

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

**Board of Governors Meeting**  
**Late Meeting Materials**

**May 20-21, 2021**

**Washington State Convention Center, Seattle, WA**  
**Zoom, Webcast and Teleconference**

<b>BOARD OF GOVERNORS MEETING</b> <b>Late Materials</b> <b>May 20-21, 2021</b> <b>Washington State Convention Center, Seattle, WA</b> <b>Zoom, Webcast and Teleconference</b>	
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**TO:** WSBA Board of Governors  
**FROM:** Russell Knight, Chair, WSBA Awards Committee  
**CC:** Sara Niegowski, WSBA Chief Communications and Outreach Officer  
Jennifer Olegario, WSBA Communications Strategies Manager  
Sue Strachan, WSBA Legal Community Outreach Specialist  
**DATE:** May 17, 2021  
**RE:** Recommendations for 2021 WSBA APEX Awards

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**ACTION:**

**Approve the 2021 APEX nomination for the Norm Maleng Leadership Award as presented by the WSBA Awards Committee and the Access to Justice Board.**

The Access to Justice (ATJ) Board met on Friday, May 14, and submitted a recommendation to the Awards Committee for the Norm Maleng Leadership Award. The WSBA Awards Committee reviewed this nomination via email on May 17, 2021.

The committee's recommendations are available in the Governor's materials via the WSBA BOX cloud-sharing service.

# WASHINGTON STATE BAR ASSOCIATION

To: WSBA Board of Governors  
From: Governor Brett Purtzer  
Date: May 18, 2021  
Re: Proposed changes to Rules for Discipline & Incapacity: Ad Hoc Committee Communication Plan

**Action/Discussion:** The Board's Ad Hoc Committee on Proposed Disciplinary Rule Changes is sharing with the Board of Governors its message and distribution plan to notify members of their opportunity to comment to the Washington Supreme Court on proposed amendments during the extended public comment period.

BACKGROUND: At the April 2021 meeting, the Board of Governors authorized a request to the Washington Supreme Court to extend the public comment period by 90 days for proposed amendments to the rules governing the discipline and incapacity systems for all license types. The Supreme Court acted quickly upon the request, extending the deadline for comments to July 29, 2021.

The Board's Ad Hoc Committee on Proposed Disciplinary Rule Changes subsequently—which initially proposed the request to extend the comment period—has subsequently crafted a message and distribution plan to notify members of their opportunity to comment. Our goal is that all members should be aware of these significant proposed changes, understand some of the arguments for and against the proposed amendments, and be able to comment to the Court before the deadline.

Toward those ends, the Committee has crafted this notification, which will be posted on the WSBA homepage, distributed to all members in the May meeting recap, and sent out to all members via TakeNote several times before the comment deadline:

- **Comment Period Extended—Proposed Amendments to Disciplinary Procedural Rules:** [By request of the WSBA Board of Governors](#), the Washington Supreme Court has extended the comment period through July 29, 2021, for [proposed amendments](#) to the rules governing the discipline and incapacity systems for all license types. These amendments, known as the Rules for Discipline and Incapacity (RDI), would replace the existing disciplinary procedural rules with a single rule set for all licenses. The stated goals of the amendments are to streamline the disciplinary process by eliminating and/or modifying certain rules to make the process more efficient, and to obtain more consistent decisions on discipline matters that were not purportedly achieved through the use of volunteer hearing officers ([read more](#)). Some of the criticisms to the amendments are that establishing a paid adjudicator, selected by the WSBA, disallows a respondent to have an assigned hearing officer removed without cause, the proposed amendments remove the authority to dismiss a complaint upon issuance of advisory letters or admonitions in lieu of filing formal charges, provides a respondent only 15 days to respond to the Office of Disciplinary Counsel's notification of proposed filing of formal charges, and increases discretion by the Office of Disciplinary Counsel on handling of grievances ([read more](#)). These are some of the highlights of the proposed changes; there are others as well. The comment period has been extended to ensure ample time for notification to and feedback from legal professionals and the public ([more information on how to submit comments](#)). Members are encouraged to read the proposed changes and to submit comments to the Supreme Court.

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In addition to sending the notification out widely to the membership, Chief Communications and Outreach Officer Sara Niegowski will send the notification via email to each Governor as a template for communicating with their district and constituents; and WSBA staff liaisons will include the notification in their regular updates to local county bar leaders, section leaders, and MBA leaders.

- **Comment Period Extended—Proposed Amendments to Disciplinary Procedural Rules:**  
[By request of the WSBA Board of Governors](#), the Washington Supreme Court has extended the comment period through July 29, 2021, for [proposed amendments](#) to the rules governing the discipline and incapacity systems for all license types. These amendments, known as the Rules for Discipline and Incapacity (RDI), would replace the existing disciplinary procedural rules with a single rule set for all licenses. The stated goals of the amendments are to streamline the disciplinary process by eliminating and/or modifying certain rules to make the process more efficient, and to obtain more consistent decisions on discipline matters that were not purportedly achieved through the use of volunteer hearing officers ([read more](#)). Some of the criticisms to the amendments are that establishing a paid adjudicator, selected by the WSBA, disallows a respondent to have an assigned hearing officer removed without cause, the proposed amendments remove the authority to dismiss a complaint upon issuance of advisory letters or admonitions in lieu of filing formal charges, provides a respondent only 15 days to respond to the Office of Disciplinary Counsel’s notification of proposed filing of formal charges, and increases discretion by the Office of Disciplinary Counsel on handling of grievances ([read more](#)). These are some of the highlights of the proposed changes; there are others as well. The comment period has been extended to ensure ample time for notification to and feedback from legal professionals and the public ([more information on how to submit comments](#)). Members are encouraged to read the proposed changes and to submit comments to the Supreme Court.

Dear Governors,

The Supreme Court acted *quickly* in response to your recommendation to extend the comment period for the proposed RDI amendments. Let's capitalize on that good news by ensuring that our members are well aware of their opportunity to provide feedback! I have been working with the ad hoc group that proposed the comment-period extension, and we have crafted a notification that will be shared with all members via TakeNote. We also want to provide some language/speaking points that you can feel free to use to communicate to your district/stakeholders, see the following:

- [By request of the WSBA Board of Governors](#), the Washington Supreme Court has extended the comment period through July 29, 2021, for [proposed amendments](#) to the rules governing the discipline and incapacity systems for all license types. These amendments, known as the Rules for Discipline and Incapacity (RDI), would replace the existing disciplinary procedural rules with a single rule set for all licenses. The stated goals of the amendments are to streamline the disciplinary process by eliminating and/or modifying certain rules to make the process more efficient, and to obtain more consistent decisions on discipline matters that were not purportedly achieved through the use of volunteer hearing officers ([read more](#)). Some of the criticisms to the amendments are that establishing a paid adjudicator, selected by the WSBA, disallows a respondent to have an assigned hearing officer removed without cause, the proposed amendments remove the authority to dismiss a complaint upon issuance of advisory

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**TO:** WSBA Board of Governors  
**FROM:** Daniel D. Clark, WSBA Treasurer & 4<sup>th</sup> District Governor  
**DATE:** May 20<sup>th</sup>, 2021  
**RE:** Increase to Restricted Facilities Fund

**ACTION/DISCUSSION :** Approve the Budget and Audit Recommendation Of Increasing the Restricted Facilities fund by \$500K

On May 5<sup>th</sup> the WSBA Budget and Audit Committee took a vote on to increase the facilities reserve fund by \$500K. WSBA’s cash position is strong and allows for increasing this amount to our reserve. Note that this restriction can be reversed if need be by this Board under recommendation of Budget and Audit.

The analysis below was made in support of this decision. As we see below the reforecast balance of unrestricted funds \$2.9M after the \$500K transfer. In addition a conservative forecast is shown below assuming consistent 3% increase in costs and a 1.5% increase in revenues.

In line with this analysis we recommend approval of the increase to the facilities fund.

\$USD								
FISCAL YEAR	License Fee Rates	License Fee Revenue	Total General Fund Revenue	Total General Fund Expenses	Net Income/(Loss)	General Fund Reserves	Restricted Funds	Unrestricted Funds
<b>Actuals/Reforecast</b>								
FY 2012 Ending Balance						8,745,117		
FY 2013	325	11,390,193	15,349,822	15,170,352	215,655	8,960,772	5,247,018	3,713,754
FY 2014	325	10,760,723	15,335,749	16,493,451	(1,157,702)	7,803,070	5,171,945	2,631,125
FY 2015	325	11,133,170	15,266,002	17,966,538	(2,679,372)	5,102,534	5,102,534	-
FY 2016	385	12,819,372	16,937,121	18,121,119	(1,723,998)	3,918,536	3,918,536	-
FY 2017	385	13,512,192	17,584,851	18,139,636	(554,785)	3,363,751	1,700,000	1,663,751
FY 2018	449	15,408,528	19,614,585	19,182,478	432,107	3,795,858	1,950,000	1,845,858
FY 2019	458	16,217,199	21,127,748	20,187,279	940,680	4,736,538	2,050,000	2,686,538
FY 2020	458	16,692,516	21,162,056	20,430,500	791,697	5,528,234	2,050,000	3,478,234
FY 2021 YTD March	458	8,414,480	11,259,985	9,660,373	1,599,612	7,127,846	2,050,000	5,077,846
FY 2021 Reforecast	458	16,318,000	20,227,000	20,341,000	(114,000)	5,414,234	2,050,000	3,364,234
FY 2021 Estimate	458	16,318,000	20,227,000	19,741,000	486,000	6,014,234	2,050,000	3,964,234
FY2021 Reforecast with Chg in Reserve	458	16,318,000	20,227,000	20,341,000	(114,000)	5,414,234	2,550,000	2,864,234
<b>BUDGET</b>								
FY 2021	458	16,713,418	20,603,129	20,805,908	(202,779)	5,276,456	2,050,000	3,226,456

General Fund Forecast

Expenses grow at 3% Income Grows at 1.5%

FY2021 Reforecast	\$20,227,000	\$20,341,000	(\$114,000)	\$5,414,234	\$2,050,000	\$3,364,234
Estimate FY 2022	\$20,530,405	\$20,951,230	(\$420,825)	\$4,993,409	\$2,550,000	\$2,443,409
Estimate FY 2023	\$20,838,361	\$21,579,767	(\$741,406)	\$4,252,003	\$2,550,000	\$1,702,003
Estimate FY 2024	\$21,150,936	\$22,227,160	(\$1,076,223)	\$3,175,780	\$2,550,000	\$625,780
Estimate FY 2025	\$21,468,201	\$22,893,975	(\$1,425,774)	\$1,750,006	\$2,550,000	(\$799,994)
Estimate FY 2026	\$21,790,224	\$23,580,794	(\$1,790,570)	(\$40,565)	\$2,550,000	(\$2,590,565)

Respectfully,

Dan Clark

WSBA Treasurer/4<sup>th</sup> District Governor

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