
<b>Prohibitions</b>	See <a href="#">APR 28(H)</a>	An LPP may not appear in court with a client, nor may an LPP charge contingency fees.	Inherently complex proceedings in family- law and landlord-tenant cases would be excluded from the permissible scope of practice. Additionally, licensees would be prohibited from representing clients in depositions, in court, and in appeals.
<b>Financial Responsibility</b>	Yes. Professional Liability Insurance.	No.	Yes. Professional Liability Insurance.

**Rule 15-703. Qualifications for Licensure as a Licensed Paralegal Practitioner.**

**(a) Requirements of Licensed Paralegal Practitioner Applicants.** The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(a)(1) has paid the prescribed application fees;

(a)(2) has either been granted a Limited Time Waiver under Rule 15-705 or has timely filed the required Complete Application for a Licensed Paralegal Practitioner Applicant in accordance with Rule 15-707;

(a)(3) is at least 21 years old;

(a)(4) has graduated with either:

(a)(4)(A) a First Professional Degree in law from an Approved Law School; or,

(a)(4)(B) an Associate Degree in paralegal studies from an Accredited School or Accredited Program; or

(a)(4)(C) a Bachelor's Degree in paralegal studies from an Accredited School or Accredited Program; or

(a)(4)(D) a Bachelor's Degree in any field from an Accredited School, plus a Paralegal Certificate or 15 credit hours of paralegal studies from an Accredited Program;

(a)(5) if the applicant does not have a First Professional Degree from an Approved Law School, the applicant must have 1500 hours of Substantive Law-Related Experience within the last 3 years, including 500 hours of Substantive Law-Related Experience in temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, and name change if the Applicant is to be licensed in that area, or 100 hours of Substantive Law-Related Experience in forcible entry and detainer or debt collection if the Applicant is to be licensed in those areas.

(a)(6) has successfully passed the Licensed Paralegal Practitioner Ethics Examination;

(a)(7) has successfully passed the Licensed Paralegal Practitioner Examination(s) for the practice area(s) in which the Applicant seeks licensure;

(a)(8) is of good moral character and satisfies the requirements of Rule 15-708;

(a)(9) has a proven record of ethical, civil and professional behavior; and

(a)(10) complies with the provisions of Rule 15-716 concerning licensing and enrollment fees.

**(b)** If the Applicant has not graduated with a First Professional Degree in law from an approved law school, the Applicant must:

(b)(1) have taken a specialized course of instruction approved by the Board in professional ethics for Licensed Paralegal Practitioners;

(b)(2) have taken a specialized course of instruction approved by the Board in each specialty area in which the Applicant seeks to be licensed; and

(b)(3) have obtained either the Certified Paralegal (CP or CLA) credential from the National Association of Legal Assistants (NALA); the Professional Paralegal (PP) credential from the National Association of Legal Professionals (NALS); or the Registered Paralegal (RP) credential from the National Federation of Paralegal Associations (NFPA).

(c) An individual who has been disbarred or suspended in any jurisdiction may not apply for licensure as a Paralegal Practitioner.

Effective December 18, 2019

# LLLT BOARD PROPOSAL No. 4

## CHANGE THE LIMITED TIME WAIVER TO A PERMANENT WAIVER; CONSIDER REDUCING YEARS OF WORK EXPERIENCE REQUIREMENT TO QUALIFY FOR WAIVER; CONSIDER OPTIONS FOR NATIONAL PARALEGAL CERTIFICATION

### PURPOSE

- Provide a continuing alternative and affordable pathway for law-career and experienced paralegals to enter the LLLT profession, especially when new practice areas are adopted
- Increase access to the LLLT license for experienced paralegals

### BACKGROUND

The current limited time waiver allows a LLLT candidate who has at least 10 years of paralegal work experience, has passed one of three advanced paralegal examinations offered by national paralegal organizations, and holds an active certification with a national paralegal organization to forgo two licensing requirements: holding an AA degree and completing 45 credits of LLLT core curriculum education. The waiver does not waive the practice area curriculum requirement, or the licensure testing requirements.

The LLLT board recognizes that the experience requirement initially set (10 years) was established out of an abundance of caution. The Board has heard repeatedly that the experience requirement is high and often prohibitive for those candidates not able to attend classes offered at community colleges. The LLLT Board also recognizes that the requirement that a waiver candidate obtain national paralegal certification is duplicative because all LLLT candidates, including waiver candidates are required to obtain a separate national certification.

By way of comparison, Utah's Licensed Paralegal Practitioner Rule offers a waiver path to those who have seven years of paralegal experience, and a shorter practice area training component.

### DESCRIPTION

- Eliminate the temporary nature of the core education waiver and make it a permanent waiver
- Consider reducing the number of years of experience requirement
- Consider the options for national paralegal certification

### IMPACT

- Increase equitable access to the license and, consequently, the pipeline to the LLLT profession
- Remove unduly burdensome barriers not necessary for the protection of the public

### COURT ACTION REQUESTED

- Discussion purposes only, no action required

### SUPPLEMENTAL MATERIALS

1. Utah's Licensed Paralegal Practitioner Rule 15-705. Limited time waiver.
2. Comparison with Utah's Licensed Paralegal Practitioner and Oregon's Licensed Paraprofessional

**Rule 15-705. Limited time waiver.**

(a) Limited Time Waiver. For the limited time of three years from the date the Bar initially begins to accept LPP applications for licensure, the Bar may grant a waiver of the minimum educational requirements set forth in Rule 15-703 if, within two years from the time the waiver request is submitted, an applicant has established by clear and convincing evidence that the applicant:

(a)(1) has paid the prescribed fees and filed the required Application for a Limited Time Waiver;

(a)(2) is at least 21 years old;

(a)(3) has completed 7 years of Full-time Substantive Law-Related Experience as a Paralegal within the 10 years preceding the application for the waiver, including experience for the practice area in which the Applicant seeks licensure, including 500 hours of Substantive Law-Related Experience in temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support if the Applicant is to be licensed in that area, or 100 hours of Substantive Law-Related Experience in forcible entry and detainer and unlawful detainer or debt collection if the Applicant is to be licensed in those areas. Proof of 7 years of Full-time Substantive Law-Related Experience and the required number of hours in the practice area in which the Applicant seeks licensure shall be certified by the supervising lawyer(s) and shall include the following:

(a)(3)(A) the name and Bar number of the supervising lawyer(s) or supervising Licensed Paralegal Practitioner(s);

(a)(3)(B) certification by the lawyer or Licensed Paralegal Practitioner that the work experience meets the definition of Substantive Law-Related Experience in the practice area in which Applicant will be licensed as defined in Rule 15-701; and

(a)(3)(C) the dates of the applicant's employment by or service with the lawyer(s) or Licensed Paralegal Practitioner(s);

(a)(4) has successfully passed the Licensed Paralegal Practitioner Ethics Examination approved by the Board;

(a)(5) has successfully passed the Licensed Paralegal Practitioner Examination(s) for the practice area(s) in which the Applicant will be licensed;

(a)(6) is of good moral character and satisfies the requirements of Rule 15-708; and

(a)(7) has a proven record of ethical, civil and professional behavior.

Effective November 1, 2018



# LLLT Program Business Plan Overview

ACHIEVING ECONOMIC SUSTAINABILITY

# Program Goals



- ▶ Provide affordable, educated, competent, licensed and regulated legal advice and assistance of a limited scope, in identified areas of law, to people of low and moderate means who otherwise might not seek or be able to obtain legal help
- ▶ Serve as many people of low and moderate means as possible, in areas of law and populations where there is high need
- ▶ Make qualified legal help more accessible
- ▶ Make the legal profession more accessible and attainable, in order to provide services to more people
- ▶ Achieve a self-sustaining profession

# Where Are We Now?

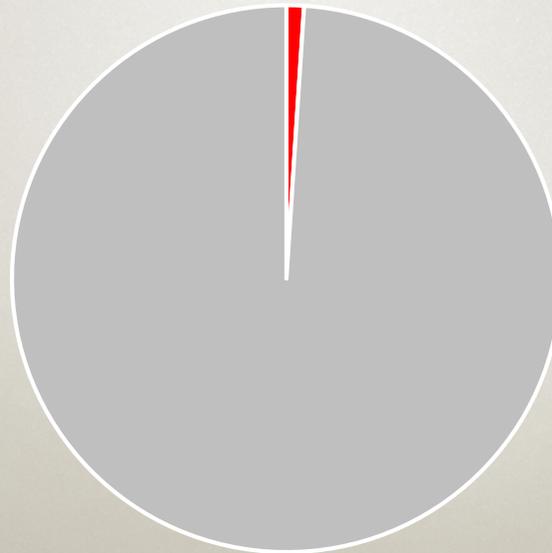
In this presentation, we will:

- ▶ Review the total fiscal impact, overall budget performance, direct and indirect costs, and business plan developed as requested by the Board of Governors (BOG)
- ▶ Discuss how the business plan addresses the goals of the program and the financial impact on WSBA
- ▶ Discuss how the business plan addresses existing barriers while still achieving the primary original program goal of providing increased access to justice for people of low and moderate income in areas of identified need

# Fiscal Impact

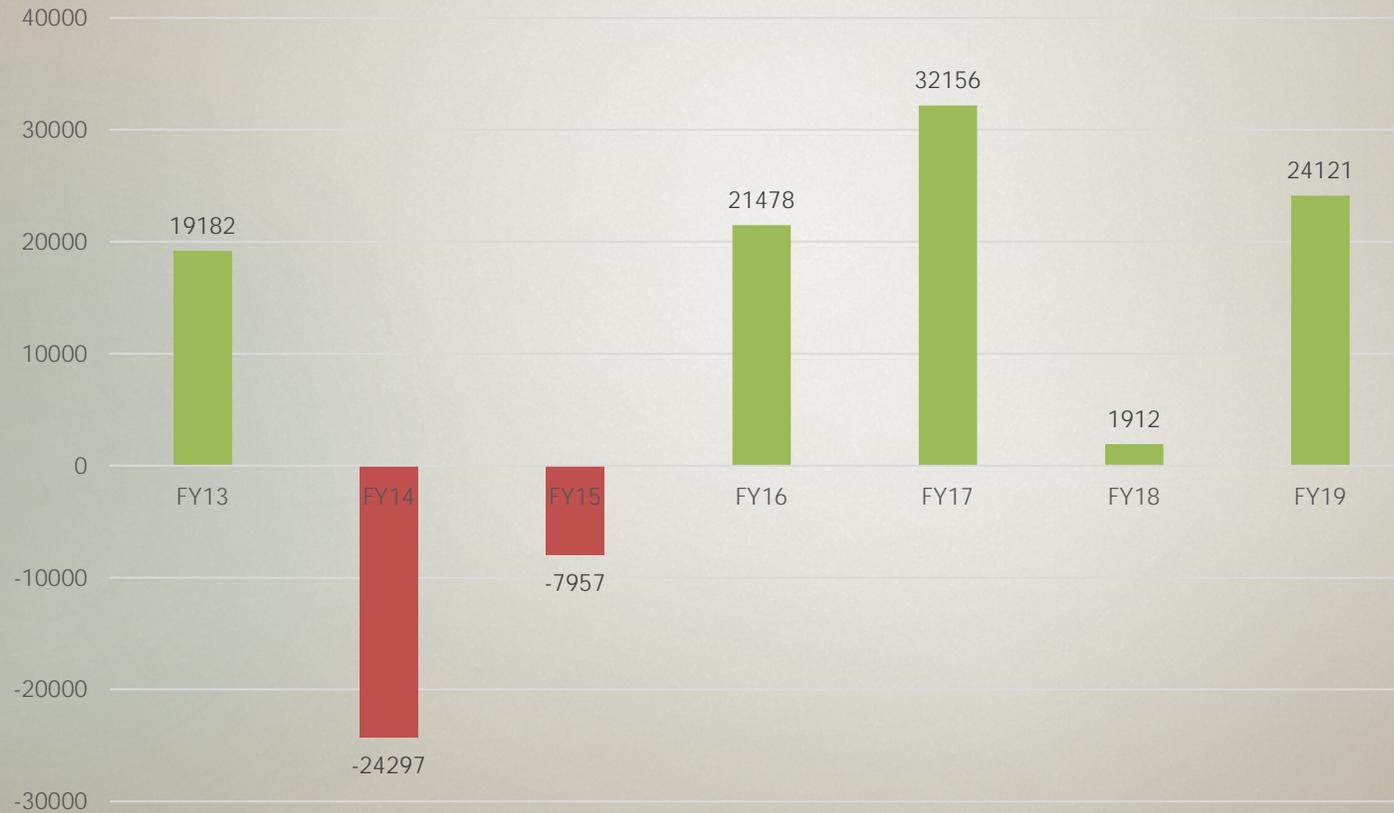
- ▶ LLLT impact on WSBA expenses is 1%
  - ▶ Total WSBA Expenses paid from general fund (2013-2019) = \$123.3M
  - ▶ Total Net Cost of Administering the LLLT Program (2013-2019) = \$1.3M

1% OF WSBA'S GENERAL FUND EXPENSES



# Budget Performance

- ▶ Life to date the program performance is \$66.5k better than budgeted



# Direct vs Indirect Costs

- ▶ Numbers shown in previous slides include all assigned indirect costs of the program. How indirect costs and overhead are assigned within WSBA is not within LLLT Board control.
- ▶ Total direct costs since 2013: \$231,166
- ▶ Total direct costs since 2015 (when first LLLT became licensed): \$179,347
- ▶ Total net direct costs since 2013: \$149,105
- ▶ Total net direct costs since 2015: \$99,396
- ▶ Revenue **expected** to cover direct expenses starting 2022
- ▶ **Expected** to cover all direct and indirect costs in 2029

# Business Plan



- ▶ Key Assumptions
  - ▶ Additional practice areas
    - ▶ Washington Administrative Law
    - ▶ Eviction and Debt Assistance
  - ▶ Increased educational opportunities – new schools & reach
  - ▶ Modified licensure requirements
    - ▶ Experience requirement
    - ▶ Gradually increased fee revenue (license and exam)
  - ▶ Experience and testing requirements for the waiver pathway
  - ▶ Ability to seek funding through grants and donations

# Increased Education Opportunities



- ▶ Increase access to core education
  - ▶ ABA rule change (synchronous learning)
  - ▶ Additional community colleges
    - ▶ Yakima Valley College
    - ▶ Wenatchee Valley College
    - ▶ South Puget Sound Community College
- ▶ Increase access to practice area education
  - ▶ Community College collaboration group
- ▶ Expand pool of experienced paralegals eligible for waiver by modifying testing and experience requirement
- ▶ Diversify candidate pool by reducing experience requirement

# Expanded Pipeline

- ▶ Practice area student numbers start at 21 in 2020 growing to 103 in 2030
- ▶ Key assumptions
  - ▶ Each new practice area is assumed to drive 5% growth
  - ▶ 90% of practice area students will sit for the LLLT exam
  - ▶ 40% of examinees will pass any given LLLT exam
  - ▶ 95% of those who pass will become licensed
- ▶ NOTE: Pipeline & licensee numbers could grow with some additional resources, e.g., licensing exam prep course, which could increase the exam passage rate

# Modify Licensure Requirements

- ▶ Waiver requirements – experience and testing requirements
  - ▶ Modify years of experience required – currently require 10 years
  - ▶ Accept proof of paralegal competency through passage of additional national certification exams
- ▶ Experience requirement for licensure
  - ▶ Currently require 3,000 hours
  - ▶ Most other states requiring 1,500

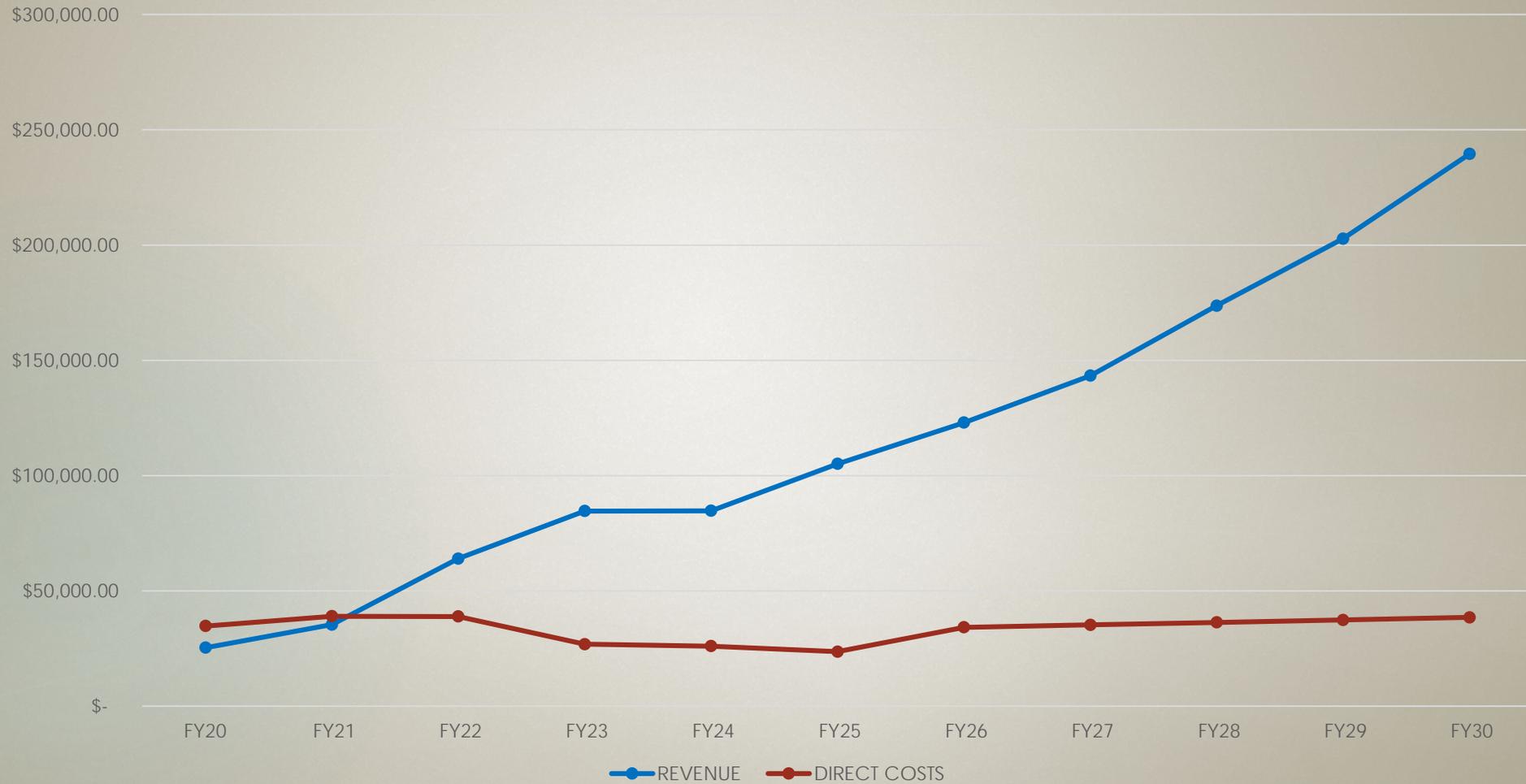
# Increase Revenue



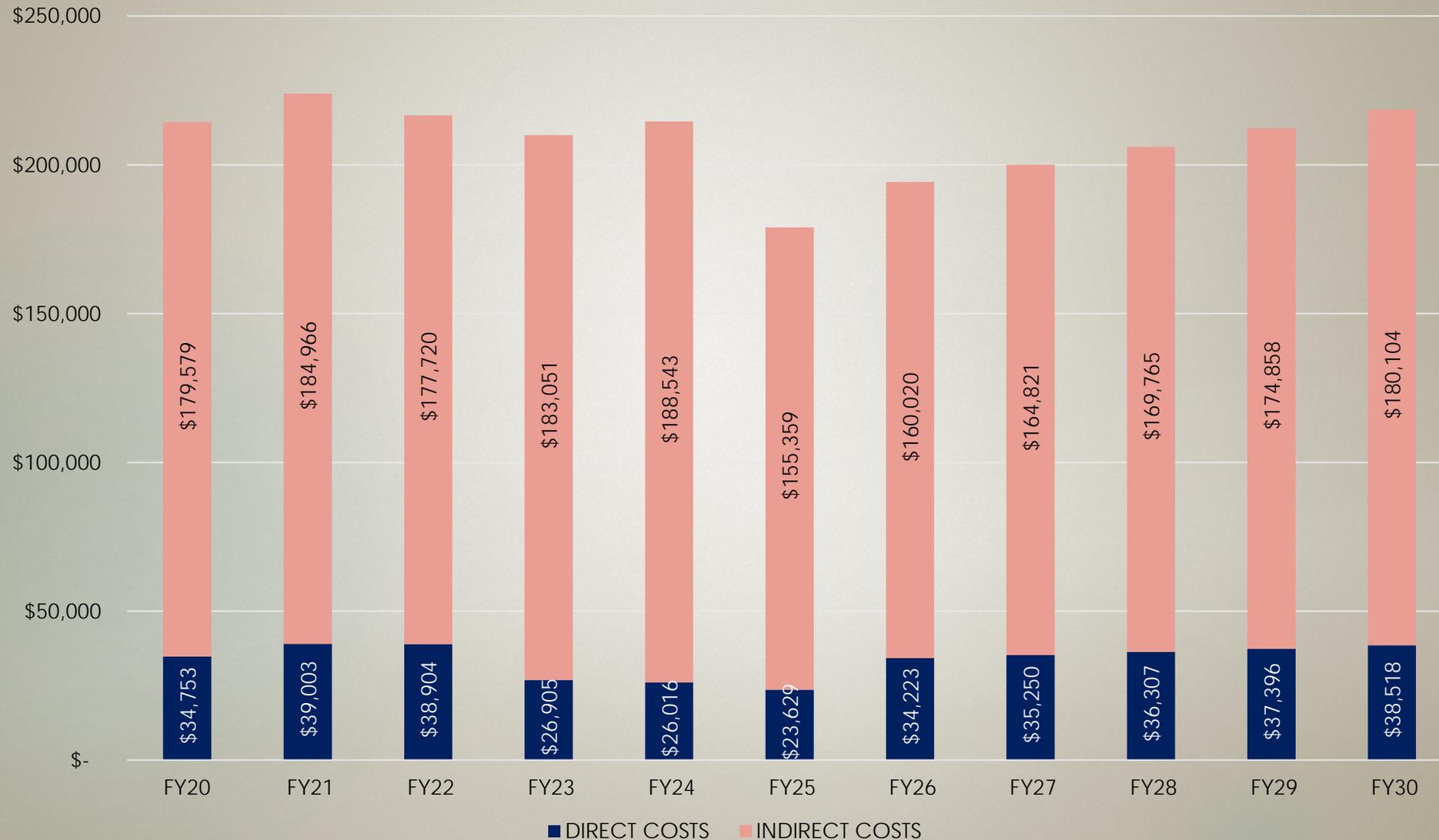
- ▶ Gradually Increase License Fees and Include New Licensed Areas
- ▶ Figures below used to project future revenue (for discussion only)
- ▶ Assumption: LLLT license fee not to exceed lawyer license fee
- ▶ **Not an endorsement or proposal for actual fee increase at this time**

License fee	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Base fee (1 practice area)	\$ 200.00	\$ 229.00	\$ 240.00	\$ 252.00	\$ 265.00	\$ 278.00	\$ 292.00	\$ 307.00	\$ 322.00	\$ 338.00	\$ 355.00
1st additional practice area	\$ -	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00
2nd additional practice area	\$ -	\$ 100.00	\$ 100.00	\$ 100.00	\$ 87.00	\$ 74.00	\$ 60.00	\$ 46.00	\$ 30.00	\$ 15.00	\$ -
Total	\$ 200.00	\$ 429.00	\$ 440.00	\$ 452.00	\$ 452.00	\$ 452.00	\$ 452.00	\$ 453.00	\$ 452.00	\$ 453.00	\$ 455.00

# Projected Revenue vs Direct Costs

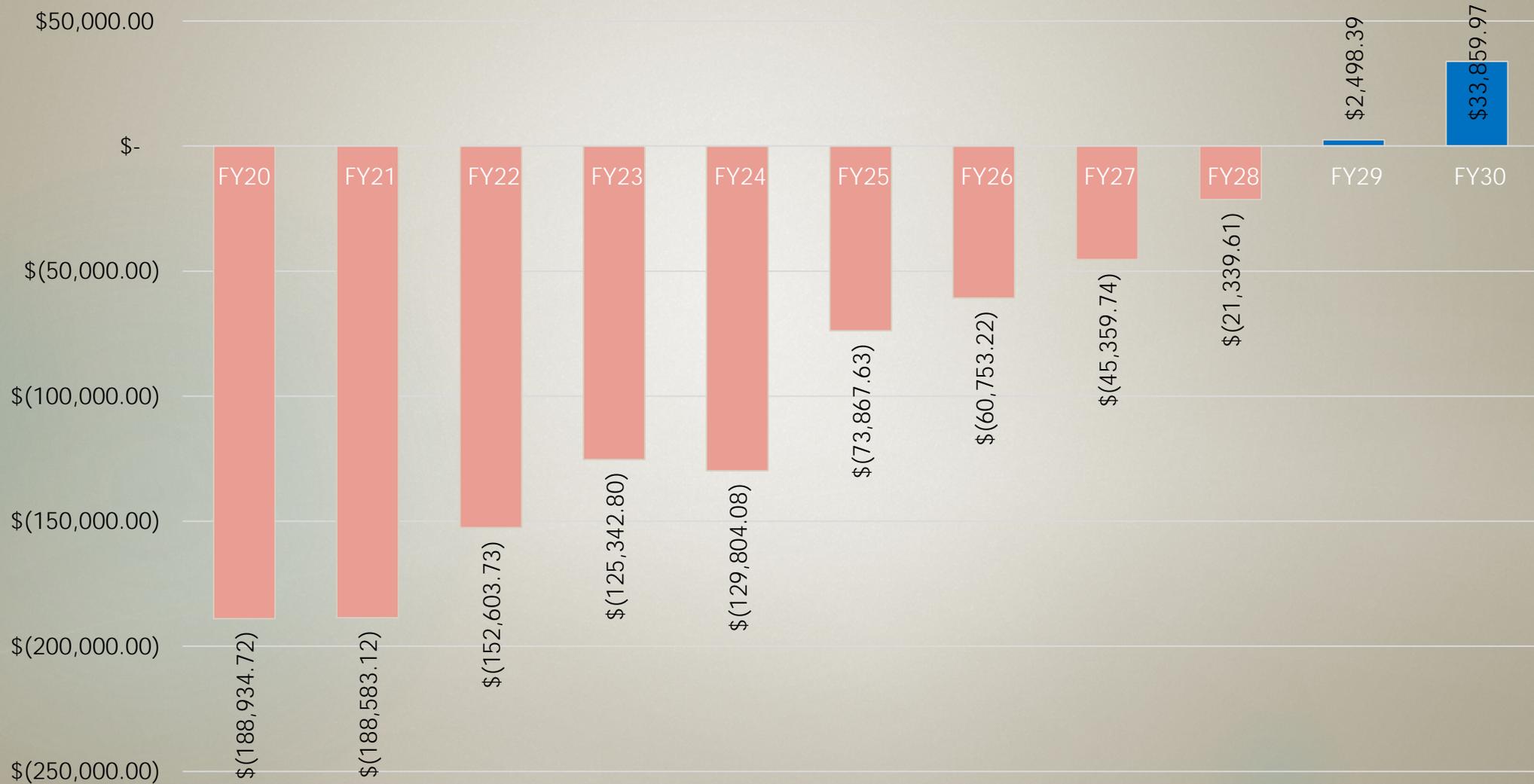


# Projected Direct and Indirect Costs



# Final Forecast Based on Current Assumptions

*(direct and indirect costs and revenue)*



**TO:** Washington State Bar Foundation Board of Trustees

**FROM:** Steve Crossland, LLLT Board Chair

**RE:** Request for Creation of a LLLT Designated Fund

**DATE:** March 13, 2020

### **REQUEST**

The Limited License Legal Technician (LLLT) Board requests that the Washington State Bar Foundation (WSBF) create a LLLT fund to enable the LLLT Board to seek contributions from potential donors and grantors and securely manage funds obtained. Access to funds received through grants or donations would assist the LLLT Board in growing and further developing the profession while reducing the fiscal impact to the Washington State Bar Association.

The LLLT Board would like the support of WSBF to solicit, process, and administer gifts, grants, bequests and similar types of financial support. The LLLT Board requests that all LLLT designated funds be used to support LLLT outreach, scholarships, and to help cover costs associated with administration of the program.

### **BACKGROUND OF THE LLLT LICENSE**

Imagine facing an eviction, dealing with a divorce, or fighting for custody of your children. Now imagine doing that without the assistance of a lawyer. For millions of consumers every year in the United States that is reality. Studies show that 80-85% of low- and moderate-income people navigate civil matters that can affect their safety, financial security and the very roofs over their heads without assistance from a lawyer.

In 2012, the Washington Supreme Court took a bold step passing an Admission to Practice Rule that created the LLLT license. LLLTs are the first independent legal paraprofessionals in the United States who are licensed to give legal advice in a defined scope and practice area. Analogous to a nurse practitioner in the medical profession in many states, LLLT is the first step in the legal profession to expanding the number of qualified and regulated practitioners able to provide legal advice and other assistance to consumers.

The introduction of this new licensed legal professional is a departure from the traditional concept of the practice of law. This new license exemplifies that just like every medical problem does not require a doctor, not every legal problem requires a lawyer. LLLTs receive extensive education in the particular area of law in which they are licensed. According to a preliminary evaluation of the license by the Public Welfare Foundation – a foundation that supports efforts to advance justice and opportunity for people in need - this model “offers an innovative way to extend affordable legal services to a potentially large segment of the public that cannot afford traditional lawyers.... [It] should be replicated in other states to



improve access to justice.” Preliminary Evaluation of the Washington State Limited License Legal Technician Program, March 2017.

This new licensure holds great promise for reshaping the practice of law to better serve the public. Creating a new profession out of whole cloth takes a sustained investment until enough licensed LLLTs exist to make the regulation and support of the new profession self-sustaining.

### **ALIGNMENT WITH THE FOUNDATION’S MISSION**

The mission of the foundation is to “provide financial support for programs of the Washington State Bar Association that promote diversity within the legal profession and enhance the public’s access to, and understanding of, the justice system.” The LLLT Board believes that the LLLT license already does and has the increased potential to continue to do both: promote diversity within the legal profession and enhance access to legal services.

#### ***Promote diversity within the legal profession***

The LLLT license, with reduced educational cost and time commitment, offers an affordable and accessible career path to residents of Washington who want to serve their communities in the legal system. The estimate cost to obtain the required LLLT education is approximately \$15,000 – a fraction of the cost of attending law school. In Washington, nearly 2/3 of adults do not have a Bachelor’s Degree a requirement for admission to law school or the law clerk program. Furthermore, because the LLLT practice area education can be obtained via synchronous instruction, LLLT candidates have the ability to learn the law within their own communities. The flexibility of synchronous instruction allows students to work full-time while pursuing the required LLLT practice area education, making the license accessible to students of low and moderate means income levels.

#### ***Enhance access to legal services***

The Washington State Bar Foundation exists to support the Public Service and Diversity & Inclusion programs of the Washington State Bar Foundation. Public Service Programs include Call to Duty, a program that provides training to legal professionals, preparing them to provide free legal assistance to veterans. The Moderate Means Program is the other Public Service program the Foundation supports. This program matches moderate income individuals and families (those falling within 200-400% of the Federal Poverty Level), with legal professionals willing to work for reduced fees.

Not only do LLLTs participate in the program as licensed legal professionals willing to reduce their fees to accommodate moderate means clients (at least 11 LLLTs have signed up for the program), but the LLLT license itself also seeks to accomplish similar results: provide legal services options to people of moderate means who cannot afford to hire an attorney but do not qualify for legal aid. Based on a survey conducted in December 2019, to which 20 LLLTs responded, we know that thus far LLLTs have served at least 1,527 paid clients. Most of the LLLT respondents serve clients in the 0-300% of the federal poverty level. LLLTs also provide pro bono services: 34% of the active LLLTs reported a total of 929 hours of pro bono services in 2019.

### **PURPOSE OF THE LLLT DESIGNATED FUND**

Creating an entirely new profession required the development of a new body of rules, regulations, ethical rules, educational curriculum, and processes for licensing and discipline, including creating a new



licensing exam. The education and licensing requirements to become a LLLT are rigorous and can take several years to complete. The WSBA was able to license and welcome the first class of LLLT professionals only as recently as 2015. With only 43 LLLTs in the state, the LLLT license is still firmly in the development phase.

Our priorities for the next couple of years are to consider and recommend new practice area(s) for approval by the Supreme Court, expand accessibility of the LLLT core curriculum across the state, expand outreach to a diverse pool of LLLT candidates including college and high school students, and open the “pipeline” to more LLLT candidates. The LLLT Board also hopes to advance its efforts to provide access to financial aid for LLLT students.

If granted the request for the creation of a LLLT designated fund, the LLLT Board expects the funds would be used first for outreach to underserved and underrepresented communities and scholarships for eligible students, and then to help offset WSBA’s costs for administering the program. The LLLT Board understands the cost of administering the program is subsidized by license fees and hopes to reduce this strain on license fee revenues.





Advancing WSBA's Vision of a Just Washington

April 10, 2020

Steve Crossland, Chair  
LLLT Board  
Washington State Bar Association  
1325 Fourth Ave., Suite 600  
Seattle, WA 98101

Dear Mr. Crossland and Members of the LLLT Board,

At its March 26, 2020 meeting, the Washington State Bar Foundation Board of Trustees considered your request to establish a new fund within the Foundation for the LLLT Program.

While the Foundation Board appreciates the value of this program, I am sorry to report that following a robust discussion, the Board voted against establishing the requested fund.

The funds and scholarships that the Foundation currently administers are all for WSBA Sections, and the Board did not feel that it was appropriate to deviate from that model at this time. However, should a LLLT Section be formed we would be glad to reconsider your request.

Thank you again for reaching out to us. Please let me know if I can answer any questions or provide further context.

Sincerely,

Kristina Larry  
President

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