

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

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

**September 17-18, 2020**  
**Webcast and Teleconference**



**Board of Governors Meeting  
Webcast and Teleconference  
September 17-18, 2020**

*WSBA Mission: To serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.*

**PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

**ALL ITEMS ON THIS AGENDA ARE POTENTIAL ACTION ITEMS**

To participate remotely: Call **1.888.788.0099**

**Thursday Sept. 17<sup>th</sup> - Meeting ID: 982 7788 1006**

**Friday Sept. 18<sup>th</sup> – Meeting ID: 991 4629 1672**

**Thursday, September 17, 2020**

**9:00 AM – CALL TO ORDER**

- APPROVAL TO FILL VANCANT SEAT - DISTRICT 8 GOVERNOR**
- SWEARING-IN OF DISTRICT 8 GOVERNOR, BRENT WILLIAMS-RUTH**

**BOARD RETREAT**

- STRATEGIC GOALS**

**CONSENT CALENDAR & STANDING REPORTS**

**12:00PM – RECESS**

- WELCOME**
- APPROVE PROPOSAL TO ANNOTATE MINUTES WITH VIDEO LINKS, Pres. Rajeev Majumdar ..... 5**
- CONSENT CALENDAR**  
A governor may request that an item be removed from the consent calendar without providing a reason and it will be discussed immediately after the consent calendar. The remaining items will be voted on *en bloc*.
  - Review & Approval of June 26-27 BOG Meeting Minutes..... 6
  - Review & Approval of July 24 BOG Meeting Minutes ..... 14
  - Review & Approval of August 29 BOG Meeting Minutes ..... 19
  - Client Protection Board Recommendations ..... 21
- PRESIDENT ELECT’S REPORT ON BOARD RETREAT**
- PRESIDENT’S REPORT**
- EXECUTIVE DIRECTOR’S REPORT ..... 22**
- MEMBER AND PUBLIC COMMENTS (30 minutes reserved)**

Overall public comment is limited to 30 minutes and each speaker is limited to 3 minutes. The President will provide an opportunity for public comment for those in the room and participating remotely. Public comment will also be permitted at the beginning of each agenda item at the President’s discretion.

**PRESENTATION ON WSBA’S DIVERSITY, EQUITY & INCLUSION PROGRAMMING**

**REPORTS OF STANDING OR ONGOING BOG COMMITTEES**

Committees may “pass” if they have nothing to report. Related agenda items will be taken up later on the agenda. Each committee is allocated, on average, 3-4 minutes.

- Executive Committee, Pres. Rajeev Majumdar, Chair
- APEX Awards Committee, Gov. Russell Knight, Chair
- Personnel Committee, Gov. Alec Stephens, Chair
- Legislative Committee, Gov. Kyle Sciuchetti, Chair
- Nominations Review Committee, Gov. Jean Kang & Pres-elect Kyle Sciuchetti, Co-Chairs
- Diversity Committee, Gov. Jean Kang, Co-Chair
- Long-Range Planning Committee, Gov. Paul Swegle, Chair
- Member Engagement Workgroup, Govs. Kim Hunter and Dan Clark, Co-Chairs
- Budget & Audit Committee, Treas. Dan Clark, Chair

**SPECIAL REPORTS**

**JUDICIAL INFORMATION SYSTEMS COMMITTEE REQUEST FOR SUPPORT FOR ADOPTION OF REVISIONS TO JISCR 13**, Vicky Cullinane ..... 198

**EQUITY & DISPARITY WORK GROUP UPDATE**, Chair Gov. Alec Stephens

**GOVERNOR LIAISON REPORTS**

This is an opportunity for Governors to make reports related to their liaison assignments.

**AGENDA ITEMS & UNFINISHED BUSINESS**

**BUDGET & AUDIT COMMITTEE MATTERS**, Treas. Dan Clark, Chair and Chief Financial Officer Jorge Perez

- Approval of the 2021 Keller Deduction, Julie Shankland..... LM
- Approval of the Sections Administration Per-Member-Charge, Kevin Plachy ..... LM
- Presentation and Approval of the WSBA FY21 Budget, Jorge Perez ..... LM
- Approval of the 2022 and 2023 WSBA Member License Fee, Jorge Perez, Dan Clark..... LM

**Friday, September 18, 2020**

**ANNUAL DISCUSSION WITH THE DEANS OF WASHINGTON STATE LAW SCHOOLS**, Annette Clark, Seattle University School of Law Dean; Jacob Rooksby, Gonzaga School of Law Dean; and Mario Barnes, University of Washington School of Law Dean

**APPROVE RULE CHANGES PROPOSED BY CIVIL LITIGATION RULES REVISION TASK FORCE**, Chair Dan Bridges..... 204

- MCLE BOARD REQUEST FOR SUPPORT OF THEIR PROPOSED AMENDMENT TO APR 11 RE ETHICS REQUIREMENT**, Chair Asia Wright ..... 273
- APPROVE PROPOSED RPC AMENDMENT AS RECOMMENDED BY THE AD HOC COMMITTEE TO INVESTIGATE ALTERNATIVES TO MANDATORY MALPRACTICE INSURANCE**, Gov. Kyle Sciuchetti and Chief Disciplinary Counsel Doug Ende ..... 394

**12:00PM – RECESS**

- APPROVE EMPLOYMENT CONTRACT FOR EXECUTIVE DIRECTOR**
- COUNCIL ON PUBLIC DEFENSE MATTERS**, Professor Robert Boruchowitz
  - Updated Performance Guidelines For Persistent Offender Cases ..... 405
  - Covid Guidance for Public Defense Offices ..... 441
- APPROVE REQUEST TO INCREASE SIZE OF THE LAW CLERK BOARD**, Chair Ben Phillabaum, Interim Associate Directory for Regulatory Services Renata de Carvalho Garcia ..... 447
- WASHINGTON STATE BAR FOUNDATION ITEMS**, President Kristina Larry..... 453
  - **Approve FY21 Trustee Appointments**
  - **Approve Proposed Change to Funding Structure for the Powerful Communities Project**

<b>GOVERNANCE TRANSITION</b>
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- PRESIDENT’S COMMENTS, SWEARING IN OF NEW GOVERNORS AND OFFICERS, AND RECOGNITION OF OUTGOING GOVERNORS**

**INFORMATION**

- General Information ..... 462
- Monthly Financial Statements ..... 477

**TO:** WSBA Board of Governors  
**FROM:** President Rajeev D. Majumdar  
**DATE:** September 8, 2020  
**RE:** **Executive Committee’s Proposal to annotate WSBA Board of Governor meeting minutes with video links**

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**ACTION:** Approve proposal to annotate WSBA Board of Governor meeting minutes with video links.

The WSBA Bylaws direct the WSBA Executive Director to ensure that minutes are “made and kept of all BOG meetings” and that these shall, at a minimum, record the members of the Board in attendance, the date and time of the meeting, the agenda of the meeting, the subject and results of any final action taken, and a reasonable summary of the issues and points raised during discussion. See [WSBA Bylaws](#) Section IV.B.5 and Section VII.A.1.d. Consistent with Roberts Rules of Order, WSBA’s minutes are intended to be an objective report of what was done, rather than what was said. WSBA also maintains recordings of the Board meeting, which accurately capture a richer record of our discussions and deliberations.

Because this context is often useful to fully understand the actions taken by the Board, and the staff already create video bookmarks for each agenda item, it is the consensus and recommendation of the Executive Committee that we annotate our Board meeting minutes with links to the video recording beginning with the minutes for the June, July, and August meetings, which are on the consent calendar for approval in September.

In Service,



Rajeev D. Majumdar, WSBA President

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS MEETING

### Minutes

Held Virtually  
June 26-27, 2020

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Rajeev D. Majumdar on Friday June 26, 2020 at 8:33 AM. Governors in attendance were:

Hunter M. Abell  
Sunitha Anjilvel  
Daniel D. Clark  
Peter J. Grabicki  
Carla Higginson  
Kim Hunter  
Jean Kang  
Russell Knight  
Tom McBride  
Bryn Peterson  
Kyle D. Sciuchetti  
Alec Stephens  
Paul Swegle  
Judge Brian Tollefson (ret.)

Also in attendance were Immediate Past President William D. Pickett, Gov-Elect Matthew Dresden, Gov-Elect Brent Williams-Ruth, Interim Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Financial Officer Jorge Perez, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy, Interim Director Advancement Kevin Plachy, Executive Administrator Shelly Bynum, Nancy Hawkins (Family Law Section), James E. Macpherson (Washington Defense Trial Lawyers), and Betsy Miale-Gix (Washington State Association for Justice).

#### Consent Calendar ([video recording link](#))

Pres. Majumdar asked if anyone wanted to remove an item from the consent calendar. Gov. Swegle moved for approval. Motion passed unanimously. Treas. Clark was not present for the vote.

President's Report ([video recording link](#))

Pres. Majumdar honored local hero recipients chosen by the Whatcom and Skagit County Bars, Heather Powell and Heather Webb.

Interim Executive Director's Report ([video recording link](#))

Interim Executive Director Nevitt referred to her written report and provided a brief summary. She introduced Washington Supreme Court Justice Mary Yu to answer questions with regard to the process for approving revised rules for discipline and incapacity. Discussion followed.

President-Elect Report on July Board Retreat ([video recording link](#))

Pres-Elect Sciuchetti provided a report and preview of the July Board Retreat.

Interview and Selection of 2020-2021 WSBA President-Elect ([video recording link](#))

Pres. Majumdar presented the only candidate for 2020-21 Pres-Elect, Gov. Brian Tollefson. Gov. Tollefson made remarks. Gov. Grabicki moved for the election of Gov. Brian Tollefson. Discussion followed. Motion passed unanimously.

First Read: Ratification of Emergency Bylaw Amendment Art. VI.G Re Governor Elections ([video recording link](#))

Pres. Majumdar presented the topic and referred to the materials. He noted that this was a required first read and no action would be taken.

Member & Public Comments ([video recording link](#))

Theresa Butler, President of the Mason County Bar Association and James E. Macpherson provided public comment.

Reports of Standing or Ongoing BOG Committees ([video recording link](#))

*Executive Committee.* Pres. Majumdar reported on the work of the Committee, which met last week to plan for the July Board Meeting as well as meet with the Client Protection Fund Board and the Committee on Professional Ethics.

*APEX Awards Committee.* No report.

*Personnel Committee.* Gov. Stephens reported on the work of the Committee. He noted that the performance evaluation of the Interim Executive Director Nevitt would be taken up during this meeting, as well as the Committee's recommendation to remove Director Nevitt's interim status.

*Legislative Committee.* Gov. Sciuchetti reported on the work of the Committee, including a recommended policy regarding legislative activity of sections that will be taken up later on the agenda.

*Nominations Committee.* Gov. Sciuchetti reported on the work of the Committee. He noted that its role is to appoint committee chairs for the next fiscal year and it will be meeting to do so tomorrow.

*Diversity Committee.* No report.

*Long-Range Planning Committee.* Gov. Swegle reported on the work of the Committee, noting that with so many changes, it has not felt timely so engage in long-range planning. He shared some suggestions for future long-range planning. Discussion followed

*Member Engagement Workgroup.* No report.

*Budget and Audit Committee.* Pres. Majumdar read Treas. Clark's report regarding the work of the Committee. He provided details on the May financials noting that we have gone from a budgeted deficit to a substantial surplus. Discussion followed.

The WSBA Response to Our National Dialogue ([video recording link part 1](#), [part 2](#))

Pres. Majumdar introduced this portion of the agenda including the purpose and intent behind it. He listed and recognized the many entities that have written publically and to the WSBA calling for action.

*Approval of Statement by Council on Public Defense.* Council on Public Defense Vice-Chair Travis Stearns presented the Council's statement for approval as provided in the materials. Discussion followed. Gov. Grabicki moved for approval of the statement. Motion passed unanimously.

*Mission Statement of the WSBA.* Gov. Higginson presented the proposed revised mission statement as presented in the materials. Gov. Higginson moved for approval of the proposal. Discussion followed. Gov. Stephens moved to amend to add, "with a strong commitment to serving its members and the public." Discussion followed. Gov. Stephens moved to table to have this reviewed by as many people in the association as possible. Motion to table failed 5-7. Discussion followed. The motion to amend the proposal passed 9-3. Gov. Swegle moved to amend the proposal again to make it a *proposed* amendment to the mission statement for consideration and input, after which the Board will take it up again. It was clarified that the effect of the amendment would be to push the proposal out for comment and then put it back on a future agenda. Treas. Clark moved to call the question. Motion to call the question passed unanimously. Second motion to amend passed unanimously. The underlying motion, as amended twice passed unanimously. Govs. Hunter and Kang were not present for the votes.

Reports of Task Forces, Work Groups, Liaisons, and Other WSBA Entities ([video recording link](#))

*Editorial Advisory Committee.* Pres. Majumdar introduced Chair Ralph Flick and recognized the staff and committee for the magazine's recent selection as an honoree of the Public Relations Society of America (PRSA) - Puget Sound Chapter Board of Directors. Chair Flick referred to the materials and provided an overview of the work and approach of the committee. Chair Flick also provided information about the Letter to the Editor Policy. Discussion followed.

The WSBA Response to Our National Dialogue (Continued) ([video recording link](#))



*Discussion with WSBA Diversity Committee Re Reaffirming the WSBA's Current 2013 Diversity and Inclusion Plan.* Diversity Committee member Serena Sayani and Gov. Anjilvel presented the Committee's proposal, and specific actions, as presented in the materials. Discussion followed.

Reports of Task Forces, Work Groups, Liaisons, and Other WSBA Entities (Continued) ([video recording link](#))

*Corona Task Force.* Co-Chairs Michael Cherry and Kevin Plachy presented an overview of the work of the internal and external task forces to respond to the global pandemic. Discussion followed.

Council on Public Defense Matters ([video recording link](#))

*Proposed Charter Revision.* Vice-Chair Travis Stearns presented the Council's revised charter as provided in the materials, which will remove term limits for the Supreme Court Justice position on the Council. He noted Chief Justice Stephens affirms the proposal. Gov. Stephens moved for approval. Motion passed unanimously. Govs. Hunter and Kang were not present for the vote.

*Comment on Amending CrR 3.1(f), CrRLJ 3.1(f), and JuCrR 9.3(a) to Require that Judges Consider Defense Requests for Expert Funds Ex Parte.* Council Member Sophia Byrd McSherry presented the proposed comment as provided in the materials. She noted that the comment was initially presented to the Board in April and that since the April meeting, the Criminal Law Section has reviewed the proposal and is in support. Gov. McBride moved for approval. Motion passed unanimously. Govs. Hunter and Kang were not present for the vote.

Reports of Task Forces, Work Groups, Liaisons, and Other WSBA Entities (Continued) ([video recording link](#))

*Ad Hoc Committee to Investigate Alternatives to Mandatory Malpractice Insurance for Consideration by WSBA and the Washington Supreme Court.* Gov. Sciuchetti presented on the work of the Committee, including some of the alternatives they've explored, noting that he anticipates bring a proposal to the Board in late summer. Discussion followed.

Pro Bono and Public Service Committee Proposed Amendments to WSBA Bylaws Art. III(B)(4), APR 1(e), and GR 24 to Reduce Barriers to Access for Emeritus Pro Bono Status ([video recording link](#))

Co-Chair Nick Larson and Committee Members Althea Paulson and Bonnie Aslagson presented the proposed amendments of the Committee as provided in the materials. Gov. Higginson moved for approval of the proposal. Pres. Majumdar noted that the Bylaws change requires a second read. If this passes, his intent would be to send all the proposals together at the same time. Motion passed unanimously. Govs. Hunter and Kang were not present for the vote.

Proposed Comment to Northwest Justice Project 2020 Private Attorney Involvement Plan ([video recording link](#))

Co-Chair Nick Larson presented a proposed comment in support of the Northwest Justice Project's 2020 plan for private attorney involvement. Gov. Stephens moved for approval. Motion passed unanimously. Govs. Hunter and Kang were not present for the vote.

APEX Awards Committee Recommendations for 2020 Awards ([video recording link](#))

Gov. Knight noted that out of respect for the nominees and those that won't be receiving an award, the materials for this agenda item were provided confidentially. He requested a single motion approving the entire slate. Gov. Stephens moved for approval. Motion passed unanimously. Gov. Higginson abstained. Govs. Hunter and Kang were not present for the vote.

Budget and Audit Committee Items ([video recording link](#))

*Second Read: Proposed Amendment to WSBA Bylaws Art. III.I.5 Re License Fee Exemptions Due to Hardship.* Chief Regulatory Counsel Jean McElroy presented the proposal and the rationale for it. Discussion followed. Motion passed unanimously. Govs. Hunter and Kang were not present for the vote. Pres. Majumdar noted that he would send the amendment to the Court after the July meeting along with the other bylaws amendment. There were no unresolved objections to this course of action.

*Proposed Reduction of the Client Protection Fund Assessment.* Gov. Peterson moved for approval. Motion passed unanimously. Govs. Hunter and Kang were not present for the vote.

The WSBA Response to Our National Dialogue (Continued) ([video recording link](#))

*WSBA Equity and Disparity Workgroup.* Pres. Majumdar introduced the proposal as presented in the materials. Gov. Sciuchetti moved for approval. Motion passed unanimously. Govs. Higginson and Tollefson abstained. Govs. Grabicki, Hunter, and Kang were not present for the vote.

*Resolution of the WSBA in Affirming the Rule 6 Program's Value and Role in Providing an Additional Path to Justice for Underrepresented Communities.* Gov. Abell presented the resolution as provided in the materials. Discussion followed. Gov. Abell moved to amend the resolution to add to the second to last paragraph the following language, "Be it further resolved that the Board of Governors respectfully encourages the Washington Supreme Court to amend the Order Granting Diploma Privilege and Temporarily Modifying Admission & Practice Rules dated June 12, 2020 to include qualified graduates of the Program." Motion to amend passed unanimously. The resolution as amended passed unanimously. Govs. Hunter and Kang were not present for the votes.

Budget and Audit Committee Item (Continued) ([video recording link](#))

*Results of Process and Execution Audit.* Joseph Purvis and Mitchell Hansen of Clark Nuber presented. Discussion followed, including remarks by Treas. Clark. Chief Financial Officer Jorge Perez reported on actions taken to respond to the audit results.

The WSBA Response to Our National Dialogue (Continued) ([video recording link](#))

*Resolution of the WSBA in Response to National Dialogue.* Pres. Majumdar presented the resolution and suggested adding the two statements received after it's drafting from the Washington State Bar Foundation and the Association of Washington Assistant Attorneys General and the Solidarity Caucus of the Professional Staff Organizing Committee. Gov. Sciuchetti moved for approval. Discussion followed. Motion passed unanimously. Govs. Hunter, Kang, and Knight were not present for the vote.

Recommendation Re Proposed Policy Re Legislative Activity of Sections ([video recording link](#))

Govs. Sciuchetti and Higginson presented the proposed policy as provided in the materials. Discussion followed. Gov. Stephens proposed to amend the proposed policy so that it reads "...supersedes and replaces any and all prior policies on the same subject as it applies to sections." Discussion followed. Gov. Grabicki moved to table. Motion to table failed for lack of a second. Motion to call the question passed unanimously. Govs. Grabicki, Hunter, Kang, and Knight were not present for the vote. Motion to amend passed 9-2. Govs. Hunter, Kang, and Knight were not present for the vote. Motion to approve the policy as amended was approved 10-1. Govs. Hunter, Kang, and Knight was not present for the vote. Pres. Majumdar asked Gov. Grabicki to reach out to concerned sections for a possible future amendment to the policy.

Diploma Privilege ([video recording link part 1](#), [part 2](#), [part 3](#))

Pres. Majumdar introduced and provided the procedural background on the topic.

*APR Board Permission.* Treas. Clark moved for approval of the APR Board's proposal. Discussion followed, including public comment. Motion passed unanimously. Gov. Tollefson abstained. Govs. Grabicki, Hunter, Kang, Knight, and Swegle were not present for the vote.

*Maintain Existing Refund Policy.* Treas. Clark deferred to Chief McElroy to present information on the proposal. Discussion followed including public comment. Motion passed unanimously. Govs. Grabicki, Hunter, Kang, and Knight were not present for the vote.

*Request for Contingency Plan in the Event the Summer Bar Exam Cannot be Held Safely.* Pres. Majumdar introduced JD graduates Efrain Hudnell and Katie Koch and they presented concerns about the need to provide an alternative path to licensure for those not benefiting diploma privilege in the event the exam *cannot* be held safely. Discussion followed, including public comment. Gov. Stephens moved that the Board ask staff to do contingency planning regarding LLM exam takers in the event we have to cancel the July exam and find other ways to assist them. Motion passed 4-2. Govs. Higginson and Tollefson abstained. Govs. Abell, Grabicki, Hunter, Kang, Knight, and Swegle were not present for the vote.

Additional discussion took place regarding diploma privilege, including additional public comment. Gov. Higginson moved that we forward member comments about diploma privilege and the future of the bar exam to the Court. Gov. Higginson accepted a friendly amendment to submit the comments we've received to date in the redacted form we have in our materials and that the President be directed to circulate the Court's decision to the members for comment by July 31. Motion failed for lack of a quorum.

The meeting resumed on June 27, 2020. Pres. Majumdar ruled on a dispute regarding Roberts Rules of Order. He ruled that abstentions are noted and recorded but do not count as a yay or nay vote.

The Board returned to discussion on Gov. Higginson's motion from the previous day. Motion passed unanimously. Govs. Hunter and Swegle were not present for the vote.

Evaluation of the Interim Executive Director and Consideration of Removal of Interim Title ([video recording link part 1](#), [part 2](#), [part 3](#))

Gov. Stephens walked through the materials provided in the public and confidential materials and presented the results of the evaluation.

Pres. Majumdar announced the basis and purpose for moving into executive session and that public session would resume at 9:40 AM. The Board moved into Executive Session at 9:03. Pres. Majumdar announced extensions of executive session to 10:20 AM, 10:45 AM, and 11:05 AM.

Pres. Majumdar resumed public session at 11:05 AM.

Gov. Stephens presented and moved for acceptance of the rating and qualitative statement in response to the evaluation of the Executive Director. Motion passed unanimously. Gov. Higginson abstained. Govs. Abell and Swegle were not present for the vote.

Gov. Grabicki moved to remove the title of interim subject to negotiation of a contract to be led by Pres. Majumdar and Pres-elect Sciuchetti. Gov. Stephens confirmed this was also the recommendation of the Personnel Committee. Discussion followed. Motion passed unanimously. Govs. Higginson and Stephens abstained. Govs. Abell and Swegle were not present for the vote.

Committee on Professional Ethics Matters ([video recording link](#))

*Proposed Amendments to Comment 4 to RPC 1.16 and New Additional Washington Comments 16 to RPC 1.13.* Committee Member Brooks Holland presented the Committee's proposal. Discussion followed. Gov. Grabicki moved for approval of the comments. Gov. Peterson moved for an amendment to remove the "however" clause. It was accepted as a friendly amendment. Motion passed unanimously. Gov. Hunter abstained. Govs. Abell and Swegle were not present for the vote.

*Proposed Amendment to RPC 7.2(b)(2), 5.4, and 1.5(e)(2) Re Fee Sharing with Nonprofit Lawyer Referral Services.* Professional Responsibility Counsel Jeanne Marie Clavere and Brooks Holland presented the Committee's proposal. Discussion followed. Gov. Grabicki moved to propose the amendment to the Court. Motion passed unanimously. Govs. Abell and Swegle were not present for the vote.

Interviews and Selection of 2020-2023 WSBA At-Large Governor ([video recording link part 1](#), [part 2](#), [part 3](#))

Pres. Majumdar presented the proposed process for the at-large election as presented in the materials. Gov. Stephens moved for approval. Motion passed unanimously. Govs. Abell, Grabicki, Hunter, and Swegle were not present for the vote.

Pres. Majumdar administered the election. The first candidate was Kim Sandher who provided her opening remarks and responded to the standard questions. The next candidate was Kristine Kuenzli who provided her opening remarks and responded to the standard questions. Jean Cotton followed and withdrew her candidacy. Michael Hall followed and provided his opening remarks and responded to the standard questions. Candidate Connie Wan followed with her opening remarks and responses to the questions. Candidate Lisa Mansfield followed with her statement and responses to the standard questions. Candidate C. Olivia Irwin followed with her presentation and responses to the standard questions. Luis Beltran followed with his

presentation and responses to the standard questions. Laura Sierra was the next candidate. She presented her initial statement and answered the standard questions. Allison Foreman was the next candidate. She presented her initial statement and answered the standard questions. Discussion followed. The Board moved to its first round of voting. The results were 6 votes for Lisa Mansfield, 3 votes for Kristine Kuenzli, 2 votes for Sandher, and 2 votes for Wan. Gov. Hunter was not present for the vote.

With no candidate receiving more than 50% of the votes, Pres. Majumdar announced that we would move to a run-off election between the top two vote getters, Kristine Kuenzli and Lisa Mansfield. Discussion followed. Gov. Knight moved to invite the top two vote getters back for a 30 second response to anything that came up in the discussion. Gov. Knight accepted a friendly amendment to give them each 2 minutes. Motion passed unanimously. Gov. Hunter was not present for the vote. The Board moved to its second round of voting. The results were 11 votes for Lisa Mansfield and 3 votes for Kristine Kuenzli.

Proposed Policy: Transparent Salary Information ([video recording link](#))

Pres. Majumdar noted that there is no proposal before the Board and provided an opportunity for discussion. Gov. Stephens moved to send the topic to the Personnel Committee. Discussion followed. Gov. Stephens withdrew his motion. Gov. Higginson moved to have published on the WSBA website (1) the written compensation policy, (2) a range of all salaries and paid classification bands, (3) a list of current starting, mid points, and ceilings, (4) a list of current employee job titles, and (5) a written summary of other benefits. Discussion followed. Gov. Grabicki suggested that the President, President Elect, and Treasurer work with the leadership team to develop a proposal for July that doesn't not involve identifying individual salaries. Gov. Sciuchetti moved to amend Gov. Higginson's motion to adopt Gov. Grabicki's proposal. Pres. Majumdar recommended that the language be amended to allow for more than one proposal. Gov. Sciuchetti accepted that as a friendly amendment. Amended motion passed unanimously. Govs. Abell and Swegle were not present for the vote.

Governor Roundtable ([video recording link](#))

Gov. Anjilvel requested that the Governors make a donation to the Washington State Bar Foundation.

**ADJOURNMENT**

There being no further business, Pres. Majumdar adjourned the meeting at 5:12 PM on Saturday, June 27, 2020.

Respectfully submitted,

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Terra Nevitt  
WSBA Interim Executive Director & Secretary

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS MEETING

### Minutes

Held Virtually

July 24, 2020

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Rajeev D. Majumdar on Friday, July 24, 2020 at 8:33 AM. Governors in attendance were:

Hunter M. Abell

Sunitha Anjilvel

Daniel D. Clark

Peter J. Grabicki

Carla Higginson

Jean Kang

Russell Knight

Tom McBride

Bryn Peterson

Kyle D. Sciuchetti

Alec Stephens

Judge Brian Tollefson (ret.)

Also in attendance were Immediate Past President William D. Pickett, Gov-Elect Brett Purtzer, Gov-Elect Matthew Dresden, Gov-Elect Lisa Mansfield, Gov-Elect Brent Williams-Ruth, Interim Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Financial Officer Jorge Perez, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy, Chief Communications Officer Sara Niegowski, Interim Director Advancement Kevin Plachy, Equity & Justice Manager Diana Singleton, Executive Administrator Shelly Bynum, Nancy Hawkins (Family Law Section), and James E. Macpherson (Washington Defense Trial Lawyers).

### President's Report ([video recording link](#))

Pres. Majumdar welcomed everyone to the virtual meeting, noting that the Board had originally planned to meet in Skamania County. Pres. Majumdar covered electronic meeting etiquette. He denounced racism and explained the steps that are being taken in response to the June meeting, including the ombudsperson process, putting a pause on policy setting, and delaying the retreat until we can identify a skilled trainer. Pres. Majumdar highlighted WSBA's work in providing three free ethics CLEs and provided an update on the Equity & Disparity Work Group.

Pres. Majumdar presented the Local Hero Award to Court Commissioner Jeff Baker, who was nominated by the Klickitat-Skamania Bar Association.

Pres. Majumdar announced the resignation of Gov. Kim Hunter and Pres-Elect Sciuchetti read a statement from her. Gov. Stephens moved that we fill the unexpired term of Gov. Hunter with Gov-Elect Brent Williams Ruth. Gov-Elect Brent Williams Ruth requested that we come back to the matter at a later time. Gov. Stephens withdrew his motion.

President-Elect's Report on Board Retreat ([video recording link](#))

Pres-Elect Sciuchetti reported on his plans for the Board retreat.

Interim Executive Director's Report ([video recording link](#))

Interim Executive Director Nevitt provided her report.

WSBA Treasurer Election ([video recording link](#))

Pres. Majumdar administered the Treasurer's election. The only candidate, current Treas. Clark was elected unanimously.

Member and Public Comments ([video recording link](#))

Public comment was taken regarding comments made by Gov. Higginson at the June 2020 board meeting.

Governor Roundtable

There were no Governor Roundtable items.

Reports of Standing or Ongoing BOG Committees ([video recording link](#))

*Executive Committee.* Pres. Majumdar reported on the Executive Committee's upcoming work.

*APEX Awards Committee.* Gov. Knight noted that Pres. Majumdar and Pres-Elect Sciuchetti have been notifying the award winners and the Committee is looking at ways to honor the award winners.

*Personnel Committee.* Gov. Stephens reported on the Committee's upcoming work including the employment contract and term for the Executive Director.

*Legislative Committee.* Gov. Sciuchetti noted that the Committee has not met while the Legislature is not in session and that the Committee is looking to meet with the Legislative Review Committee once the committee chairs have been appointed.

*Nominations Review Committee.* Pres-Elect Sciuchetti thanked Pam Inglesby for her work with the committee, noting her retirement, and welcomed Paris Eriksen to the role.

*Diversity Committee.* Gov. Kang reported on the Committee's last meeting, which focused on concerns about the Board of Governors and diversity. The Committee also reviewed letters in

response to Gov. Higginson's comments at the June 2020 board meeting and has formed a workgroup to review proposed changes to the WSBA mission statement. The Committee is also reviewing the rule change that the MCLE Board intends to propose this fall.

Public Comment Continued ([video recording link](#))

Pres. Majumdar read a public comment from former Governor Andrea Jarmon. Discussion followed.

Reports of Standing or Ongoing BOG Committees Continued ([video recording link](#))

*Long-Range Planning Committee.* No report.

*Member Engagement Workgroup.* Gov. Clark's report was read in which he noted that the Committee did not meet in July and expressed appreciation to former Gov. Kim Hunter for her work on, and in creating, the Committee.

*Budget & Audit Committee.* Gov. Clark's report was provided in the meeting materials.

Second Read/Action: Ratification of Emergency Bylaw Amendment Art. VI.G RE Governor Elections ([video recording link](#))

Gov. Grabicki moved for approval of the Emergency Bylaw Amendment. Motion passed unanimously. Govs. Higginson and Tollefson were not present for the vote.

Second Read/Action: Pro Bono and Public Service Committee Proposed Amendments to WSBA Bylaws Art. III(B)(4) to Reduce Barriers to Access for Emeritus Pro Bono Status ([video recording link](#))

Pres. Majumdar introduced the item. Gov. Grabicki moved for approval. Discussion and comments from Pro Bono and Public Service Co-Chair Nick Larsen followed. Motion passed unanimously. Govs. Higginson and Tollefson were not present for the vote.

Pres. Majumdar recessed the meeting until 10:30 AM. The meeting resumed at 10:30 AM.

Discussion with Law Clerk Board ([video recording link](#))

Gov. Abell introduced Law Clerk Board Chair Ben Phillabaum who provided an overview of the program and the work of the Board. Board member Alexa Ritchie also provided some brief comments as a graduate of the program herself. Discussion and public comment followed.

Governor Liaison Reports ([video recording link](#))

Gov. Stephens shared his work with the Civil Rights Law Section and noted their comments in the materials. Pres-Elect Sciuchetti reported on his work as the Chair of the Committee to Investigate Alternatives to Mandatory Malpractice Insurance.

Report of the Court Rules and Procedures Committee and Proposal RE The Role of Court Rules and Procedures Committee ([video recording link](#))



Chair Jefferson Coulter reported on the Committee's response to the Director Nevitt and President Majumdar's request for input on the future direction of the Committee as provided in the materials. Discussion followed. Pres. Majumdar restated the three requests of the Committee: (1) request that the Court forward all meritorious rule proposals to the Committee, (2) invite one justice to attend meetings to improve coordination and communication, and (3) charge the Committee with responding directly to the Court on proposed rules. Discussion followed. Gov. Stephens moved that the recommendations be forwarded to the Court. Pres. Majumdar suggested that the third issue be bifurcated and Gov. Stephens accepted this suggestion. Pres. Majumdar restated the question: on request 1 and 2, authorize the Committee to make those recommendations to the Court. Motion passed unanimously. Discussion on item 3 continued. Gov. Stephens withdrew his motion on item 3.

Consent Calendar ([video recording link](#))

Gov. Stephens moved that the June meeting minutes be pulled and referred to the Executive Committee to add more detail about the discussion around the mission statement and the at-large election. Motion passed unanimously. Govs. Higginson and Tollefson were not present for the vote.

Report of the Civil Litigation Rules Revision Work Group ([video recording link](#))

Chair Bridges presented on the work of the Work Group.

Budget & Audit Committee Items ([video recording link part 1](#), [part 2](#))

*Review FY21 Draft WSBA Budget.* Chief Financial Officer Jorge Perez presented the first draft of the WSBA budget for FY21. Discussion followed. CFO Perez noted that a second budget would be presented at the August 10 Budget & Audit Committee meeting.

*Proposal for Governors to Attend 2020 NCBP Virtual Annual Meeting.* Pres. Majumdar presented the proposal as provided in the materials. Gov. Clark moved for approval. Motion passed unanimously. Gov. Higginson was not present for the vote.

Proposed Revisions to WSBA Mission Statement ([video recording link](#))

Gov. Knight moved to table consideration of the WSBA mission statement to the September meeting to allow for greater input. Discussion followed. Gov. Grabicki moved to amend the motion to state that we will not change the mission statement at the present time. Discussion followed. It was clarified that the intent of the amendment was to table the matter indefinitely. Gov. Knight accepted the amendment as friendly. Discussion on the amended motion followed. Motion passed unanimously. Govs. Grabicki and Higginson were not present for the vote.

Proposed Policy: Transparent Salary Information ([video recording link](#))

Director Nevitt and Treas. Clark presented the proposal as provided in the materials. Gov. Stephens moved for approval with a change to clarify that job titles should be listed in their generic form. Gov. Grabicki moved to table. Motion failed for lack of a second. Discussion followed. Gov. Stephens restated and explained his motion, which would adopt a revised policy

and change the framework in the procedure to include "generic" job titles. Motion passed 10-1. Gov. Higginson was not present for the vote.

WSBA Committee and Board Chair Appointments ([video recording link](#))

Pres-Elect Sciuchetti presented the chair appointments in the materials. Gov. Peterson moved for approval. Motion passed unanimously. Gov. Grabicki abstained. Gov. Higginson was not present for the vote.

Governor Roundtable ([video recording link](#))

Discussion took place regarding whether or not the Board should convene for a meeting in August.

**ADJOURNMENT**

There being no further business, Pres. Majumdar adjourned the meeting at 2:15 PM on Friday, July 24, 2020.

Respectfully submitted,

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Terra Nevitt  
WSBA Interim Executive Director & Secretary

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING

### Minutes

Held Virtually

August 29, 2020

[\(video recording link\)](#)

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Rajeev D. Majumdar on Saturday, August 29, 2020 at 9:00 AM. Governors in attendance were:

Sunitha Anjilvel

Daniel D. Clark

Peter J. Grabicki

Jean Kang

Russell Knight

Tom McBride

Bryn Peterson

Kyle D. Sciuchetti

Alec Stephens

Paul Swegle

Judge Brian Tollefson (ret.)

Also in attendance were Immediate Past President William D. Pickett, Gov-Elect Lisa Mansfield, Gov-Elect Brent Williams, Gov-Elect Lauren Boyd, Gov-Elect Brett Purtzer, Gov-Elect Mathew Dresden, Interim Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Disciplinary Counsel Doug Ende, Executive Administrator Shelly Bynum, Disciplinary Program Manager Thea Jennings, Nancy Hawkins (Family Law Section), and James E. Macpherson (Washington Defense Trial Lawyers).

### Ad Hoc Committee to Investigate Alternatives to Mandatory Malpractice Insurance Report

Gov. Kyle Sciuchetti reported that the Committee had developed a proposed alternative for potential submission to the Washington Supreme Court, which is currently considering a proposal for mandating malpractice, with comments due September 30, 2020. Professor Spitzer presented the proposal to amend RPC 1.4 as provided in the materials. Committee member Michael Cherry noted his agreement with the proposal as a compromise that protects the public but does not mandate acquisition of malpractice insurance. Discussion followed regarding the details related to the scope of disclosure, informed consent, and the level of coverage. Gov. Stephens moved to

table the discussion to September and with direction to WSBA staff to broadly inform the membership of the proposal and that it is being tabled for action in September and to provide ample time for full discussion in September before a vote. Motion passed unanimously.

Committee Chair Appointments

Pres-Elect Sciuchetti presented the appointments and noted his interest in revisiting the committee-chair appointment process in the future. Gov. Grabicki moved for approval. Motion passed unanimously.

**ADJOURNMENT**

There being no further business, Pres. Majumdar adjourned the meeting at 10:00 AM on Saturday, August 29, 2020.

Respectfully submitted,

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Terra Nevitt  
WSBA Interim Executive Director & Secretary

DRAFT

# WASHINGTON STATE BAR ASSOCIATION

Office of General Counsel

Nicole Gustine, Assistant General Counsel

**TO:** WSBA Board of Governors  
**FROM:** Nicole Gustine, Assistant General Counsel  
**DATE:** August 27, 2020  
**RE:** Confidentiality of Client Protection Board Recommendations

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Previously, Client Protection Board (CPB) recommendations have been provided to the Board of Governors (BOG) for consideration and action during executive session. Since the requirements of the Open Public Meetings Act will not allow for CPB recommendations to be considered in executive session going forward, the BOG will consider and act on the recommendations in public session. However, per Court Rule, all of the materials, reports, and deliberations shall not be public. (APR 15 Procedural Regulations, Regulation 13(b)).

## **APR 15 CLIENT PROTECTION FUND PROCEDURAL REGULATIONS REGULATION 13. CONFIDENTIALITY**

(a) Matters Which Are Public. On approved applications, the facts and circumstances which generated the loss, the Client Protection Board's recommendations to the Trustees with respect to payment of a claim, the amount of claim, the amount of loss as determined by the Client Protection Board, the name of the lawyer, LLLT, or LPO causing the loss, and the amount of payment authorized and made, shall be public.

(b) Matters Which Are Not Public. The Client Protection Board's file, including the application and response, supporting documentation, and staff investigative report, and deliberations of any application; the name of the applicant, unless the applicant consents; and the name of the lawyer, LLLT, or LPO unless the lawyer, LLLT, or LPO consents or unless the lawyer's, LLLT's, or LPO's name is made public pursuant to these rules and regulations, shall not be public.

The following report of CPB recommendations contains only pre-approved applications, and is therefore provided to you as a Trustee, confidentially. The report will not appear in the BOG meeting's public session materials. Please take the time to review the materials thoroughly prior to the BOG public session meeting. **Please do not discuss any details regarding the matters, including the names or amounts related to the matter, at the public session meeting.** If you have questions about the recommendations that you wish to bring up during public session, please use anonymous identifiers (i.e., use "Client A," etc., or refer to the matter by number). If you have in depth questions that cannot be addressed without referring to a specific client or gift amount, or you wish to act other than as recommended by the Client Protection Board, you may individually contact the Secretary of the CPB (Nicole Gustine) prior to the meeting, and, if necessary, the matter will be brought back for action at a subsequent BOG meeting.



**TO:** WSBA Board of Governors  
**FROM:** Interim Executive Director Terra Nevitt  
**DATE:** September 9, 2020  
**RE:** Executive Director's Report

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### COVID19 Response

The WSBA Coronavirus Internal Task Force has continued working to deliver resources and programs to support WSBA members and the public during these unprecedented times. In addition to the activities outlined below, check our WSBA's COVID19 Resource Page at <https://www.wsba.org/for-legal-professionals/member-support/covid-19>.

- In order to better support member through, the WSBA CLE Summer Sale, which ran from July 7 – July 31, offered an increased discount of 50% off on-demand seminars.
- Continue to promote the *Reopening Safely: A Guide for Washington State Law Offices* which is available [here](#). This guide was created in collaboration with the external Coronavirus Response Task Force.
- Provided guidance to WSBA volunteers and staff liaisons that the WSBA will not hold in-person events either at the WSBA Offices or around the state until all Washington counties are at least in Phase 3. Exceptions to this, such as the administration of the bar exam, are permitted due to court rule.
- Published five COVID19 related articles on NWSidebar, the WSBA Blog since April 27, including:
  - *On-Demand Office Environments for Legal Business (September 8)*
  - *Eviction Predictions: A Roadmap for Landlord-Tenant Law in Washington (July 16)*
  - *A Family Law Perspective on the COVID-19 Crisis (July 10)*
  - *Best WSBA Summer Sale CLEs to Stream During Lockdown (July 7)*
  - *When Court is Back in Session: The Plan for Washington Courts to Resume during COVID-19 (June 23)*
  - *How COVID-19 Will Change Solo and Mid-Size Law Firms, Plus 4 Marketing Tools for a Customer-Centric Business (June 17)*
  - *Employment Watch: How COVID-19 is Impacting Washington's Legal Job Market (June 15)*
- Published approximately six pages of COVID19 related content in the July/August 2020 and September issues of Bar News.

### Promoting the Moderate Means Program as a Resource for Unemployed Washingtonians

In response to the pandemic, the [Moderate Means Program](#) is expanding its reach to the area of unemployment law. Thus far we have recruited 18 attorneys to provide legal services through the program and have begun promoting the availability of help to the public through targeted social media ads. This programmatic change has no budget impact, but will hopefully have a real impact for individuals and families of moderate means around our state.

### Update on "Summer" Bar Exam

This week, our admissions team will administer the second half of this year's "summer" bar exam in Tacoma and Spokane. To recap what's happened this spring and summer:

- on April 17, the Board voted to recommended against offering diploma privilege and for WSBA employees to work to hold to bar exam in the safest manner reasonably possible;
- on May 13, 2020, the Court issued a [letter](#) directing WSBA to administer the bar exam in both July and September in the Seattle/Tacoma/Everett area and the Spokane area in multiple separate test sites.
- on May 15, 2020, the Court issued an [order](#) temporarily reducing the Uniform Bar Exam (UBE) minimum passing score from 270 to 266 for the July and September 2020 exams only. The order also temporarily expanded the terms of the Rule 9 license, which permits limited graduate practice.
- June 12, 2020, the Court issued an [order](#) granting current applicants registered for the July or September 2020 exams in Washington that have received a JD from an ABA accredited law school the option of receiving diploma privilege to practice in Washington instead of taking the UBE. Diploma privilege is also an option for applicants currently registered to take the LLLT examination in July 2020. Applicants must meet all other requirements for admission and licensing but have the option to be admitted without taking the UBE.

As a result, 571 Bar exam applicants and all seven LLLT applicants opted for diploma privilege. Ultimately, 60 applicants took the July exam at the Greater Tacoma Convention Center and 21 took the exam in Spokane. We have not received any reports of illness among exam attendees in July. The results of the July bar exam are attached. This week 36 will take the exam in Tacoma and 1 person will take the exam in Spokane. Our safety plans for the exams were approved by the Washington State Department of Health, which sought and received permission to share our plans with other entities seeking to hold licensing exams during this global pandemic.

This year, due to COVID-19, grading of the MEE and MPT portions of the exam was done remotely for the first time. The Board of Bar Examiners conducted two successful remote grading conferences for the grading of February and July exams. Beginning with the September bar exam, graders will be using a new digital grading software which allows them to view and score essay answers digitally instead of hard copy paper answers. Also beginning with the September exam, applicants will be using ILG Exam360 instead of Examsoft to take the exam.

I am impressed but not surprised that our Regulatory Services Department team has been able to thoughtfully and professionally navigate all of these changes while planning and administering two summer exams. A huge thank you to everyone in our Regulatory Services Department and especially to Gus Quiniones and the admissions team. I also want to recognize our IT department, in particular Collin Steranka and Eric Holman, for ensuring all the necessary changes in our systems; Investigator Chuck Golden for reviewing our security requirements with GTCC staff; and, last but certainly not least, Karen Duncan, Joanne Russell, and Sue Strachan for proctoring the exam.

#### Budget Update

Our Finance and Accounting team, working in close coordination with Treasurer Dan Clark, will present a final draft of the Fiscal Year 2021 Budget for the Board's approval at the September meeting. As it stands today FY 2020 reflects a strong net income driven in large part by reduced expenses from actions taken this year. Next year's budget overcomes challenges related to COVID 19, incorporates a onetime reduced CPF contribution, and includes funding for increased equity training for employees and the Board of Governors.

#### New Practice Management Guides Available to Members

This month we published the [Law Firm Guide to Document Retention](#) and the [Law Firm Guide to Disaster Planning & Recovery](#). These free tools for law firms of any size are the result of more than a year of work by our fabulous outgoing Practice Management Advisor Destinee Evers, and other WSBA staff including General Counsel Julie Shankland, Professional Responsibility Counsel Jeanne Marie Clavere, Design Services Manager Kelly Cronin, Sandra Schilling, Felice Congalton, Jim Hanneman, and Noel Brady. We would also like to recognize the following volunteers

from the Solo Small Practice Section who contributed to the project: Ann Guinn, Bruce Gardiner, Michael Cherry and Kari Petrasek. Destinee has been onboarding our new Practice Management Advisor Margeaux Green and together they will launch a third guide on the topic of Cybersecurity later this month.

#### Update on Executive Leadership Team Positions

As you know from my email last week, we have hired Renata Garcia into the position of Chief Regulatory Counsel. Renata has worked in the Regulatory Services Department that she will now lead for the past five years. She joined WSBA to lead our MCLE work and later took over the innovative programs portfolio, which includes the law clerk program, limited practice officers, and limited license legal technicians. Licensed as an attorney in Washington, Renata is a native of Brazil. Stemming from her personal and professional experiences, Renata brings a passion for access to justice to her work as well as deep appreciation for the volunteers we work with.

I am also pleased to share that we continue to work with Jeff Turner and Praxis HR to evaluate our human resources function and provide recommendations prior to filling the position of Human Resources Director, which is currently vacant.

#### Judicial Information Systems Committee Report Attached

Attached is a report from Robert Taylor, WSBA's representative on the Judicial Systems Information Committee. This committee governs our state's judicial information system under delegated authority from the Washington Supreme Court.

#### Legal Foundation of Washington's Annual Report

Attached is the Legal Foundation of Washington's Annual Report. Normally, the LFW Board would join the Board of Governors in person at our September meeting. In sharing their annual report LFW noted that it values its longstanding partnership with WSBA and the bar's consistent support of civil legal aid over the decades that the two organizations have worked together.

#### Food Frenzy

Continuing a long tradition as WSBA, employees will participate in Food Lifeline's annual Food Frenzy event and the end of September and beginning of October. The money raised provides meals for hungry families and individuals. This year, the need is greater than ever with Food Lifeline expecting a 60% increase in the number of individuals that are food insecure as a result of COVID-19.

- 1 - July Bar Exam Results (attached)
- 2 - JISC Meeting Update (attached)
- 3 - Legal Foundation of Washington's Annual Report (attached)
- 4 - Litigation Update (attached)
- 5 - Media Contacts Report (attached)
- 6 - WSBA Demographics Report (Late Materials)
- 7 - Correspondence and Other Informational Items (attached)



## 61 Candidates Pass July 2020 Washington State Bar Exam

SEATTLE, WA [September 12, 2020] — The Washington State Bar Association (WSBA) announced that 61 candidates passed the Uniform Bar Exam administered in July 2020. Administered over a two-day period, the Exam is a substantive law exam for those interested in becoming licensed in Washington to practice law as a lawyer, and includes multiple choice, essay and performance questions. The other required component of the Washington Bar Exam is an exam on professional responsibility (the Multistate Professional Responsibility Exam or MPRE). Completion of a separate online educational component with accompanying online exam addressing specific areas of Washington law (the Washington Law Component) is also required to qualify for admission. The WSBA will recommend successful candidates who also have passed a character and fitness review and completed other pre-licensing requirements to the Washington Supreme Court for entry of an order admitting them to the practice of law in Washington as a lawyer.

See the full pass list on our website. Passage percentages are given below.

### July 2020 Washington State Bar Exam Statistics:

#### Overall Pass Rates

Applicant Type	Pass	Fail	Total	Pass Rate
ABA-JD	51	3	54	94.4%
APR 6 Law Clerk	4	1	5	80.0%
U.S. Attorneys	1	1	2	50.0%
Foreign/LLM Graduate	3	4	7	42.9%
Foreign Common Law Attorney	1	0	1	100.0%
Non-ABA JD/ABA LLM	1	1	2	50.0%
<b>Total</b>	<b>61</b>	<b>10</b>	<b>71</b>	<b>85.9%</b>

#### First Time

Applicant Type	Pass	Fail	Total	Pass Rate
ABA-JD	48	1	49	98.0%
APR 6 Law Clerk	2	1	3	66.7%
U.S. Attorneys	1	1	2	50.0%
Foreign/LLM Graduate	2	1	3	66.7%
Foreign Common Law Attorney	0	0	0	00.0%
Non-ABA JD/ABA LLM	0	0	0	00.0%
<b>Total</b>	<b>53</b>	<b>4</b>	<b>57</b>	<b>93.0%</b>



**Repeaters**

<b>Applicant Type</b>	<b>Pass</b>	<b>Fail</b>	<b>Total</b>	<b>Pass Rate</b>
ABA-JD	3	2	5	60.0%
APR 6 Law Clerk	2	0	2	100%
U.S. Attorneys	0	0	0	00.0%
Foreign/LLM Graduate	1	3	4	25.0%
Foreign Common Law Attorney	1	0	1	100.0%
Non-ABA JD/ABA LLM	1	1	2	50.0%
<b>Total</b>	<b>8</b>	<b>6</b>	<b>14</b>	<b>57.1%</b>

The average UBE score total was 293.34; the required passing score was **266**.

**About the Washington State Bar Association**

The WSBA is authorized by the Washington Supreme Court to license over 40,000 lawyers and other legal professionals in Washington. In furtherance of its obligation to protect and serve the public, the WSBA both regulates lawyers and other licensed legal professionals under the authority of the Court and serves its members as a professional association — all without public funding. The WSBA’s mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

###

**Contact:** Jennifer Olegario, WSBA Communications Manager  
 206-727-8212; [jennifer@wsba.org](mailto:jennifer@wsba.org)



**From:** [Robert Taylor](#)  
**To:** [Rajeev Majumdar](#); [Terra Nevitt](#); [Brian Tollefson](#); [Carla J. Higginson](#)  
**Cc:** [Jean McElroy](#); [Doug Ende](#); [Diana Singleton](#)  
**Subject:** JISC Meeting Update  
**Date:** Friday, September 4, 2020 10:04:34 AM

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Folks, the JISC had a short meeting on August 28, 2020. Here are the highlights,

The budget information was updated. Statewide revenues are down although June and July revenues were higher than expected. Traffic fines, the main source of funds for the court's information systems, continue to decline. With driving curtailed during the pandemic the funds raised has continued to decline at an even higher rate. The good news is that funding for the 2 main projects, the CLJ Case Management System and the Appellate Court database work, is still available in the 2019-21 biennium. Funds for the next biennium will be down which will impact several projects including hardware replacements.

After discussing how to spend the AOC contribution to the counties' hardware replacement needs a subcommittee presented a sliding scale approach that distributed the cuts to the larger entities while leaving those getting less than \$5,000 to receive their full allotment. This proposal passed.

The CLJ Case Management System manager reported that a contract with Tyler Technologies had been signed and they are ramping up to get underway. Their first feature to come on line will be efilng. I noticed the announcement on the WSBA Facebook page the other day.

Finally, the project to build a reporting tool into the Statewide Data Warehouse is getting started. The project was put on hold to devote resources to building the bridge between King County courts and the AOC. With this project the AOC will be able to generate the reports that counties and the state rely on for management and funding.

On a separate note, Vicki Cullinane from AOC will be seeking endorsement from the WSBA on an updated JISCR rule 13, she will be supplying materials for the upcoming BOG meeting.

Please let me know if you have questions.

Thanks,  
Bob



**LEGAL FOUNDATION**

**OF WASHINGTON**

**2019 ANNUAL REPORT TO THE  
WASHINGTON SUPREME COURT**

*April 29, 2019*

**LFW Vision** Civil legal aid is a basic human right, available and effective for all low-income people.

**LFW Mission** Equal civil justice for low-income people.

**Who We Are** The Legal Foundation of Washington is a non-profit organization created in 1984 at the direction of the Washington Supreme Court to distribute IOLTA funds to legal aid organizations across the state. LFW has over thirty years of experience raising, managing, and distributing funds to achieve equal civil justice for low-income people. We seek to ensure access to civil legal aid for all people in Washington, and to improve the civil justice system to be more equitable and just. Our work contributes to breaking cycles of poverty and ensuring equal opportunity.

We serve thousands of low-income people each year by investing in civil legal aid organizations across Washington. We bring expertise about our state civil legal aid system to ensure thoughtful grantmaking. We receive support from public and private partners who are committed to equal justice and system reform. We responsibly steward and strategically distribute these funds throughout the state. Since 1984, LFW has distributed more than \$200 million to Washington's legal aid community.

**Our Commitment to Anti-Racism** LFW believes that creating fair access to civil justice requires undoing systemic racial oppression. We are committed to becoming an anti-racist organization and strive to reflect racial justice and inclusion in all our grantmaking.

In our work, we center racial equity because of the historical impact of racism in our country and the disparate outcomes it has created and continues to create for communities of color. We also recognize that other forms of oppression – such as sexism, classism, and ableism – threaten our nation's promise of justice for all, and we are committed to understanding and addressing how all oppression affects the ability of low-income Washingtonians to access justice.

LFW is a proud supporter of the Alliance for Equal Justice, a network of Washington State organizations that collaborate to coordinate strategy and the delivery of civil legal aid to people and communities experiencing poverty and injustice. We are committed to dismantling the barriers that deny justice and perpetuate racial inequities.

The Board of Trustees of the Legal Foundation of Washington report annually to the members of the Washington Supreme Court pursuant to Rule 1.15(a) of the Rules of Professional Conduct, which provides that:

*The Foundation shall prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes and any problems arising in the administration of the program established by section (c) of this rule.*

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Grant Awards (2019 and 2020)..... Attachment F

## FOUNDATION OPERATIONS

The Legal Foundation of Washington has been in operation since 1984. LFW's Articles of Incorporation, Article VII, provides for a nine-member Board of Trustees to maintain oversight of LFW's activities. Trustees serve staggered three-year terms and are eligible to serve a second three-year term. The Supreme Court, the Governor, and the Board of Governors of the Washington State Bar Association each appoint three of the nine Trustees.

### ***Governance***

Our 2019 Board of Trustees were:

**President:** Mark A. Griffin, Seattle attorney

**Vice-President:** Mark A. Johnson, Seattle attorney. *He currently serves as President.*

**Secretary:** Susan H. Hacker, Bellevue attorney.

**Treasurer:** John A. Goldmark, Seattle attorney. *He currently serves as Treasurer*

Peter J. (P.J.) Grabicki, Spokane attorney

Kara R. Masters, Bainbridge Island attorney.

Gary Melonson, Financial Advisor, Seattle. *He currently serves as Secretary*

Michael Pontarolo, Spokane attorney. *He currently serves as Vice President*

Fred Rivera, Seattle attorney. Mr. Rivera served the remainder of Russell M. Aoki's second term following his resignation from the board in 2018.



The Board of Trustees met four times during 2019

February 15, 2019 (Seattle) – Board meeting and Annual Goldmark Award Luncheon

May 8, 2019 (Olympia) – Board meeting and Annual Report to the Washington Supreme Court

September 26, 2019 (Seattle) – Board meeting

November 23, 2019 (Seattle) – Board meeting to determine annual grants

### ***Board Committees***

LFW's stewardship of its mission was carried out during 2019 through service on six regular Board committees. Their responsibilities were as follows:

- (1) **Executive Committee**, chaired by President Mark Griffin and composed of the four Board officers. Provides guidance when the full Board is not available.
- (2) **Audit Committee**, chaired by John Goldmark and included two non-Trustees, Julie Mass and John Hoerster. Oversees the annual audit in accordance with nonprofit best practices.
- (3) **Finance Committee**, chaired by Treasurer, John Goldmark. Responsible for the operating budget, LFW's depository banking relationship, and its investments.
- (4) **Grants Committee**, chaired by Vice-President, Mark Johnson. Reviews annual grant applications and makes recommendations to LFW's Board of Trustees concerning all grant issues.
- (5) **Goldmark Award Committee**, chaired by Susan Hacker. Selects the recipient of the Charles A. Goldmark Distinguished Service Award and plans the annual Goldmark Award Luncheon.

- (6) **Goldmark Internship Committee**, chaired by Kara Masters. Selects the recipient of the Goldmark Equal Access to Justice Internship and the program where the intern is placed.

## FISCAL ADMINISTRATION

During this ten-year season of extremely low interest rates, we have diligently cultivated other revenue enhancement activities to allow us to provide stable funding to the legal aid community. As a result of higher interest rates and a strong economy, LFW benefited from increased IOLTA revenues in 2019.

### ***Summary of 2019 LFW Income, Operating Expenses, and Grant Obligations***

#### 2019 Income

Net Interest on IOLTA Accounts	\$11,595,291
Investment Loss ( <i>realized and unrealized</i> )	1,495,877
Subcontract Revenue	2,675,000
Contributions & Grants	2,123,383
Cy Pres Awards	1,333,803
<b>Total Revenues</b>	<b>\$19,223,354</b>

#### 2019 Operating Expenses and Grant Obligations

Annual Grants <sup>1</sup>	\$10,048,32
Other Program Support Expenses <sup>2</sup>	816,692
Administration & Fundraising	944,074
<b>Total Expenses</b>	<b>\$11,809,090</b>

Staffing LFW's financial operations are Nancy Smith, CPA, MBA, and Lauren Sutherland, Staff Accountant. John Goldmark served as Treasurer in 2019 and chaired the Finance Committee

<sup>1</sup> Grants obligations represent awards approved November 23, 2019 for distribution in 2020.

<sup>2</sup> Other Program Support Expenses include Case Management Software Fees, Pro Bono Support and Grantee Malpractice Insurance and Interpretation Services.

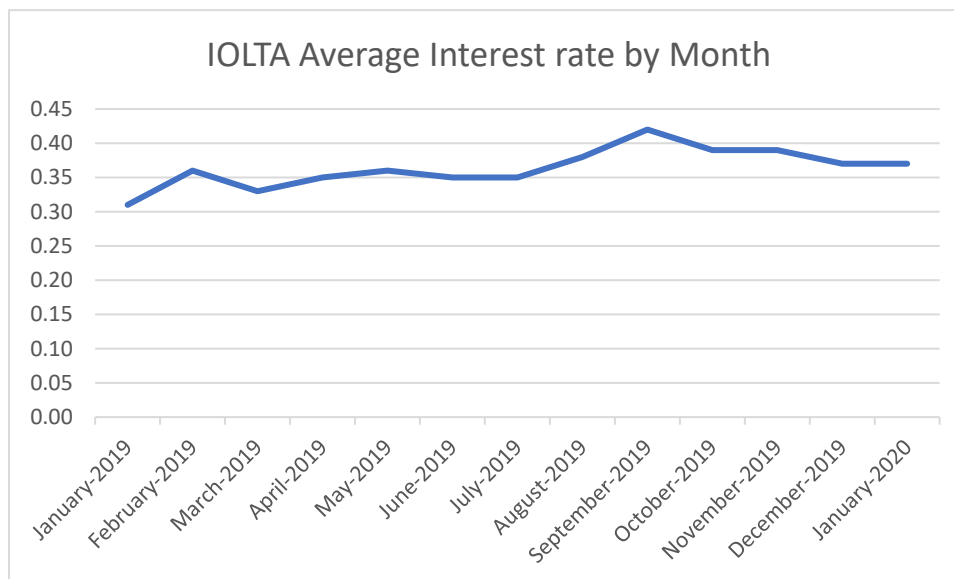
which along with LFW’s Board of Trustees – provided oversight of the budget, investments, and financial reports.

### **Audit**

BDO USA, LLP, provided an independent audit of LFW’s financial statements and issued an unmodified (“clean”) opinion for 2019. See Attachment A.

### **IOLTA**

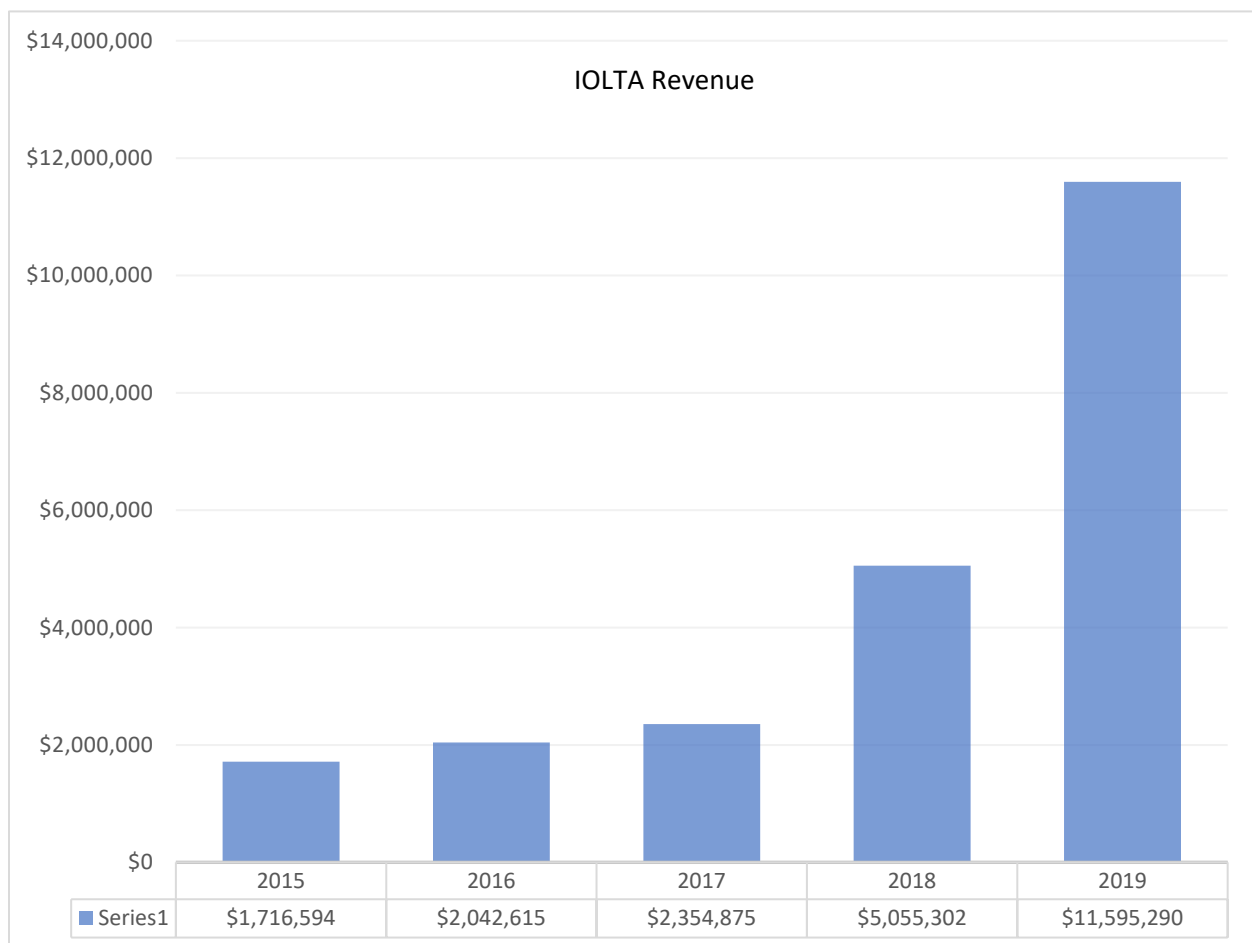
The IOLTA (Interest on Lawyers Trust Accounts) program consists of Lawyers, Limited Practice Officers (LPO), and Limited License Legal Technicians (LLLT) holding IOLTA accounts. IOLTA revenue (net of fees) for 2019 was \$11.6M, representing 60% of LFW’s revenue. Through diligent compliance monitoring and education, we started in mid-2018 to see an increase in the average IOLTA interest rate. As of the end of 2019, 20 of the top 25 largest financial institutions have increased their rates from roughly 0.20% to a range between 0.50% and 1.74%. However, as a result of a decline in the Fed Funds rate in Oct 2019, we began to see a decline in the average rate.



There are 87 active financial institutions participating in the IOLTA program in Washington State. A complete list of authorized financial institutions can be found on the LFW's website. IOLTA revenue from the top 13 financial institutions accounts for 97% of the total revenue.

While financial institutions are allowed to deduct reasonable account fees from their IOLTA remittance, only thirty-four percent (34%) do so. These fees amounted to nearly \$106,628 in 2019.

The increases in the interest rate made by the Federal Reserve has resulted in increased rates being paid by financial institutions. The interest rates on IOLTA accounts ranges from .01% to 1.74%, with 45% of the financial institutions' interest rate at or below .10%.



### ***Other Revenue Sources***

In addition to IOLTA, LFW is fortunate to have some other revenue sources from which to draw. The Campaign for Equal Justice raises private charitable support for civil legal aid. A more detailed account of their success follows later in this report; however, we are very grateful for the funds raised from the legal community in our state. In 2019, the Endowment for Equal Justice made its fifth grant award to LFW. The \$823,600 grant from the Endowment was part of the funds awarded to our grantees in 2019.

Through our funding partnership with Northwest Justice Project, over \$3 million in state funding was passed through to our grantees that did state-eligible work during 2018. This was a significant increase from the previous year due to the inclusion of pro bono expansion funds.

Thanks to the Supreme Court's adoption of our proposed amendments to Court Rule 23 in 2007 and 2017, *cy pres* awards have become an increasingly important source of revenue for civil legal aid. In 2019, we received *cy pres* awards of \$1,333,803.

### ***Stabilizing Grants for the Future***

Thanks to strong IOLTA revenues, LFW experienced a significant surplus in 2019. As a result, the LFW Trustees undertook a project to structure cash reserves in such a way to provide for immediate short-term needs, a one to three-year near term reserve, which would complement the already-existing Goldmark Fund (the reserve of last resort). The Trustees felt that it would be prudent to set aside these resources to help buffer future declines in IOLTA. This already has proven to be a wise move: at the time of this writing, the Federal Reserve interest rate has gone back to the 0 – 0.25% in response to the economic impacts of the Coronavirus crisis. A sharp decline in IOLTA receipts for the remainder of 2020 is expected as a result.

## GRANT INFORMATION

Along with our Alliance for Equal Justice Partners, LFW continues to center the State Plan's unified goals of race equity, legal education and awareness, access for underserved communities, holistic client-centered services, and systemic advocacy in our strategy for legal aid funding.



In 2019, LFW invested **over \$9.7 million in grants** to Washington's legal aid system, including recurring grants for core legal aid work and multi-year projects to target specific issues. As a result, **more than 36,000 families received free one-on-one legal services** for help with urgent legal concerns. Many of these clients would have faced homelessness, hunger, inadequate medical care, or loss of other basic needs. Hundreds of thousands more were impacted by systemic advocacy designed to address root causes of poverty. We were proud to make these investments to enhance equal justice in our state.

LFW distributed \$9.1 million in Partnership Grants (formerly called Annual Grants) to 23 organizations (Attachment B). LFW's Board of Trustees also added a new Partnership Grantee for the first time in many years, Legal Counsel for Youth and Children. Legal Counsel for Youth and Children does groundbreaking work providing essential legal help to homeless youth at

shelters and schools. The majority of their clients are youth of color and have been historically underserved by civil legal aid services. We are proud to support this important organization and to help them build and grow their capacity statewide.

LFW also distributed grants to address specific issues, including \$200,000 for community redevelopment legal work and \$350,000 for foreclosure prevention. We allocated \$200,000 in Special Grants, targeted at critical, underserved populations such as formerly incarcerated individuals and families affected by immigrant issues. Finally, we launched a new Race Equity Grant program, described in detail later in this report.

LFW also provided support for legal aid providers around the state to address equity issues internally in their organizations and collectively in their advocacy. As part of that focus, LFW supported the Access to Justice Conference, a three-day summit in Spokane for the legal aid community focused on building skills and engaging community partners in civil justice work.

### ***Equity in Grantmaking***

LFW believes that creating fair access to civil justice requires undoing systemic racial oppression. We are committed to becoming an anti-racist organization and strive to reflect racial justice and inclusion in all our grantmaking. We apply this commitment to grantmaking in many ways, including: increasing investments in communities impacted most by systemic racism; analyzing demographics of poverty populations to shed light on funding disparities; creating channels for increased community input; supporting compensation equity and leadership opportunities; and launching a new Race Equity Grant Program guided by community member input. We know we still have a lot of work to do and we are grateful for the opportunity to learn and grow alongside our partners in the Alliance for Equal Justice.

One example of our racial equity work is the Board of Trustees' expansion of the Yakima Volunteer Attorney Program Grant. LFW examined the racial demographics of the poverty populations in Washington, and the Yakima Valley stood out as an area under-resourced by civil

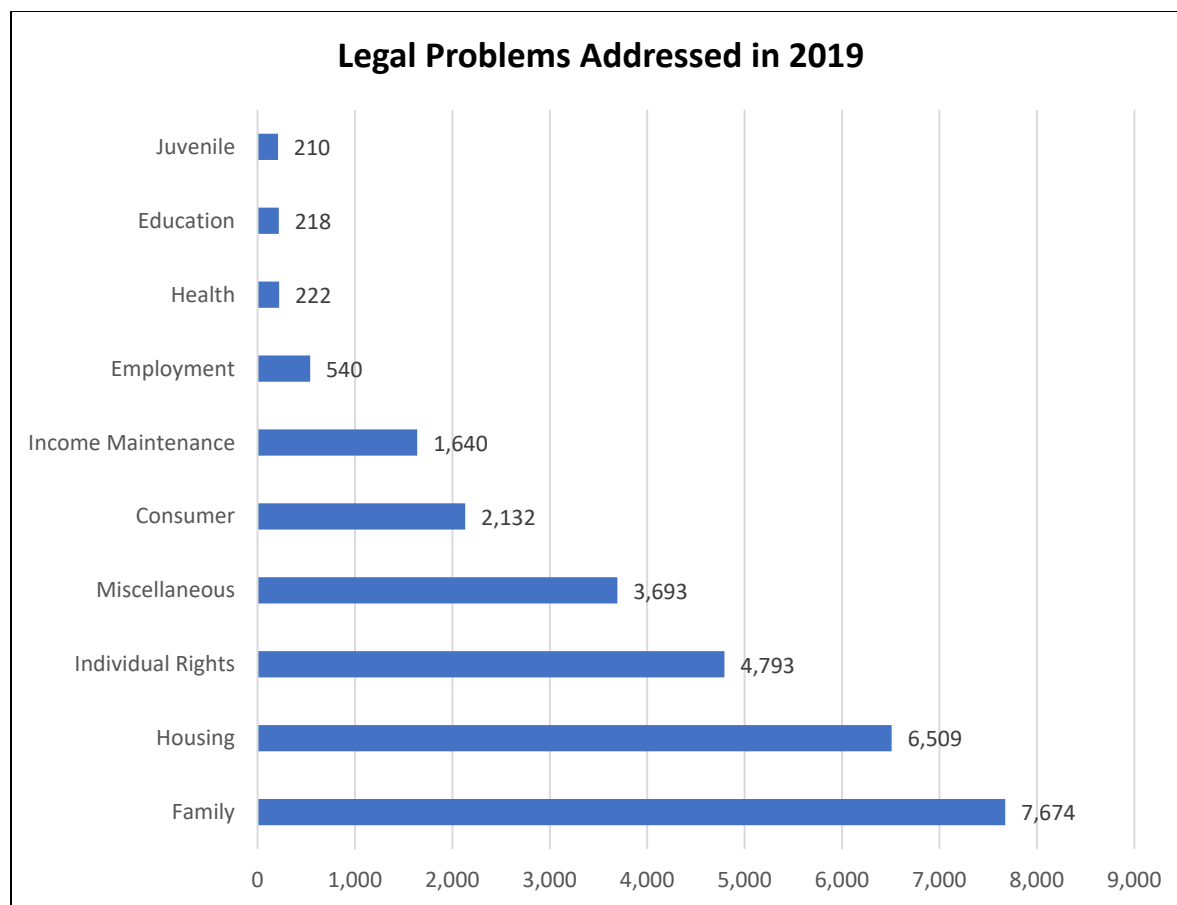


legal aid. Yakima County has the highest percentage of low-income people of color in LFW’s grantee network and the highest poverty rate in the state with 28% of its population below 125% of the federal poverty level. Of this low-income population, 68% are Latinx. The area is also home to a large number of farmworkers, many of whom are monolingual Spanish speakers. Using a racial equity lens, we compared Yakima Valley with other regions similar in size, geography, and immigrant populations. From our analysis, it was clear that the region was underfunded, and the grant amount was out of step with the State Plan goal of, “working toward a vision that race or color does not determine the availability and quality of services, fairness of outcomes, and opportunities for communities and individuals.” To begin to remedy this disparity, LFW’s Board of Trustees increased Yakima Volunteer Attorney Services’ grant from \$48,256 in 2018 to \$70,000 in 2019 and to \$136,100 in 2020. In addition, we supported TeamChild’s expansion in the Yakima Valley, and we are working with the Alliance for Equal Justice to advocate for continued growth in funding.



### ***Measuring the Impact of Grantees’ Work***

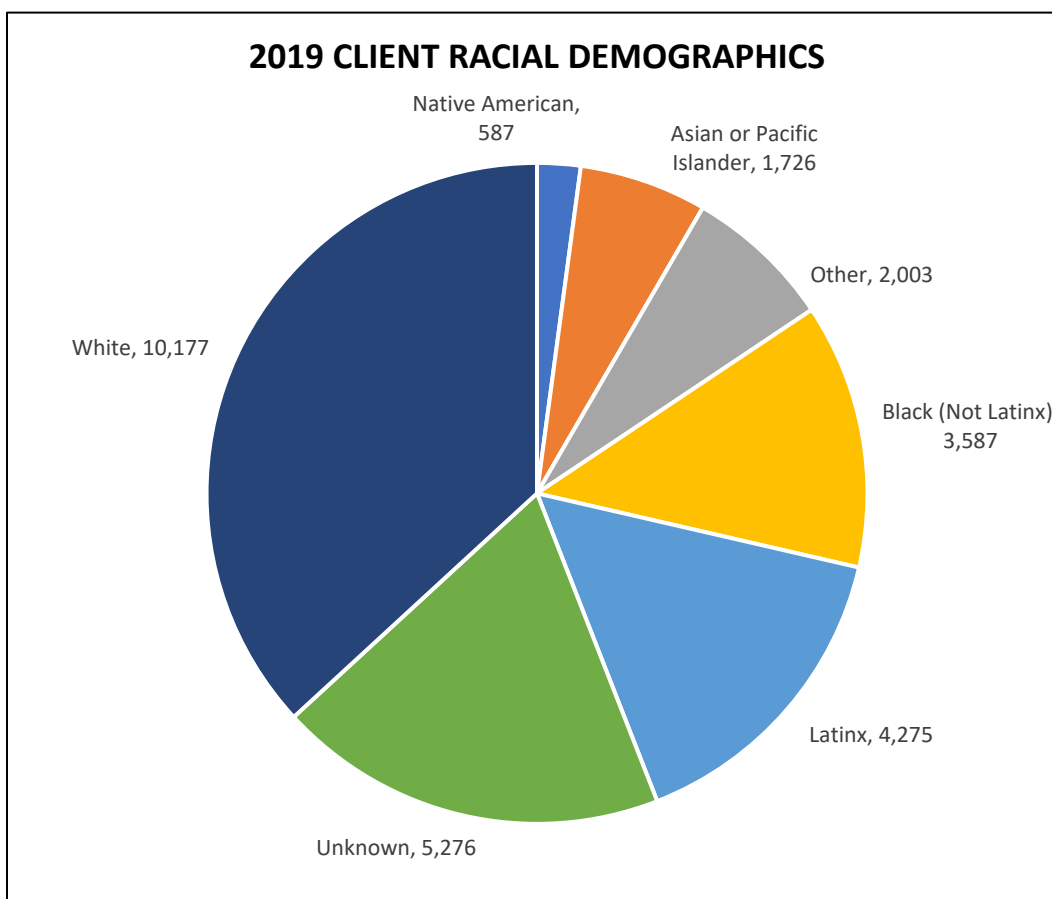
In 2019, LFW grantees provided direct legal help to over 36,000 individuals and families. The chart below shows the types of legal problems that were addressed. Family law and housing continue to be critical legal issues for low-income people in Washington.



In addition to these individual cases, LFW grantees used systemic advocacy to secure legal rights for **hundreds of thousands of vulnerable people** in our state. We have included a chart outlining Columbia Legal Services' class action impact efforts at Attachment C. We have also included examples of grantees' legal advocacy that made it into mainstream news media at Attachment D.

### ***Demographics and Accessibility***

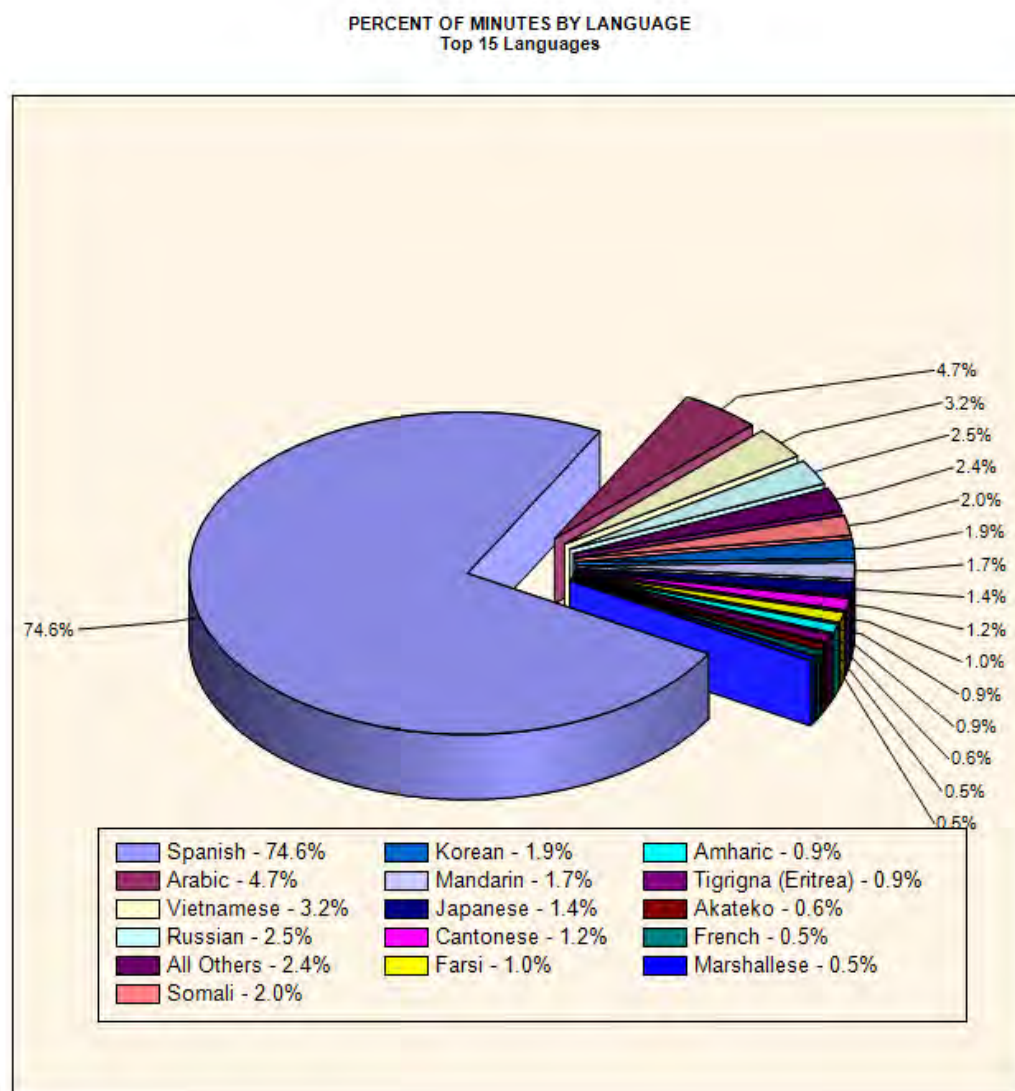
The following chart shows the race/ethnicity breakdown of clients served by LFW Partnership Grantees in 2019.



Legal aid programs continue to prioritize accessible services, particularly to communities experiencing numerous systemic barriers. As part of their commitment to the goals of the State Plan, programs have focused on developing new partnerships and embedding their services within trusted community organizations to make legal aid as accessible as possible.

Language interpretation services are one essential component to providing accessible legal aid. In 2019, legal aid clients were served in more than forty languages using bilingual attorneys, in-person interpreters, and telephonic interpretation. LFW funds a phone interpretation service for grantees, which was used for over 36,000 minutes of interpretation in 2019. The most commonly requested languages for phone interpretation were: Spanish (1,434 calls), Arabic (93 calls), Vietnamese (45 calls), Russian (50 calls), and Somali (46 calls).

The following chart shows the fifteen languages most frequently utilized for phone interpretation in 2019.



### ***Volunteer Attorney Resources***

LFW-funded programs recruit thousands of attorneys to provide pro bono legal assistance to low-income clients in their communities. In 2019, more than 3,300 individual attorneys volunteered their time with LFW grantees. The following chart shows a breakdown of volunteer hours by legal aid program.

Hours of Free Legal Aid Donated by Attorneys in 2019	
Benton-Franklin Legal Aid	1,231
Blue Mountain Action Council	258
Chelan-Douglas County Volunteer Attorney Services	465
Clallam-Jefferson County Pro Bono Lawyers	744
Clark County Volunteer Lawyers Program	2,599
Columbia Legal Services	701
Cowlitz-Wahkiakum Legal Aid	459
Eastside Legal Assistance	1,115
King County Bar Foundation Pro Bono Services	16,299
Kitsap Legal Services	1,300
Legal Assistance by Whatcom (LAW) Advocates	565
Northwest Immigrant Rights Project	10,059
Skagit Co. Community Action Agency Vol. Lawyers Program	490
Snohomish County Legal Services	1,383
Spokane County Bar Association Vol. Lawyers Program	1,621
TacomaProBono	1,257
TeamChild Advocacy for Youth	567
Thurston County Volunteer Legal Services	4,009
Unemployment Law Project	334
Yakima County Volunteer Attorney Services	586
<b>TOTAL</b>	<b>46,102</b>

LFW also provides annual funding for the Pro Bono Council, which supports volunteer lawyer programs across the state. In the few years since its inception, this program has strengthened the network of pro bono programs—encouraging collaboration and participating in statewide strategy to enhance delivery of legal services to those most in need.

With support from the State Legislature and Office of Civil Legal Aid, LFW worked to expand pro bono services in Washington by granting an additional \$550,000 a year to twelve Pro Bono Expansion Projects focused on building infrastructure and growing volunteer attorney participation.

Two years ago, LFW and the Office of Civil Legal Aid commissioned a study that showed compensation at many pro bono programs was well below market rates. It revealed that some employees even qualified for free legal aid due to their low salaries. In 2019, the LFW Board of Trustees and the Office of Civil Legal Aid partnered to remedy this situation, dedicating \$300,000 in additional funding specifically to raise salaries and increase staff retention. In addition, \$200,000 was dedicated to increasing salaries at specialty legal aid providers, such as TeamChild and Benefits Law Center, who were experiencing similar disparities. Those salary parity funds will be an on-going part of the programs' LFW Partnership Grants moving forward.

### ***Stories Behind the Statistics***

Client numbers represent the real-life stories of thousands of individuals and families whose lives have been dramatically impacted by LFW grants. The following true stories are examples of legal aid making a difference for low-income people in Washington:

“Rosie and Jim”: Rosie and Jim have been married for nearly 50 years. Until early 2019, Jim was not only the love of Rosie’s life, but also her primary caretaker. Rosie, 67 years old, is a double amputee with extremely limited mobility. Rosie frequently joked that she “was the brains and he was the brawn.” Unfortunately, Jim became incapacitated in early 2019, requiring nursing home care. The participation fee assessed by the state for her husband’s care was an astonishing \$5,176 per month—leaving Rosie with almost no income of her own and certainly not enough to hire the caregiving services she needed. As such, Rosie was often at home alone, sometimes trapped in a soiled wheelchair and unable to access basic necessities like food and clean clothes, until a friend or family member was able to come rescue her.

Solid Ground's Benefits Legal Assistance took her case to hearing. After presenting the testimony of three witnesses who spoke to Rosie's extraordinary circumstances, they were able to increase her spousal allowance and decrease the nursing home participation fee to just \$1,011 per month. This has allowed Rosie to pay for over 100 personal care hours per month and to live safely in her home with dignity.

"Matt" (in his own words): I have had a strained relationship with my mother since I was a child. Our living situations were not stable, and my mother was drinking a lot and was emotionally abusive. Issues began to really reach a boiling point once I turned 14. My mother called the police on me often, leaving me to spend nights at Remann Hall, and resulting in my latest Diversion referral. I was often kicked out of my mother's home due to the conflict and eventually became homeless. My GED teacher, aware of the conflict I was facing at home, referred me to TeamChild. I called them and they agreed to help me. I had already researched Emancipation and asked my TeamChild attorney if that was something they could assist with, and I was told that they could. Emancipation was important to me because then I would be able to get housing for myself. I was placed in foster care when I was younger and didn't want to go back and I didn't have any other family members that could take me in. I had been taking care of myself for quite some time. Being 17 was the only thing keeping me from having stable housing. TeamChild gave me a list of things that I needed to do to prepare for filing my Emancipation petition and supported me in getting all of my necessary documentation. I'm so glad that I did not have to go through the Emancipation process alone and that I had TeamChild to support me. They came with me to my meetings with the Guardian Ad Litem and helped me prepare for the actual hearing. The only other times I had been to Court was for criminal matters, so I was nervous. But it was important to me to tell a judge what I wanted for myself and to show that I was responsible enough to care for myself. The judge agreed that I was capable of providing for myself and granted the emancipation. My TeamChild attorney and Case Support Specialist were there to support me and took me to breakfast to celebrate afterward. I am now working on completing my high school education so that I can get a degree

in Fire Service through Bates Technical College. I also applied and was selected to participate in the West Pierce Fire and Rescue Youth Academy in the summer.

\*Clients names have been changed to preserve confidentiality

### ***LFW Special Grants in 2019***

As the grant chart at *Attachment B* shows, LFW made targeted Special Grants to address underserved populations in Washington. These grants included \$25,000 to Colectiva Legal del Pueblo and \$75,000 to the Lavender Rights Project. In 2019, Center for Justice's Community Redevelopment Grant using Bank of America settlement funds completed its final year. Their project focused on advocating for the City of Spokane to develop protections for renters and habitability standards. Wayfind's Community Redevelopment Grant entered its final year in 2020. Their grant funds legal services for more than 200 nonprofit and microenterprise businesses in South King County, the majority of which are owned by people of color, immigrants, and/or refugees.

### ***Race Equity Grants***

LFW created the Race Equity Grant fund to build power within communities that have been historically overlooked within philanthropy and to combat the disparate outcomes that racism creates for people of color, particularly in the justice system.

The goals of the program are to:

- invest in communities most impacted by structural racism and oppression;
- support community- and client-centered approaches to legal aid;
- increase civil legal aid opportunities for communities of color; and
- build and support anti-racist organizations and leadership.

The Race Equity Grant program is built on a participatory grantmaking model. An advisory panel of community experts who have worked on race equity issues and/or lived in communities impacted by poverty and racism review grant applications and make recommendations for funding. The panel provides insight into the challenges facing Washington's communities of color and ensures that LFW grants connect to their concerns.



During the first Race Equity Grant cycle, LFW received 22 eligible proposals totaling \$162,400 in requested funds. The requests far exceeded the fund total of \$75,000. After carefully considering the requests and considering the impact on communities of color, the advisory panel recommended ten grant awards. Funded organizations included: Entre Hermanos, West African Community Council, Seattle Clemency Project, and the Tenants Union of Washington State. A full list of 2019 Race Equity Grants and a list of current Race Equity Grant Advisory Panelists are provided at Attachment E.



Racial equity is foundational to legal aid and we believe this grant program will continue to elevate that work. In 2020, the LFW Board increased this fund, allocating \$120,000 for Race Equity Grants. A total of twelve \$10,000 grants will be awarded in 2020 over two grant cycles.

### ***Alliance Support Resources***

In addition to direct grants to organizations, LFW supports the network of grantees by paying for shared resources to streamline operations and maximize their impact. In 2019, this included \$45,000 to JustLead to subsidize their year-long leadership academy, race equity trainings tailored to individual programs, and statewide equity work. LFW also provided \$22,500 for professional liability insurance to cover volunteer attorneys around the state, \$98,600 for the shared case management system Legal Server, and \$45,800 for interpretation services for our grantees. In addition, we made over \$45,000 in Grantee Support funds available for technology, training, and unexpected costs. For example, in 2019, these support funds helped TeamChild move to a new Tacoma office and sponsored the Executive Director of Snohomish Co. Legal Services' participation in the Leadership Mastermind program with the National Association of Pro Bono Professionals.



**2020 Grant Awards Determined**

In November 2019, the LFW Board of Trustees met and awarded a total of \$10.1 million in grants to 30 programs throughout the state (full list at Attachment F). As that chart shows, LFW supplemented its general funds with \$575,000 in State Pro Bono Expansion funds, \$669,000 in State Civil Justice Reinvestment funds, and \$500,000 in salary parity funds. The LFW Board of Trustees approved Special Grant disbursements for targeted, equity-focused projects. Several of those grants are highlighted below:

- \$25,000 to Colectiva Legal del Pueblo for outreach and legal help to people with immigration legal issues;
- \$75,000 to Civil Survival Project for Legal Final Obligation Reconsideration Days and training of pro bono attorneys;
- \$25,000 to support the Laurel Rubin Farmworker Justice Project's fellowship program;
- \$50,000 to Lavender Rights Project to provide tailored legal help to low-income LGBTQ clients; and
- \$300,000 to Northwest Justice Project for operational costs not directly covered by public funds, pursuant to our long-standing funding partnership.

**Grantee Oversight and Accountability**

To ensure that grant funds are being used efficiently and effectively, LFW monitors grantees' operations in several ways. We review narrative reports covering all aspects of grantees' programs, including governance, client outreach, and community collaborations. LFW also reviews client service data via the statewide case management system. We review quarterly financial reports to ensure grantees adhere to accountability standards. Based on the dollar amount of the grant, LFW also requires that each program submit an annual audit, financial review or other form of financial report. Additionally, LFW visits grantees to evaluate client services delivery, administrative effectiveness, and financial accountability using a set of performance criteria developed by the Access to Justice Board.

## EQUAL JUSTICE COALITION

The Equal Justice Coalition (EJC) is a standing committee of the Access to Justice Board, established by the Washington State Supreme Court at the urging of the American Bar Association in 1995 to respond to the potential elimination of federal and state funding for civil legal aid programs. The EJC is a statewide, non-partisan coalition of civil legal aid providers and community-based organizations that works to ensure that low-income people in Washington State can access justice. The EJC educates policymakers, the public, and the media about the importance of civil legal aid and, through grassroots advocacy, seeks increased public funding for civil legal aid at the federal, state, and local levels.

### ***Federal Funding***

The Trump Administration's FY2020 budget proposed the complete elimination of the Legal Services Corporation (LSC) for the third consecutive year. As a reminder, LSC administers federal civil legal aid funding, which currently amounts to almost \$7 million per year for the Northwest Justice Project, Washington's designated recipient. While there is bipartisan support in Congress for civil legal aid, advocates take the Administration's proposed elimination LSC very seriously.

The EJC has long participated in the American Bar Association's annual Advocacy Day in Washington, D.C., as part of the national network of advocates to protect and increase LSC funding. The 2019 EJC delegation included Justice Mary Yu, representing the Court, as well as WSBA President Bill Pickett, LFW Board of Trustees member and Seattle Mariners executive vice president and general counsel Fred Rivera, Northwest Justice Project (NJP) executive director César Torres, and former NJP client Angel Tomeo Sam, now with The Bail Project in Spokane. EJC chair Andy Sachs and staffer Will Livesley-O'Neill attended along with LFW executive director Caitlin Davis. The group met with all 12 offices of Washington's Congressional delegation and received a mostly enthusiastic response in favor of increasing LSC

funding, particularly from Sen. Patty Murray and her staff, who also provided valuable insights into Congressional support for legal services.

LSC survived the budget process and in fact received a \$25 million increase, from \$415 to \$440 million, its highest appropriation ever. The House of Representatives actually approved a much larger increase, to \$550 million, which was reduced in final negotiations

with the Senate. The FY2021 request aims to build on this momentum with an increase to \$652 million. The Administration will again oppose the agency, taking the additional step in its FY21 budget of allocating \$18 million to bring all LSC operations to an end.



*César Torres, Andy Sachs, Fred Rivera, Will Livesley-O'Neill Angel Tomeo Sam, Caitlin Davis, Justice Mary Yu, and Bill Pickett on their trip to Washington D.C.*

### **State Funding**

The EJC is proud to lead a group of civil legal aid stakeholders advocating for increased funding from the Washington State Legislature. The 2019 biennial budget legislative session was one of the most successful efforts to date. Legislators approved increasing funding for the Office of Civil Legal Aid by more than \$7 million. The increase included:

- \$3 million for 20 new civil legal aid attorney positions around the state, as part of the Civil Justice Reinvestment Plan to reach the “minimum access” standard of service delivery. When the CJRP began in 2017, the deficit of attorneys needed to achieve minimum access was 110. With the increases in the 2017, 2018, and now 2019 sessions, along with additional federal investments, the deficit will be less than 40 by 2021. 10 of the attorney positions came online at NJP in January 2020, with 10 more to be added in January 2021.

- \$3.1 million in stabilization funding to protect previous gains in attorney positions and maintain client service at NJP, given new salary obligations resulting from a collective bargaining agreement.
- \$300,000 in compensation equity for pro bono programs to retain staff and increase service capacity. This was leveraged with a matching investment from LFW.
- Additional funding for a study on the impact of legal representation in eviction cases, kinship care support, children's representation, and services for immigrant women.

The EJC strongly advocated for the OCLA increase. The 2019 Equal Justice Lobby Day brought more than 60 civil legal aid providers, advocates, stakeholders, and clients to Olympia.

Attendees held 66 meetings with legislators from 30 districts and heard from Sen. Ann Rivers (R-La Center) and Rep. Mike Pellicciotti (D-Federal Way) as part of a grassroots training session.

Civil legal aid still enjoys bipartisan support in Olympia, and feedback from the Lobby Day meetings with legislators was largely positive. Several cited a challenging budget environment as an obstacle to OCLA's request, which made the fact that the 2019 increase was larger than the previous budget session's even more encouraging.

Post-Lobby Day, EJC efforts focused on the members of the House Appropriations and Senate Ways & Means Committees who write the biennial budget. Stakeholders in these members' districts consistently reached out throughout the budget process. EJC staffer Will Livesley-O'Neill also testified at each committee's budget hearing along with Rachael Langen Lundmark, the director of Thurston County Volunteer Legal Services, speaking on behalf of the pro bono programs.

After the end of the legislative session, the EJC focused on stakeholder processes to assess recent accomplishments and overlooked needs, and pivot to planning for the next biennial budget in 2021. OCLA did not make any significant requests for the 2020 supplemental budget year in 2020, so the EJC's goal-setting has focused on stakeholder priorities for the next biennium.

## **Local Funding**

Since the King County Veterans, Seniors, and Human Services Levy (VSHSL) was passed by voters in 2017, the EJC has played a coordinating role for the county-funded organizations: Benefits Law Center (BLC), Eastside Legal Assistance Program, NJP, Northwest Immigrant Rights Project (NWIRP), Solid Ground, and Unemployment Law Project (ULP). 2019 was an off-year for the regular biennial county budget process, with new funding instead directed through the levy. VSHSL guidelines acknowledge civil legal aid as a funding priority and a strategy to serve specific populations with discrete buckets of funding: low-income veterans, seniors, and vulnerable populations including immigrants.

The first VSHSL funding cycle opened in late summer 2019 and organizations applied directly to the bucket(s) most relevant to their work. Although there was no coordinated budget advocacy due to the off-year, several organizations joined the EJC in October for the County Council's proclamation for Pro Bono Week. This marked the seventh year of the Council honoring pro bono programs, and Council Members Dembowski and Dunn introduced the proclamation and made friendly remarks about programs such as BLC and NWIRP at the Council meeting. WSBA president-elect Kyle Scuichetti spoke on behalf of the legal community, and representatives of the EJC, NJP, NWIRP, WSBA, the Pro Bono Council, and ULP thanked the Council for their ongoing support of civil legal aid.

## Resource Development

### *Campaign for Equal Justice*

In 2019, the Campaign for Equal Justice hit its fundraising goal of \$1.8 million! Thanks to all our supporters, the Campaign has raised an increased amount of funds for legal aid in recent years.

See the chart below with revenue totals for 2019 through 2016:

**Top Line Fundraising 2019 – 2016**

Annual Campaign	2019	2018	2017	2016
<b>Total raised</b>	<b>\$ 1,839,379.00</b>	<b>\$1,733,600.00</b>	<b>\$1,640,900.00</b>	<b>\$1,345,500.00</b>
Top Funding Streams	2019	2018	2017	2016
<b>Law Firm Campaigns</b>	<b>\$ 690,859.00</b>	\$615,550.00	\$606,350.00	\$579,150.00
<b>Goldmark Luncheon</b>	<b>\$ 318,958.00</b>	\$383,300.00	\$251,000.00	\$168,300.00
<b>WSBA Renewal Form</b>	<b>\$ 296,996.00</b>	\$259,000.00	\$229,000.00	\$259,961.00

### *Law Firm Campaign*

The Law Firm Campaign raised more this year than ever before. Nearly 100 law firms contribute to the King and Pierce Campaigns each year. This is our highest grossing fundraising appeal every year, contributing one-third of our annual revenue.

### *Statewide Fundraising Events*

In 2019, the Campaign produced 13 events and 4 phone-a-thons across the state. Beer & Justice or Wine & Justice events were held in: Bainbridge Island, Bellevue, Bellingham, Coupeville, Everett, Mt. Vernon, Olympia, Seattle, Spokane, Tacoma, Vancouver, Wenatchee, and Yakima. Our phone-a-thons were in Bellingham, Vancouver, Everett, and Mt. Vernon.

### **2020 Goldmark Lunch**

We broke attendance and fundraising records at the 2020 Goldmark Luncheon, raising \$450,000 with over 1,000 guests in attendance to celebrate retired Chief Justice Fairhurst. For those who were unable to attend the Luncheon, you can watch a video about [Chief Justice Fairhurst](#) or a video about our largest grantee, [Columbia Legal Services](#).



*Mark Johnson, LFW President and retired Chief Justice Mary Fairhurst accepting the 2020 Charles A. Goldmark Distinguished Service Award.*

### **Rainier Cup Winner: Whatcom County**

Each year, counties with legal aid providers compete against each other to see which county



*Whatcom County lawyers and Campaign board members, Kirsten Barron, holding the Rainier cup in the center.*

has the highest percentage of attorneys donating to the Campaign for Equal Justice. In 2019, Whatcom County had the highest with 31% of county bar members donating to the Campaign.



### ***Associates Campaign***

Our inaugural Associates Campaign was a rousing success thanks to the leadership of 16 associates from eight firms: Davis Wright Tremaine, Foster Garvey, Keller Rohrback, K&L Gates, Lane Powell, Miller Nash Graham & Dunn, Perkins Coie, Schwabe Williamson & Wyatt.

We are grateful to our long-time law firm partners for opening their doors to this new fundraising effort and to the associates who contributed and joined the Campaign for Equal Justice for the first time, helping families in poverty across the state.

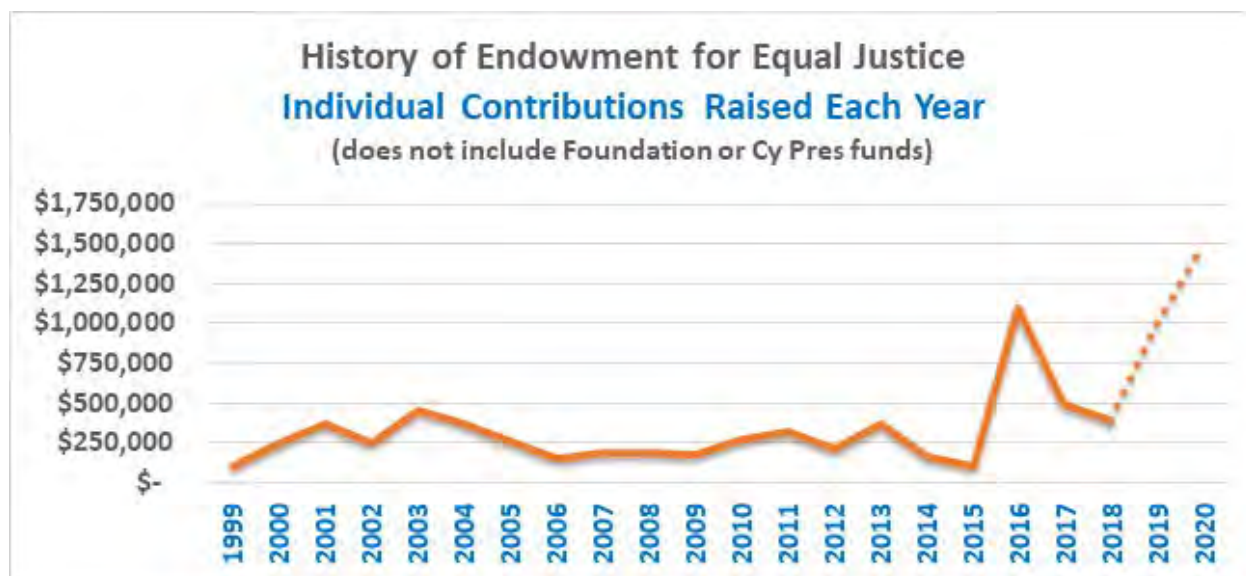
We are looking forward to our 2<sup>nd</sup> Annual Associates Campaign for Equal Justice. We are building the committee currently and beginning to recruit new firms to join this year.

### ***Endowment for Equal Justice***

As of 2019, the Endowment has distributed just over \$4M to the Legal Foundation of Washington for its annual grants to legal aid organizations around the state.

### ***Reach 20 Campaign***

The Endowment has raised **\$4.4M (with our LFW match)** towards our \$5M goal for the Reach 20 campaign. The Endowment continues to grow its individual contributor base and has more than quadrupled its number of donors in the last four years.



**Notable Reach 20 gifts from 2019 include:**

<b>Yearly Reach 20 Fundraising Totals</b>	
<b>Year</b>	<b>Reach 20 Fundraising Total</b>
2016	\$ 1,073,162.75
2017	\$ 502,529.60
2018	\$ 395,402.01
2019	\$ 1,422,947.64
2020 (to date)	\$ 602,647.00
<b>Grand Total</b>	<b>\$ 3,996,689.00</b>

\$405,000	Jim Degel and Jeannie Berwick
\$50,000	Jim Treadwell, William E Wockner Foundation
\$25,000	Lawrence True and Linda Brown
\$12,500	Paula Boggs
\$10,000	Ron Knox
\$10,000	Joel Benoliel
\$5,000	Beth Bloom
\$5,000	Mark Hutcheson
\$5,000	David Burman – in honor of J. David Andrews
\$5,000	John Hoerster
\$5,000	Judith Fong and Mark Wheeler
\$5,000	Michelle and Matthew Moersfelder
\$5,000	Bill Block and Susan Leavitt
\$5,000	Scott Holte
<b>TOTAL: \$562,500</b>	

### ***In Memoriam***

Though the legal aid community has lost an incredible champion in **J. David Andrews**, his commitment to the Endowment is living on as we have received over \$30,000 in donations in memory of Dave Andrews. Though we will miss him, we are so grateful to Dave for all that he has done for the Endowment, and all that continues to be done in his memory.

### ***New Board Member***

Our newest board member, **Gerry Schley** will join the Endowment in 2020. Gerry is a wealth management advisor at Merrill Lynch, currently serves on the board of Seattle University and brings a plethora of experience in finance to the Endowment. He will be joining the Operations and Investments Committee.

### ***Plans for 2020***

Despite this incredibly positive progress, the Endowment Board has made the decision to postpone the Reach 20 initiative until July 1<sup>st</sup>, and to focus on direct fundraising for the Campaign in response to the great need that will arise due to COVID-19. Though the corpus was near \$18.3M at the beginning of 2020 Q1, the corpus decreased by \$3.38M to just over \$14.9M in the last few weeks. Despite this bleak change in our corpus, we have had a successful first quarter, raising just over **\$600,000** in gifts and pledges. We are hopeful that the market will soon stabilize, and that our corpus will continue to grow again.

**Due to the COVID-19 pandemic, both the Campaign for Equal Justice and the Endowment for Equal Justice have suspended all fundraising events until at least July 1<sup>st</sup>. In lieu of in-person events, we have begun to plan virtual events, targeted remote individual asks, remote stewardship opportunities, and regular social media and Brief updates. These activities will help us to supplement our event revenue and connect to donors and legal aid advocates. All Endowment fundraising is suspended until July 1<sup>st</sup>, with all solicitations focused on direct aid and the growing immediate needs.**

## GOLDMARK EQUAL ACCESS TO JUSTICE INTERNSHIP PROGRAM

The Goldmark Internship Program was created with a gift of matching funds from the Charles and Annie Goldmark Family Foundation in 1992. The purpose of the program is three-fold: to increase legal aid services to low-income people, to encourage law students to consider employment with civil legal aid programs or as volunteers at volunteer attorney civil legal aid programs, and to offer an opportunity for public service employment to outstanding law students.

The 2019 Summer Internship was awarded to Laure Kohne, a second-year law student at UCLA School of Law. She worked with TeamChild's JR Institutions and Reentry Project which serves youth and young adults incarcerated in Juvenile Rehabilitation facilities across the state. She engaged in direct case work as well as researching and creating one-pagers for distribution to youth clients regarding basic issues and legal rights.

The 2020 Goldmark Internship was awarded to Simrit Hans, a second-year law student at the University of Washington School of Law. She will be working with LAW Advocates in Bellingham, assisting some of Whatcom County's most vulnerable community members with critical legal needs related to child custody for low-income survivors of domestic violence and housing for low-income renters.

**2019 Goldmark Equal Access to Justice Internship Report**

Laure Kohne  
Goldmark Intern  
Summer 2019

I appreciate having worked at an organization committed to empowering youth, rather than simply representing them. My projects as the Goldmark Intern were meant to help youth clients in the short term, but, importantly, also designed to teach them particular advocacy skills that they might carry forward. With this in mind, I created record sealing handouts and flow charts that were accessible to youth, their families, and any staff assisting them in reentry. I wrote handouts that clarified the, sometimes confusing, grievance forms that a youth might use to pursue a legal claim. Finally, I designed a resentencing overview template, which laid out the various options a youth might have when pursuing a decreased sentence.

I appreciated doing this work in Seattle, Washington, because the juvenile justice system there is making important progress. I designed a handout explaining the critical changes ushered in by HB 1646, a legislative response to the practical challenges of youth rehabilitation in adult facilities. Similarly, I worked on a few cases that harnessed the logic of *State of Washington v. Zion Houston Sconiers*, the Washington Supreme Court case that mandates the consideration of youthfulness when sentencing a juvenile. Both the statute and the court case referenced emerging research about juvenile brain development, and thus appear to be invested in making the Washington State juvenile justice system responsive to the realities of child development and meaningful rehabilitation.

Finally, I appreciated doing this work at TeamChild specifically because it is committed to ending institutional racism. The Undoing Institutional Racism workshop that I attended was one of the most moving and impactful experiences of my life. I plan to carry its teachings forward, in both my professional and personal life.

# Legal Foundation of Washington

## Financial Statements

Years Ended December 31, 2019 and 2018

The report accompanying these financial statements was issued by

BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of  
BDO International Limited, a UK company limited by guarantee.



Legal Foundation of Washington

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Financial Statements  
Years Ended December 31, 2019 and 2018

## Legal Foundation of Washington

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Two Union Square, 601 Union Street  
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## Independent Auditor's Report

To the Board of Trustees  
Legal Foundation of Washington  
Seattle, Washington

We have audited the accompanying financial statements of the Legal Foundation of Washington, which comprise the statement of financial position as of December 31, 2019, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



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### *Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Legal Foundation of Washington as of December 31, 2019, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### *Emphasis of a Matter - Recent Accounting Pronouncement Adopted*

As discussed in Note 1 to the financial statements, during the year ended December 31, 2019, **Legal Foundation of Washington adopted the provisions of Accounting Standards Update (“ASU”) No. 2018-08 (Topic 958)** - clarifying the scope and accounting guidance for contributions received and contributions made. Our opinion is not modified with respect to this matter.

### *Other Matter - Prior Period Financial Statement*

The financial statements of the Legal Foundation of Washington as of and for the year ended December 31, 2018, were audited by Peterson Sullivan LLP (“PS”), whose partners and professional staff joined BDO USA, LLP as of November 1, 2019, and has subsequently ceased operations. PS expressed an unmodified opinion on those statements in their report dated April 18, 2019.

*BDO USA, LLP*

April 15, 2020

Legal Foundation of Washington

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## Legal Foundation of Washington

## Statements of Financial Position

<i>December 31,</i>	2019	2018
<b>Assets</b>		
Cash and cash equivalents	\$ 6,495,789	\$ 2,483,662
Investments	16,480,863	13,800,093
Pledges and grants receivable, net	2,343,135	889,190
Interest receivable	36,195	15,726
Prepaid expenses and other assets	71,654	59,664
Furniture and equipment, net	55,003	16,870
<b>Total Assets</b>	<b>\$ 25,482,639</b>	<b>\$ 17,265,205</b>
<b>Liabilities and Net Assets</b>		
<b>Liabilities</b>		
Grants awarded	\$ 9,573,121	\$ 10,037,264
Pass-through grant obligations	190,368	193,054
Accounts payable and accrued expenses	92,977	67,400
Due to Endowment for Equal Justice	10,430	9,969
Deferred revenue	136,750	125,500
Deferred rent	58,605	63,394
<b>Total Liabilities</b>	<b>10,062,251</b>	<b>10,496,581</b>
<b>Net Assets</b>		
Without donor restrictions	13,276,470	6,420,474
With donor restrictions	2,143,918	348,150
<b>Total Net Assets</b>	<b>15,420,388</b>	<b>6,768,624</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 25,482,639</b>	<b>\$ 17,265,205</b>

*See accompanying notes to financial statements.*

## Legal Foundation of Washington

## Statements of Activities

<i>Years Ended December 31,</i>	2019	2018
Revenue		
Net interest income from IOLTA	\$ 11,595,291	\$ 5,055,302
Grants	2,675,000	2,737,500
Contributions	1,933,923	1,755,200
Cy Pres Awards	1,333,803	908,827
Goldmark Award Luncheon, net of expenses of \$114,031 in 2019 and \$90,103 in 2018	185,710	234,386
Investment income (loss)	1,495,877	(357,532)
Other revenue	3,750	-
<b>Total Revenue</b>	<b>19,223,354</b>	<b>10,333,683</b>
Expenses		
Program	10,865,016	9,661,475
Management and general	477,884	471,907
Fundraising	466,190	407,769
<b>Total Expenses</b>	<b>11,809,090</b>	<b>10,541,151</b>
Change in Net Assets	7,414,264	(207,468)
Net Assets, beginning of year	6,768,624	6,976,092
Revenue recognized due to change in accounting principle	1,237,500	-
<b>Net Assets, end of year</b>	<b>\$ 15,420,388</b>	<b>\$ 6,768,624</b>
Change in Net Assets without Donor Restrictions	\$ 5,618,496	\$ 73,440
Change in Net Assets with Donor Restrictions	\$ 1,795,768	\$ (280,908)
<b>Total Change in Net Assets</b>	<b>\$ 7,414,264</b>	<b>\$ (207,468)</b>

*See accompanying notes to financial statements.*

Legal Foundation of Washington  
Statements of Functional Expenses

Years Ended December 31,	2019				2018			
	Program	Management and General	Fundraising	Total	Program	Management and General	Fundraising	Total
Grant expense	\$ 10,048,324	\$ -	\$ -	\$ 10,048,324	\$ 8,852,325	\$ -	\$ -	\$ 8,852,325
Salary and related costs	371,667	348,612	291,663	1,011,942	372,750	342,021	257,408	972,179
Grantee support	238,411	-	-	238,411	242,865	-	-	242,865
Office and occupancy	63,949	60,919	50,024	174,892	59,963	57,231	45,858	163,052
Professional fees	78,730	20,237	205	99,172	86,650	25,246	2,818	114,714
Fundraising and outreach	-	786	81,223	82,009	-	1,035	63,758	64,793
Board/meetings/conferences	34,439	16,695	10,380	61,514	16,794	19,635	7,033	43,462
Information technology	16,552	10,019	12,749	39,320	14,449	8,589	8,988	32,026
Communications	6,604	464	2,156	9,224	5,679	1,856	4,051	11,586
Other expenses	6,340	20,152	17,790	44,282	10,000	16,294	17,855	44,149
<b>Total Expenses</b>	<b>\$ 10,865,016</b>	<b>\$ 477,884</b>	<b>\$ 466,190</b>	<b>\$ 11,809,090</b>	<b>\$ 9,661,475</b>	<b>\$ 471,907</b>	<b>\$ 407,769</b>	<b>\$ 10,541,151</b>

*See accompanying notes to financial statements.*

## Legal Foundation of Washington

## Statements of Cash Flows

<i>Years Ended December 31,</i>	2019	2018
<b>Cash Flows from (for) Operating Activities</b>		
Cash received from IOLTA	\$ 11,595,291	\$ 5,055,302
Cash received from Cy Pres awards	1,333,803	908,827
Cash received from grants and contributions	4,392,478	4,512,342
Cash received from other sources	314,741	334,989
Investment income received	639,502	558,395
Cash paid for grants	(10,512,467)	(10,709,281)
Cash paid to employees	(1,007,806)	(975,316)
Cash paid to suppliers	(850,024)	(838,287)
<b>Net Cash Flows from (for) Operating Activities</b>	<b>5,905,518</b>	<b>(1,153,029)</b>
<b>Cash Flows for (from) Investing Activities</b>		
Proceeds from sale and maturities of investments	8,326,182	9,347,408
Purchase of investments	(10,171,046)	(8,377,895)
Purchase of furniture and equipment	(45,841)	(5,311)
<b>Net Cash Flows for (from) Investing Activities</b>	<b>(1,890,705)</b>	<b>964,202</b>
<b>Cash Flows for (from) Financing Activity</b>		
Net collections (payments) on pass-through grant obligations	(2,686)	27,756
<b>Net Change in Cash and Cash Equivalents</b>	<b>4,012,127</b>	<b>(161,071)</b>
Cash and Cash Equivalents, beginning of year	2,483,662	2,644,733
<b>Cash and Cash Equivalents, end of year</b>	<b>\$ 6,495,789</b>	<b>\$ 2,483,662</b>

*See accompanying notes to financial statements.*

## Legal Foundation of Washington

## Notes to Financial Statements

## 1. Nature of Activities and Summary of Significant Accounting Policies

*Nature of Activities*

The Legal Foundation of Washington (the “Foundation”) was created at the direction of the Washington State Supreme Court in 1984 to administer the Interest on Lawyers’ Trust Accounts (“IOLTA”) program in Washington State. The IOLTA program requires that interest earned on IOLTA accounts be used for tax exempt charitable and educational purposes that are related to the legal profession. Decisions on the allocations of awards for such purposes are made by the Foundation’s Trustees.

Lawyers licensed to practice in Washington State and limited practice officers (LPOs) are required to participate in the program if they hold client funds in pooled trust accounts.

The Foundation is dedicated to equal justice for low-income persons. The Foundation funds programs and supports policies and initiatives that enable the poor and the most vulnerable to overcome barriers in the civil justice system. As part of these activities, the Foundation hosts and funds the Equal Justice Coalition, which is a committee of the Access to Justice Board of the Washington State Bar Association. The Equal Justice Coalition’s mission is to educate elected officials and the public about the importance of civil legal aid in Washington State.

The Foundation also works closely with the Endowment for Equal Justice (the “Endowment”). The Endowment raises private charitable support for civil legal aid. This collaboration, described more fully in Note 3, results in greater efficiencies for each organization while working on their common goal of equal access to the civil justice system. The Endowment is legally separate from the Foundation and is audited separately.

*Financial Statement Presentation*

The Foundation reports information regarding its financial position and activities according to two classes of net assets: Without donor restrictions and with donor restrictions. Contributions and grants received are recorded as support with donor restriction or without donor restriction depending on the existence and/or nature of any donor restrictions.

*Net Assets without Donor Restrictions*

Net assets without donor restrictions consist of the following:

<i>December 31,</i>	2019	2018
Undesignated	\$ 4,272,786	\$ (1,295,963)
Board-designated Goldmark Fund	9,003,684	7,716,437
	<u>\$ 13,276,470</u>	<u>\$ 6,420,474</u>

The Goldmark Fund was established in 1986 to hold assets set aside by the Board of Trustees to stabilize grant awards in the event of significant fluctuations in the annual IOLTA or other revenue. Funds may be disbursed only with approval of the Board. Funds are included in the Foundation’s investments and are held in a separate investment account.



## Legal Foundation of Washington

Notes to Financial Statements

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*Net Assets with Donor Restrictions*

Net assets with donor restrictions consist of unexpended contributions restricted for particular purposes or time periods. Net assets with restrictions are transferred to net assets without restrictions as expenditures are incurred for the restricted purpose or as time restrictions are met. At December 31, 2019 and 2018, all net assets with donor restrictions were restricted for future time periods.

*Cash and Cash Equivalents*

For purposes of the statements of cash flows, the Foundation considers all unrestricted highly liquid investments with a maturity on acquisition of three months or less to be cash equivalents. At times, balances exceed federally insured limits.

*Fair Value Measurements*

Fair value is a market based measurement determined based on assumptions that market participants would use in pricing an asset or liability. There are three levels that prioritize the inputs used in measuring fair value as follows:

- Level 1: Observable market inputs such as quoted prices (unadjusted) in active markets for identical assets or liabilities;
- Level 2: Observable market inputs, other than quoted prices in active markets, that are observable either directly or indirectly; and
- Level 3: Unobservable inputs where there is little or no market data, which require the reporting entity to develop its own assumptions.

*Investments*

The Foundation records its investments at fair value in the statements of financial position. The fair value measurement of the investments was determined using Level 1 observable market inputs within the fair value hierarchy consisting of quoted prices in active markets, such as national exchanges, for identical assets.

Realized gains and losses, which are determined using the specific identification method, and unrealized gains and losses are included in the change in net assets in the accompanying statements of activities.

*Furniture and Equipment*

Furniture and equipment are recorded at cost. The Foundation capitalizes expenditures for furniture and equipment with a cost in excess of \$1,000 that have a useful life of at least one year. Depreciation is computed using the straight-line method over the asset's estimated useful life, generally a period of five years.

*Grants Awarded*

Grants awarded to others are recorded as an expense and a liability when approved by the Board of Trustees and the grant has been awarded. All accrued grants are expected to be paid in the next year.

## Legal Foundation of Washington

Notes to Financial Statements

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*Pass-Through Grant Obligations*

Pass-through grant obligations consist of funds received where the donor has designated a certain portion to be passed through to another nonprofit organization. Pass-through obligations are not recorded as revenue or expense by the Foundation. At December 31, 2019, the Foundation expects all funds to be disbursed in the following year.

*Deferred Rent*

The Foundation has entered into an operating lease agreement for its office space, which contains provisions for future rent increases and periods in which rent payments are reduced (abated). In accordance with accounting principles generally accepted in the United States of America, the Foundation records monthly rent expense equal to the total of the payments due over the lease term, divided by the number of months of the lease term. The difference between rent expense recorded and the amount paid is credited or charged to deferred rent, which is reflected as a separate line item in the accompanying statements of financial position.

*Deferred Revenue*

Deferred revenue consists of sponsorships related to the Goldmark award luncheon. Revenue is recognized when the luncheon takes place.

*Revenue Recognition (IOLTA and Cy Pres)*

IOLTA receipts are recognized as revenue when the amount becomes known. Amounts received may vary from year to year due to the amount of funds in IOLTA accounts, interest rates, and bank service charges. IOLTA revenue is shown in the statements of activities net of bank fees of \$106,566 and \$87,580 for the years ended December 31, 2019 and 2018, respectively.

Cy Pres awards (residual funds from class action lawsuits awarded to the Foundation) are recorded when received.

*Pledges and Grants Receivable*

Contribution and grant revenue is recognized when a pledge or grant is made. Pledges and grants receivable from contributions that are expected to be collected within one year are recorded at net realizable value. Pledges and grants receivable that are expected to be collected in future years are recorded at fair value, which is measured at the present value of the future cash flows. The discount is computed using risk-adjusted interest rates applicable to the years in which the pledges and grants are received. Amortization of the discount is included in grants and contributions revenue in the statements of activities. There was no discount recognized at December 31, 2019 or 2018, as management determined that the discount was immaterial to the financial statements as a whole.

Management reviews the collectibility of pledges and grants receivable on a periodic basis and determines the appropriate amount of any allowance. The Foundation charges off receivables to the allowance when management determines that a receivable is not collectible. At both December 31, 2019 and 2018, the allowance for doubtful accounts was \$2,000.

The Foundation receives state funding through a grant from the Northwest Justice Project (“NJP”) (an unrelated not-for-profit organization).

## Legal Foundation of Washington

Notes to Financial Statements

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*Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from the estimated amounts.

*Income Taxes*

The Foundation is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

*Functional Allocation of Expenses*

The financial statements report certain categories of expenses that are attributed to program or supporting functions. Therefore, expenses require allocation on a reasonable basis that is consistently applied. The expenses that are allocated include salaries and wages, benefits, payroll taxes, office and occupancy, professional services, information technology, and other, which are allocated on the basis of estimates of time spent by program or supporting functions.

*Recent Accounting Pronouncement Adopted*

During the year ended December 31, 2019, the Foundation adopted the provisions of Accounting Standards Update (“ASU”) No. 2018-08, Not-for-Profit Entities (“Topic 958”) - clarifying the scope and accounting guidance for contributions received and contributions made. The update assists entities in (1) evaluating whether transactions should be accounted for as contributions (nonreciprocal transactions) within the scope of Topic 958, Not-for-Profit Entities, or as exchange (reciprocal) transactions subject to other guidance and (2) determining whether a contribution is conditional. As result of adopting the ASU, the Foundation has adjusted how it recognizes grants from NJP as they are now considered contributions under the ASU. Accordingly, the Foundation has recognized the change on the modified prospective basis. This resulted in recording a change in accounting principle adjustment to net assets without donor restrictions in the statements of activities of January 1, 2019.

*Reclassifications*

Certain amounts from the December 31, 2018, financial statements have been reclassified to conform to the current-year presentation.

## 2. Liquidity and Availability

The Foundation regularly monitors liquidity required to meet its operating needs and other contractual commitments. The Foundation has various sources of liquidity at its disposal, including cash and cash equivalents, and marketable debt and equity securities. See Note 5 for information about the Foundation’s investments.

The Foundation’s Board of Trustees determines its level of annual grant expenditures within the context of resources on hand, as well as a three year revenue projection. The Foundation anticipates revenue from contract revenue, contributions, interest on IOLTA accounts, and Cy Pres awards. Due to the passive and unpredictable nature of IOLTA funding, the Foundation maintains reserves that would attempt to support a consistent level of grant funding.

## Legal Foundation of Washington

## Notes to Financial Statements

The table below presents financial assets available for general expenditures within one year at December 31:

<i>December 31,</i>	2019	2018
<b>Financial Assets at Year-End</b>		
Cash and cash equivalents	\$ 6,495,789	\$ 2,483,662
Investments	16,480,863	13,800,093
Interest receivable	36,195	15,726
Pledges and grants receivable, net	2,343,135	889,190
<b>Total Financial Assets</b>	<b>25,355,982</b>	<b>17,188,671</b>
<b>Less: Amounts not Available to be Used within One Year</b>		
Board-designated Goldmark Fund	(9,003,684)	(7,716,437)
Pledges and grants receivable - due after one year	(50,000)	(100,000)
<b>Financial Assets Available to Meet</b>		
General Expenditures within One Year	\$ 16,302,298	\$ 9,372,234

### 3. Memorandum of Agreement

The Foundation and the Endowment have a Memorandum of Agreement. Under the agreement, (1) the Foundation provides management and operating support for the Endowment; (2) the Board of Directors of the Endowment, with the support of the Foundation staff, agreed to raise funds for the Endowment to support civil legal aid for the poor; and (3) the Foundation's Board of Trustees agreed to allocate these funds to civil legal aid providers throughout Washington State.

The Foundation is reimbursed by the Endowment for certain direct costs incurred by the Foundation for the benefit of the Endowment, including compensation and related costs, professional fees, printing, postage, and other direct costs that can be directly allocated to the Endowment.

The Foundation received contributions of \$823,604 and \$794,020 for the years ended December 31, 2019 and 2018, respectively, from the Endowment, which are included with contributions revenue on the statements of activities.

In addition, related to the Endowment's current fundraising campaign, the Foundation granted \$500,000, to the Endowment during the year ended December 31, 2019. The amount is included with grant expense on the statements of functional expenses. At December 31, 2019, \$105,621 was still owed to the Endowment and is included in grants payable on the statements of position.

## Legal Foundation of Washington

## Notes to Financial Statements

## 4. Pledges and Grants Receivable

Pledges and grants receivable consist of the following:

<i>December 31,</i>	2019	2018
Receivable in less than one year	\$ 2,295,135	\$ 791,190
Receivable in greater than one year	50,000	100,000
	2,345,135	891,190
Less: allowance for doubtful accounts	(2,000)	(2,000)
<b>Pledges and Grants Receivable</b>	<b>\$ 2,343,135</b>	<b>\$ 889,190</b>

At December 31, 2019 and 2018, 84% and 54%, respectively, of total pledges and grants receivable is due from NJP.

## 5. Investments

The components of the Foundation's investments are as follows:

<i>December 31,</i>	2019	2018
Mutual Funds		
Intermediate term bonds	\$ 1,357,122	\$ 1,084,190
Large cap blend	3,398,468	3,021,046
World stocks	1,219,176	989,459
Foreign large cap blend	1,233,680	1,056,715
Short-term bonds	924,151	809,304
Global real estate	324,005	269,886
Small cap blend	220,739	194,706
Multisector bonds	241,192	215,324
Commodity broad basket	81,330	75,807
U.S. Government-Backed Treasury Bills and Strips	1,360,000	2,706,847
Corporate Bonds	4,471,000	400,000
U.S. Government Bonds	1,650,000	2,976,809
	<b>\$ 16,480,863</b>	<b>\$ 13,800,093</b>

As discussed in Note 1, \$9,003,684 and \$7,716,437, are held in the Board-designated Goldmark Fund for long-term purposes at December 31, 2019 and 2018, respectively.

## Legal Foundation of Washington

## Notes to Financial Statements

The following schedule summarizes the investment return:

<i>Years Ended December 31,</i>	2019	2018
Interest, dividends, and capital gain distributions	\$ 659,971	\$ 558,395
Net realized losses	(10,471)	(187,429)
Net unrealized gains (losses)	846,377	(728,498)
	\$ 1,495,877	\$ (357,532)

## 6. Furniture and Equipment

Furniture and equipment consist of the following:

<i>December 31,</i>	2019	2018
Equipment	\$ 97,198	\$ 52,969
Furniture and fixtures	8,209	8,209
	105,407	61,178
Less: accumulated depreciation	(50,404)	(44,308)
	\$ 55,003	\$ 16,870

## 7. Leases

The Foundation leases its office space under an operating lease that runs through June 2024. Rental expense totaled \$124,939 and \$126,635 for the years ended December 31, 2019 and 2018, respectively. Future minimum rentals under the lease are as follows:

<i>Years Ending December 31,</i>	
2020	\$ 131,577
2021	134,601
2022	137,626
2023	140,651
2024	71,082
	\$ 615,537

## 8. Pension Plan

The Foundation has a defined contribution pension plan to which it contributes after an employee has reached one year of service. Contribution rates, as a percentage of each employee's wages, were 6% for both years ended December 31, 2019 and 2018.

Contributions vest after two years of employment. The Foundation contributed \$44,203 and \$43,016 to the plan for the years ended December 31, 2019 and 2018, respectively.

## Legal Foundation of Washington

Notes to Financial Statements

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### 9. Subsequent Events

The Foundation has evaluated subsequent events through the date these financial statements were available to be issued, which was April 15, 2020.

On March 11, 2020, the World Health Organization declared a strain of coronavirus (COVID-19) a global pandemic and recommended containment and mitigation measures worldwide. However, we cannot reasonably estimate the length or severity of this pandemic. Should it continue, we would expect an adverse impact to our statement of financial position (including our investment holdings), changes in net assets, and cash flows in fiscal year 2020.

# 2019 ANNUAL GRANTEES

**King County Programs:**

- Benefits Law Center \$424,500
- Eastside Legal Assistance Program \$70,600
- KCBA Pro Bono Services \$611,200
- Legal Counsel for Youth & Children \$100,000
- Solid Ground \$230,400

Legal Assistance by  
 Whatcom (LAW)  
 Advocates \$207,400

Snohomish County  
 Legal Services \$140,000

Skagit County Community  
 Action Volunteer Legal  
 Services Program \$127,800

Chelan-Douglas County  
 Volunteer Attorney Services  
 \$92,000

Clallam-Jefferson  
 County Pro Bono  
 Lawyers \$63,200

Kitsap Legal  
 Services  
 \$70,400

Tacoma-Pierce  
 County Bar  
 Association  
 Volunteer Legal  
 Services  
 Program  
 \$254,000

Thurston County  
 Volunteer Legal  
 Services \$144,300

Cowlitz-  
 Wahkiakum  
 Legal Aid  
 \$35,400

Clark County  
 Volunteer  
 Lawyers Program  
 \$78,500

Yakima County  
 Volunteer  
 Attorney Services  
 \$75,000

Benton-Franklin  
 Legal Aid \$82,700

Blue Mountain Action Council  
 Volunteer Attorney Program  
 \$35,700

Spokane Bar  
 Association  
 Volunteer Lawyer  
 Program  
 \$163,300

## STATEWIDE GRANTEES

Columbia Legal  
 Services \$3,656,500

Unemployment  
 Law Project  
 \$400,400

TeamChild  
 \$557,400

Northwest Immigrant  
 Rights Project \$1,275,000

*In addition to these Annual Grants, LFW made Special Grants totaling \$300,000, Alliance Support Grants totaling \$370,000 and Race Equity Grants totaling \$75,000, which are not depicted on this map.*



## Legal Foundation of Washington 2019 Grants

Annual Grantess	LFW General Funds	Pro Bono Expansion	Pass Through State Funds	Bank of America	Total 2019 Grant
Benton Franklin Legal Aid	\$63,700	\$19,000			\$82,700
Blue Mountain (Walla Walla)	\$35,700				\$35,700
Chelan Douglas VAS*	\$62,000	\$30,000			\$92,000
Clallam Jefferson Pro Bono	\$43,200	\$20,000			\$63,200
Clark Co. VLP	\$48,500	\$30,000			\$78,500
Columbia Legal Services	\$1,331,500			\$2,325,000	\$3,656,500
Community Action- Skagit Co. VLP	\$85,800	\$42,000			\$127,800
Cowlitz Wahkiakum Legal Aid	\$35,400				\$35,400
Eastside Legal Assistance Program	\$70,600				\$70,600
King Co. Bar Foundation	\$498,840	\$112,360			\$611,200
Kitsap Co. Legal Services	\$70,400				\$70,400
LAW Advocates	\$157,400	\$50,000			\$207,400
Legal Counsel for Youth and Children	\$100,000				\$100,000
Northwest Immigrant Rights	\$1,275,000				\$1,275,000
Seattle Community Law Center	\$154,500		\$270,000		\$424,500
Snohomish Co. Legal Services	\$110,000	\$30,000			\$140,000
Solid Ground	\$120,400		\$110,000		\$230,400
Spokane Co. Bar VLP	\$113,300	\$50,000			\$163,300
TacomaProBono	\$194,000	\$60,000			\$254,000
TeamChild	\$422,400		\$135,000		\$557,400
Thurston Co. VLS	\$92,660	\$51,640			\$144,300
Unemployment Law Project	\$210,400	\$80,000	\$110,000		\$400,400
Yakima Co. VAS	\$75,000				\$75,000
<b>Totals</b>	<b>\$5,370,700</b>	<b>\$575,000</b>	<b>\$625,000</b>	<b>\$2,325,000</b>	<b>\$8,895,700</b>

Special Grants	LFW General Funds	Pro Bono Expansion	Pass Through State Funds	Bank of America	Total Grant
Center for Justice				\$100,000	\$100,000
Colectiva Legal del Pueblo	\$25,000				\$25,000
JustLead	\$45,000				\$45,000
Laurel Rubin Farmworker Justice	\$25,000				\$25,000
Lavender Rights Project	\$75,000				\$75,000
Northwest Justice Project	\$300,000				\$300,000
Wayfind				\$100,000	\$100,000
<b>Totals</b>	<b>\$470,000</b>			<b>\$200,000</b>	<b>\$670,000</b>

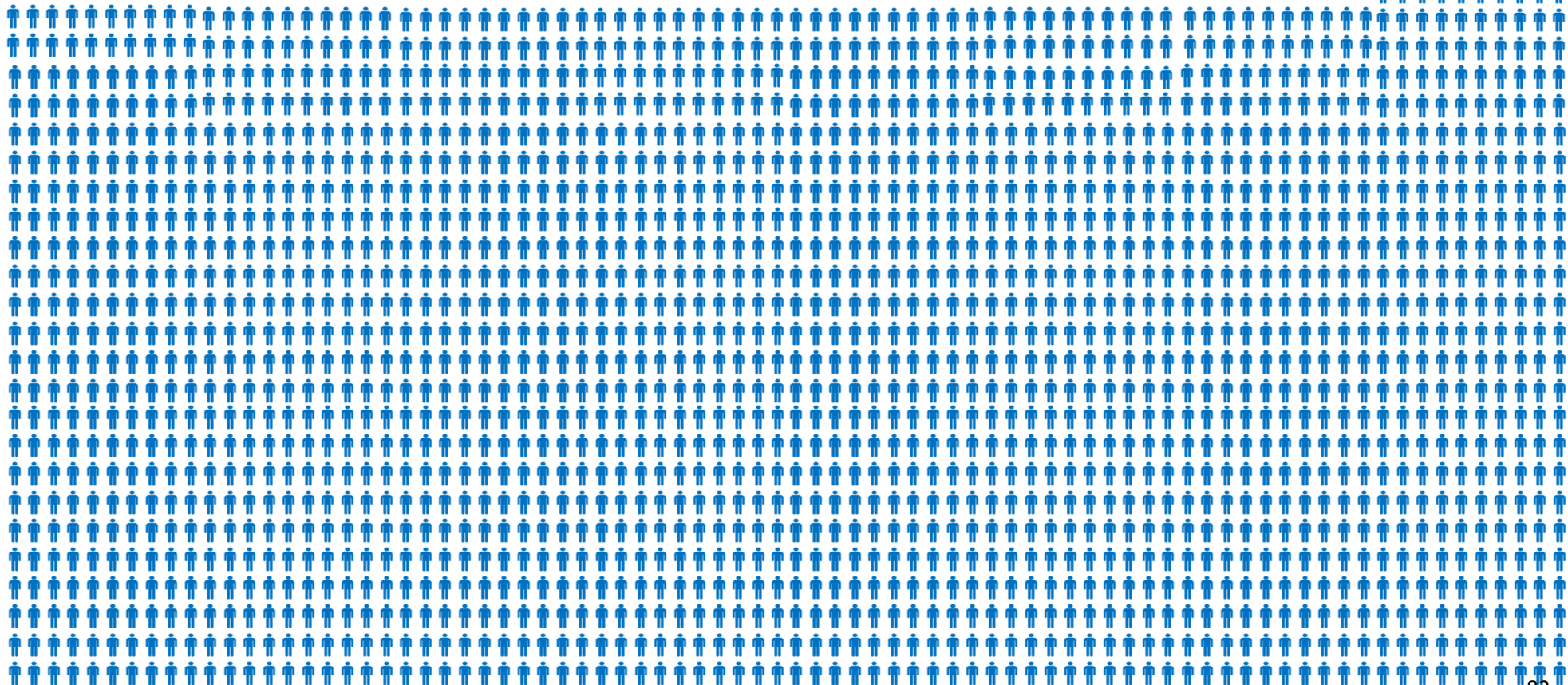
# CLS Class Action Impact Overview, 2015-2019



Based on CLS class actions from 2015-2019, one full time attorney impacted an average of 20,826 people directly! This number does not include the inestimable number of people who benefit in the long term from changed policies and practices.

With CLS's specialized legal tools, every attorney's impact maximizes each unrestricted dollar.

= 10 people impacted directly



## CLS Class Action Impact Overview, 2015-2019

### Case Summaries

**Amireh v UW Medicine:** Challenge to medical debt collection practices.

**C.S. v King County:** Suit challenging King County's use of isolation against youth and lack of education provided to those youth.

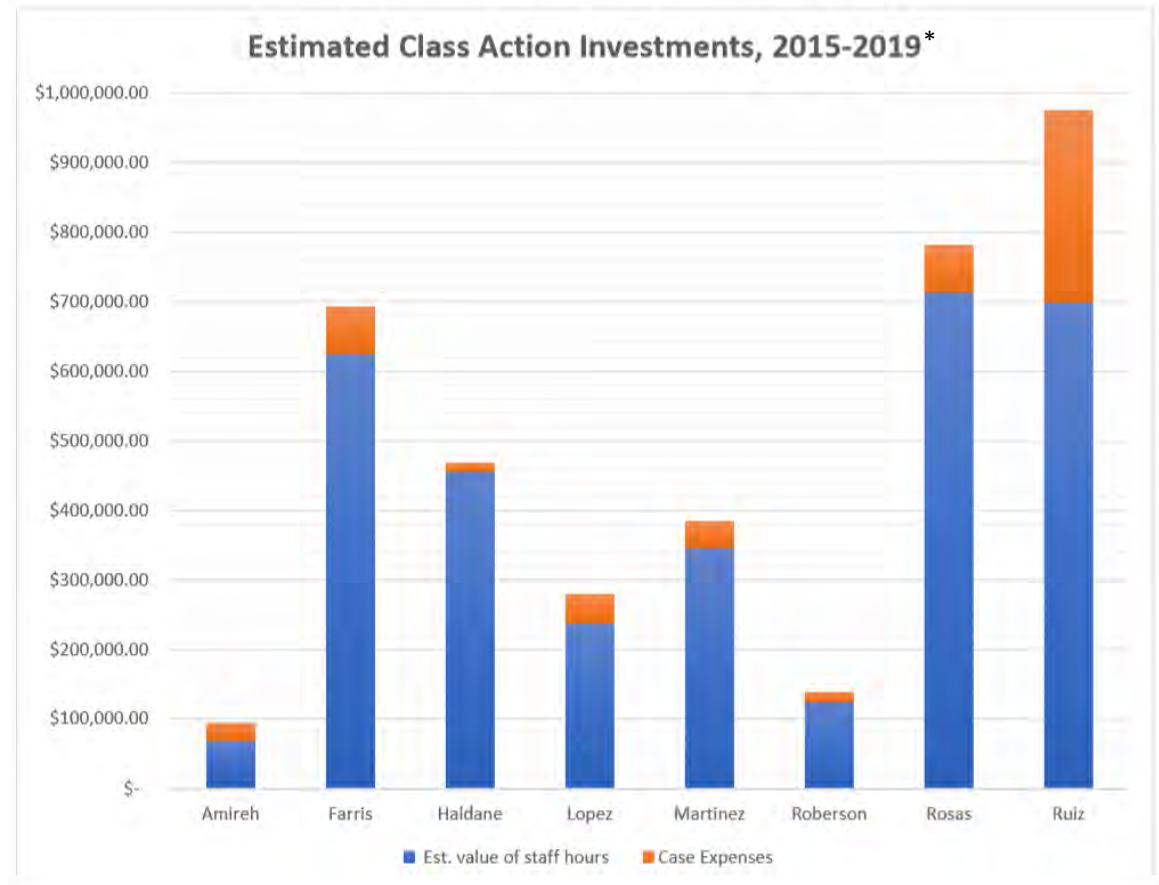
**Farris v Franklin Co.:** Suit to improve conditions in jail that included inadequate health care, excessive restraint, seclusion and isolation.

**Haldane v Hammond:** Suit against Washington State Department of Corrections challenging its denial of medical care to prisoners suffering from serious medical conditions in violation of the Constitutional prohibition against cruel and unusual punishment.

**Lopez v Health Management Associates:** Alleged medical center violated state-mandated "charity care" rules and charged many low-income people for care they should have received for less or free.

**Martinez v Deruyter Brothers Dairy:** Suit for failure to pay wages and constitutional challenge to exemption from overtime statute for agricultural workers.

**Roberson v Ray Klein:** Challenge to debt collection practices.



\* Does not include pro bono hours

**Rosas v Sarbanand:** Suit challenging practices violating rights of H-2A farmworkers under federal anti-trafficking laws, state labor and anti-discrimination laws.

**Ruiz v Mercer Canyons:** Suit against farm for failure to follow federal and state laws protecting workers.

## 2019 Legal Aid in the News

### A hidden injustice: Solitary confinement in Washington state prisons

Nov. 11, 2019 at 6:00 am Updated Nov. 13, 2019 at 8:02 am

By Naomi Ishisaka

Seattle Times columnist



*D Unit, to the right, is where the Clallam Bay Corrections Center's Intensive Transition Program, or ITP, is housed. (Bettina Hansen / The Seattle Times)*

On Oct. 7, 600 inmates at Clallam Bay Corrections Center went on a food strike to protest [ongoing issues](#) with conditions at the prison.

Inmates were concerned about [collective punishment](#), the high costs for goods and services coupled with low pay for work, quality of food and other issues. Two days later, 36 people — including the food strike leaders — were shipped to Walla Walla State Penitentiary and 15 of them were placed in solitary confinement, also known as the Intensive Management Unit or IMU.

Solitary confinement means being locked in a prison, jail or detention for 22-24 hours a day with no social contact, limited access to family and limited or no access to rehabilitation or education programs.

Those subjected to solitary confinement [often suffer anxiety](#), hallucinations, paranoia, cognitive decline and many other issues. While people in solitary confinement are between 3% and 8% of the prison population, they make up 50% of prison suicides.

Called by a number of names, the use of solitary confinement is shockingly common in the U.S. According to a 2015 study by Yale Law School, an estimated [80,000 people](#) are in solitary confinement across the country on a given day. And while the U.N. adopted [“Mandela Rules”](#) in 2015 saying solitary should be used only in exceptional cases and prohibiting the use of solitary confinement beyond 15 days, the [Yale study](#) showed 81% of those held in solitary were held between one month and over six years.

So why should we care what happens to 36 people locked up in the northwest tip of the state? Isn't the point of prison to punish? What difference does it make if they are in solitary or not?

If we are judged as a society by how we treat the most marginalized, we must care about the treatment of those hidden away in the world's largest system of mass incarceration.

One of the most surprising aspects of the use of solitary confinement is the use of “administrative segregation,” which is ostensibly used by prisons and jails to maintain order, or to “protect” inmates rather than punish them.

According to Nick Straley, Columbia Legal Services' lead attorney representing the Clallam Bay inmates, those in administrative segregation can be held for longer periods of time at the discretion of the prison. While for a small infraction, an inmate would be held in disciplinary segregation for no more than 20 days, administrative segregation — like the type used against the food strikers — requires no infractions and allows people to be held up to 47 days before reevaluation.

Unsurprisingly, this segregation method has become popular in prisons, with the [majority of people](#) in solitary now held in administrative segregation, according to the 2015 Yale study. The longest periods in solitary are also now in administrative segregation, with 14% held a year or longer, compared with 2% held a year or longer in disciplinary segregation.

Andres Pacificar, 60, knows firsthand what solitary does to a person. Pacificar is a leadership fellow with the Robert Wood Johnson's [Forward Promise](#) program and a YMCA of Greater Seattle [Alive & Free](#) outreach worker, focused on support for court-involved youth. From 1990-2008, Pacificar served time in prisons from Clallam Bay to Walla Walla after pleading guilty to murder. While in Clallam Bay, Pacificar founded the Asian Pacific Islander Cultural Awareness Group (API-CAG) to help the administration understand the needs of API inmates as well as work with younger people on gang and violence prevention.

After founding API-CAG in 1994, Pacificar said he was put in solitary three times. The first time was for 13 months, purportedly for a phone violation, but he believes the real cause was retaliation for his work to improve conditions in the prison. He said the experience was life changing.

“The mental pain that IMU creates breaks men down,” Pacificar said. “You know, I used to question my existence for so long. I would talk to myself because you get so used to being inside your own head and not having anyone to talk to. You're not sure [the difference between] reality and just thoughts. Where's the line?”

Ultimately, Pacificar said, this mental brutalization is not just inhumane, it's self defeating.

"At the end, those people that they're creating in those IMUs will one day be your next-door neighbor," he said, and the anger and mental deterioration created in solitary confinement are antithetical to the goals of successful rehabilitation and integration.

"I've seen many, many prisoners break and succumb to the torture that it is," he said.

U.N. investigator Juan Méndez also warns against "the severe mental pain or suffering solitary confinement may cause," saying it "can amount to torture."

The Department of Corrections (DOC) said that since 2011, it has cut the number of people in restrictive housing and is working on other improvements. And as of last Thursday and following delivery of a [letter to the governor](#) by advocates demanding the inmates' release from solitary, the DOC said the last of the transferred inmates were removed from solitary at Walla Walla. But for those trying to advocate for better conditions at Clallam Bay, the damage might already be done.

Straley said through the retaliatory transfers and solitary confinements, the DOC sent a clear signal.

"The message that I think people are hearing is that if you are concerned about the serious conditions in prison, you can suffer ... the most serious consequences, which is being thrown in solitary confinement. And that message is heard ... by all the men at the prison."

Ironically, many of the issues raised by inmates at Clallam Bay were echoed in the Nov. 1 release of the first [annual report](#) of the Office of the Corrections Ombuds, which said efforts should be made to build connections between inmates and their families to foster reintegration; healthy, quality food should be prioritized; and more opportunities for job skills created.

In addition to the DOC adopting those recommendations, Washington state policymakers should take a hard look at the use of solitary confinement and consider adopting the U.N. standards, so that Washington state can truly recognize the dignity of all people.

*Naomi Ishisaka: [nishisaka@seattletimes.com](mailto:nishisaka@seattletimes.com); on Twitter: [@naomiishisaka](https://twitter.com/naomiishisaka). Naomi Ishisaka writes about race, culture and equity, through a social-justice lens. Her column appears weekly on Mondays.*

## 'Justice Bus' hits Seattle streets to offer legal aid for low-income individuals

Each week the bus will go to various spots around the community and provide legal counsel to the homeless and other low-income families.

Author: Tony Black

K5 News

Published: 10:02 PM PDT October 10, 2019

Updated: 10:02 PM PDT October 10, 2019



SEATTLE — The Justice Bus is on the streets of Seattle.

The bus comes from Benefits Law Center. They purchased an old Metro Access bus from an auction in 2018 and turned it into a [“law office on wheels”](#)

Each week the bus will go to various spots around the community and provide legal counsel to the homeless and other low-income families. It is the first of its kind in Washington state.

The goal was to eliminate the barriers that would otherwise keep people from seeking the help they need.

“When somebody has barriers like transportation or simply being able to engage with a typical law office, we bring the bus to them so they can get legal services where they’re at,” said Alex Doolittle, the Executive Director for the Benefits Law Center.

One of the designers, Erica Bush, said she wanted to make it feel very comforting and welcoming and make them feel like when people walked on that bus to get help, they weren’t walking onto a bus.

“I want them to feel cared for in a space that was the same quality that anyone else would expect,” said Bush.

Right now, there aren’t any plans for an “on-demand” type of service with the bus, but they will announce [via social media](#) where the bus will be each week.

Doolittle said the bus will be at common community areas where people will feel welcome to come and get legal help. The bus is also ADA compliant, she said.

You can learn more about the Justice Bus on the BLC's [website](#).



## **Volunteer attorney services announces housing justice project**

by Action News Staff

Wednesday, September 11th 2019



YAKIMA, Wash. - The Yakima County Volunteer Attorney Services (YCVAS) is pleased to announce the creation of the Housing Justice Project in Yakima.

The YCVAS sent out a press release on Tuesday with the following information:

The Housing Justice Project is a program designed to ensure free representation of low-income tenants in legal disputes with their landlord.

Volunteer lawyers will be present at the unlawful detainer court calendars held on Tuesday and Friday afternoons.

The lawyers will be checking for deficiencies in the legal documents and negotiating with the landlord or the landlord's attorney.

Announcements will be made before court if you would like a chance to meet with a lawyer before your hearing.

Or if you have received paperwork initiating an eviction, you can come to the courthouse at 1:00PM on Tuesdays and Fridays to speak with an attorney before your matter goes to court.

"I am so excited that Yakima County VAS has started a Housing Justice Project. It's a great way to make a major difference in the lives of tenants who often feel as if they don't have a voice. As a volunteer

attorney I can walk away knowing I helped someone stay in their housing and prevented homelessness,” explains Matt Kaminski, YCVAS Board President and volunteer attorney with the Housing Justice Project.

“We have been working on starting this project for months and I’m thrilled to have it finally launch. When vacancy rates are at 1% programs like this often mean the difference between housing and living on the street,” explains Quinn Dalan, executive director of YCVAS.

Yakima County Volunteer Attorney Services provides civil legal assistance to low income individuals in order to reduce barriers and improve access to justice.

For more information please visit our website, [www.yakimavas.org](http://www.yakimavas.org) or call our office at (509) 453-4400.

## Why don't more immigrants arrive legally? For many, the doors are barricaded.

Dec. 9, 2019 at 6:00 am Updated Dec. 9, 2019 at 6:19 am

Naomi Ishisaka  
*Seattle Times columnist*



*Children line up outside a tent at a detention center for migrant children in Homestead, Florida, in February. (Wilfredo Lee / The Associated Press)*

After last week's column on the rise of "[crimmigration](#)" in the U.S., I received a flood of emails and comments from readers that followed a consistent theme:

"Legal immigration is one thing, illegal entry is another. We have a process for immigrants to enter the USA legally."

"There's legal immigration and ILLEGAL immigration! It's not rocket science!!"

There were many more, with lots more exclamation points, but you get the idea.

The feeling of outrage toward immigrants who "break the rules" appeals to a particular sense of fairness and justice, one that assumes that if only people followed the law and got "in line," opportunities afforded to previous generations of immigrants would be available to them. The perception seems to be that there are two entry doors to the U.S.: one legal, the other illegal — and migrants just

incomprehensibly choose the illegal door due to laziness, lack of respect for U.S. laws or desire to do harm.

But what if the “legal” door is padlocked and blockaded? What if it’s only open for five minutes a day and only if you can open it with your hands tied behind your back?

On virtually every level, “legal” paths to immigration have been barricaded or removed — a phenomenon known as the [“invisible wall.”](#)

The invisible wall is not a new invention in U.S. immigration policy but it has become taller, wider and more impenetrable under the Trump administration.

The overall philosophy for the invisible wall is summed up well by an email [reported by NBC](#) from a Trump National Security Council official discussing asylum processing with Customs and Border Patrol.

In the email, the official said, “My mantra has persistently been presenting aliens with multiple unsolvable dilemmas to impact their calculus for choosing to make the arduous journey to begin with.”

“Multiple unsolvable dilemmas” is a perfect way to describe our current “legal” immigration system, in which an already Byzantine set of complex policies [change by the day](#).

There are four main legal pathways to the U.S.: family reunification, work visas, diversity lottery and asylum or refugee status. For each pathway, [additional barriers](#) are being erected to slow or stall migration.

Say you’re a mother from Guatemala, where [60% of people](#) live in poverty, half the children under 5 are malnourished and there is one of the world’s [highest rates of femicide](#). Like millions of U.S. immigrants before have done, [you take your children to the U.S.](#) to protect them from hunger and violence and to give them a chance for a better life.

The most generous avenue for immigration is family reunification (if you are fortunate to have an immediate family member who is a U.S. citizen or permanent resident) — but the wait times are determined by demand, and the waits for Central American immigrants can be up to 13 years.

The next category, long-term work visa, applies to very few migrants from Central America due to its restrictions — [only 74 people](#) from El Salvador, Guatemala or Honduras combined received long-term work visas of any kind in 2017.

Diversity lottery? Well “lottery” tells the story for that one. The number of Guatemalans to win that lottery in 2017? [Just 13](#).

So that brings us to asylum or refugee status. The Trump administration gutted the refugee program, [lowering the cap by a whopping 84%](#).

Meanwhile, only 31 Guatemalans were granted refuge between October 2017 and June 2018. The asylum program approved [2,950](#) of 33,400 Guatemalan applicants in 2017, with efforts under way to [restrict it further](#).

In short, even by the most generous calculations, no more than 16,000 Guatemalans were admitted to the U.S. legally in 2017 — a small fraction of those who are estimated to have attempted.

When I asked Northwest Immigrant Rights Project Executive Director Jorge Barón about his take on the locked-door analogy, he said it was largely true except that for many migrants, there is effectively no door at all. With all the new barriers and changes, Barón said it's now taking the agency 40% longer than two years ago to process its clients' immigration cases.

"For a lot of people there isn't this magical door that they can access," Barón said. "There's no line. There's no place where they can submit an application that has any chance of succeeding to get in to the country."

## Civil legal aid is crucial for many in our district

Rep. Michelle Caldier

Published 5:01 p.m. PT March 13, 2019 | **Updated 10:27 a.m. PT March 14, 2019**

One of my most important duties, as an elected state representative, is to ensure that essential state services are fairly and equitably available – especially for those who need them the most. Unfortunately, an independent study shows our state’s civil legal system leaves many of our neighbors defenseless during times of crisis — including veterans to whom our society owes its largest debt.

Low-income people in Washington face difficult civil legal problems more often than others; problems such as eviction, medical debt, and domestic violence. Unlike in criminal cases, our fellow citizens are not entitled to an attorney at public expense, so state-funded civil legal aid services are often their only lifeline. Every day civil legal aid helps people protect their safety, financial security, and even the roofs over their heads.

However, far too many of the working poor in Washington and Kitsap County lack access to civil legal aid. A 2015 Washington State University study found that three-quarters of people living in poverty face at least one civil legal crisis each year, but only one in four get any legal help.

The need for civil legal aid is particularly acute for low-income veterans. Distressingly, veteran homelessness is on the rise across the country. In a recent study, the U.S. Department of Veterans Affairs identified that one of the highest unmet needs for homeless veterans is legal help to prevent eviction and foreclosure.

We know this to be true here in Kitsap County, where housing is harder and harder to afford and where last year’s “Point in Time” homelessness count found at least 100 veterans living on the street.

Thanks to attorneys at the non-profit Northwest Justice Project (NJP) and volunteer attorneys working with Kitsap Legal Services, we know of success stories that have helped veterans and low-income citizens find housing. These lawyers assisted more than 500 people in our county last year, with 56 local attorneys donating nearly 900 volunteer hours to the effort.

These legal services are also a lifeline for our low-income neighbors, including our seniors, who have no other place to turn when circumstances arise that threaten their health and safety.

Take for example, Norma, an 82-year-old Kitsap senior who had a medical emergency that led to her temporary placement in a long-term care facility. Before she could complete her recovery, the facility moved to evict her, claiming she could afford to pay a higher monthly rate for her stay. An NJP attorney discovered the facility was not accurately determining what she could afford to pay – and that the Department of Social and Health Services (DSHS) made a mistake in defining her financial condition, which led to a retroactive financial adjustment. Once these mistakes were uncovered, she was able to complete her treatment at the facility.

We are fortunate in Kitsap County to have state-supported attorneys at the Northwest Justice Project and volunteer attorneys at Kitsap Legal Services working every day to protect our veterans and their neighbors in need of civil legal assistance.

I'm proud to be among those in the Legislature who understand the value of investing in civil legal aid. In recent years, I've worked with a bipartisan majority to implement a Civil Justice Reinvestment Plan.

Despite improving the situation for our veterans and low-income citizens, we know we must do more. Over time, we need to rebuild our legal aid system so it can ensure fair and equitable access to people in need of legal help with their most important personal and family matters. I continue to support these efforts in the 2019 legislative session, because our most vulnerable veterans and so many others in need of legal help will be counting on us to succeed.

*Rep. Michelle Caldier, R-Port Orchard, represents the 26th Legislative District, which includes Gig Harbor, Port Orchard, the Key Peninsula and a portion of Bremerton. She is the assistant ranking Republican on the House Health Care and Wellness Committee.*

## Homeless Youth Don't Realize How Much Legal Aid Can Help Them

By Erin Lovell | April 11, 2019



Vp Photo Studio/Shutterstock

Civil legal aid services are a necessary tool in preventing and eliminating youth homelessness. Though most young people do not initially identify their problems as legal in nature, legal advocacy can often help prevent the experience or reoccurrence of homelessness.

For example, barriers to housing and employment can be reduced by mitigating the consequences of a juvenile or criminal record or by resolving open warrants and legal financial obligations. Representing young people in domestic violence proceedings and emancipation can remove barriers to safe and stable housing.

Resolving issues such as identity theft and consumer debt can help young people access credit needed for student financial aid and housing applications. Improving access to and challenging denials of public benefits can provide for basic needs such as food and medical care but can also provide income to maintain housing and services such as child care to help youth maintain employment and access higher education. Helping a young person change their gender marker and name can empower them to feel safe applying for educational and employment programs.



Any minor struggling with homelessness alone has a legal issue, because someone is legally responsible for caring for each child. Minors struggling with homelessness need legal advice to understand their options for safety, to access emergency shelter, education and medical care. Many minors need an attorney to help them navigate and access immigration relief, child protective services, educational systems and juvenile and family court proceedings.

Providing a young person in crisis with an attorney alone, however, is rarely sufficient. In order to be effective, civil legal aid attorneys need to build strong partnerships with service providers, juvenile court professionals and schools. Strong community partnerships result in an increase in understanding of when an attorney may be helpful (and thus more young people can benefit from civil legal aid), more holistic services for youth and families and an improved ability to identify and address systemic gaps and barriers affecting youth homelessness.

Many youth equate needing an attorney to being in trouble. If the youth is not in trouble with the police, then an attorney seems unnecessary. As a result, many youth do not access the help of a civil legal aid attorney, even when the attorney's help could be critical in protecting or securing the youth's legal rights, benefits, safety, medical care, educational programs or housing.

Strong partnerships among civil legal aid attorneys, service providers and schools — including onsite legal intake and outreach as well as shared staff meetings and training opportunities — increase service provider, school staff and youth awareness of the variety of legal systems, rights and issues impacting youth and when a civil legal aid attorney may be helpful. Onsite intake and outreach services also enable youth to more easily connect with civil legal aid attorneys. Civil legal aid attorneys become part of the youth's support team.

Strong partnerships between civil legal aid and other community service providers lead to more holistic services for youth and families. For example, in Washington State, [Legal Counsel for Youth and Children](#) (LCYC) partners closely with [YouthCare](#), [Friends of Youth](#) and the [Accelerator YMCA](#) and [Therapeutic Health Services](#). LCYC provides direct legal advocacy services to youth ages 12 to 24 who either are or are at risk of experiencing homelessness alone in King County, Wash.

The named service organizations offer a wide range of youth and family supports such as emergency shelter, case management, housing navigation, family reconciliation, rental assistance, mental health and chemical dependency services, and transitional living. Other community partners, such as Therapeutic Health Services, offer counseling for youth and families.

Beyond collaborating to support individual youth and families, these partnerships can improve systemic advocacy. Youth, parents, service providers, schools, attorneys and others have a variety of personal experiences and professional expertise to collaboratively identify barriers and brainstorm potential solutions on systemic problems perpetuating youth homelessness.

*Erin L. Lovell serves as the executive director of [Legal Counsel for Youth and Children](#) in Seattle. She is a graduate of [Northwestern University Pritzker School of Law](#) and the [University of Notre Dame](#).*



## 2019 Race Equity Grantees

### **Center for Justice**

Addressing racial inequality in Spokane through policy advocacy, community legal clinics, and post-conviction and re-entry services.

### **Cowlitz Wahkiakum Legal Aid**

Advancing race equity in Southwest Washington with community trainings, outreach, and organizational capacity building.

### **Disability Rights Washington**

Integrating movement lawyering into a statewide action plan to better serve people with disabilities in communities of color.

### **Dispute Resolution Center of Yakima & Kittitas**

Opening new inroads at the courts for Spanish-speaking families previously excluded from linguistic and cultural access.

### **Entre Hermanos & QLaw Foundation**

Expanding statewide services to Latinx LGBTQ immigrants through direct representation of asylum seekers, legal clinics, and trainings for volunteer attorneys.

### **Seattle Clemency Project**

Advocating for clemency for refugees around the state who are at risk of being deported and separated from family due to prior convictions for which they have already served time.

### **Tenants Union of Washington State**

Building the power of low income renters of color to advocate for just cause eviction, rent control, and housing justice.

### **Washington Parole Coalition**

Organizing community members impacted by mass incarceration, survivors of violence, and civil legal aid providers to bring comprehensive parole reform to Washington.

### **West African Community Council**

Achieving legal status and permission to work for Limited English Proficient members of Seattle's growing West African community.

### **What's Next Washington & Freedom Project**

Removing systemic barriers to re-entry by building skills, support, and resources for people directly impacted by the criminal justice system.

### Race Equity Grant Advisory Panel

In 2019, the Race Equity Grant Advisory Panel made recommendations for the 10 grant recipients and elected Carmen Pacheco-Jones, a public health advocate and chair of the [Spokane Regional Law & Justice Council's Racial Equity Committee](#), as chair. Her fellow panelists are:

- Sarah Augustine, [Dispute Resolution Center of Yakima & Kittitas](#)
- Omid Bagheri, [JustLead Washington](#)
- Nancy Garcia, [Seattle University School of Law](#)
- Chris Graves, [Snohomish County Legal Services](#)
- Dainen Penta, [Center for Justice](#)
- Kristin Shotwell, [King County Department of Public Defense](#)

Pacheco-Jones (pictured below with her daughter and granddaughter) answered a few questions about the panel's work:

Photo by Deborah Espinosa for Living with Conviction

#### What is the value of a grant advisory panel?

When you bring multiple voices together, with multiple experiences and different dynamics and stories, you really get the individuals that are stepping up to serve their communities and who are the first responder-types who know what their communities need. So having their voices at the table is so important. They know how to build a program that is going to be meaningful and impactful, and allowing them to have the decision-making capacity gives great value to the programs.



#### What do you hope to provide to the grantees?

As civil legal aid providers, they are really in the trenches. And through this grant expansion, we're really interested in communities that have often been excluded to accessing legal aid and looking at what their needs are, and the complexities in communities of color that will help us serve a broader population.

#### What most excites you about this year's grants?

We looked at all these different organizations that are doing such impactful work, and thought about how we could share information, learn from one another, partner with one another, through the movement toward equity. I'm most excited about seeing the work that's going to be done and see the organizations that received these grants really dig in and look at barriers that have inhibited access for communities of color.

## 2020 Grants with Funding Sources

Partnership Grantees	2020 LFW General Funds	Pro Bono Expansion	Pass Through State Funds	Pro Bono Salary Parity	Specialty Salary Parity	Total 2020 Grant
Benefits Law Center	\$154,500		\$270,000		\$65,000	\$489,500
Benton Franklin Legal Aid	\$70,700	\$19,000		\$8,600		\$98,300
Blue Mountain (Walla Walla)	\$36,810			\$18,990		\$55,800
Chelan Douglas VAS	\$66,930	\$30,000		\$14,170		\$111,100
Clallam Jefferson Pro Bono	\$49,550	\$20,000		\$18,850		\$88,400
Clark Co. VLP	\$49,980	\$50,000		\$38,420		\$138,400
Columbia Legal Services	\$3,656,500					\$3,656,500
Community Action- Skagit Co. VLP	\$86,680	\$32,000		\$9,220		\$127,900
Cowlitz Wahkiakum Legal Aid	\$36,500			\$25,500		\$62,000
Eastside Legal Assistance Program	\$72,810			\$12,390		\$85,200
King Co. Bar Foundation	\$508,850	\$112,360		\$14,890		\$636,100
Kitsap Co. Legal Services	\$72,600			\$36,700		\$109,300
LAW Advocates	\$159,070	\$35,000		\$12,930		\$207,000
Legal Counsel for Youth and Children	\$103,000					\$103,000
Northwest Immigrant Rights	\$1,300,500					\$1,300,500
Snohomish Co. Legal Services	\$118,380	\$30,000		\$21,120		\$169,500
Solid Ground	\$124,100		\$129,000			\$253,100
Spokane Co. Bar VLP	\$116,760			\$5,240		\$122,000
TacomaProBono	\$204,880	\$45,000		\$43,320		\$293,200
TeamChild	\$422,400		\$135,000		\$115,000	\$672,400
Thurston Co. VLS	\$95,530	\$51,640		\$13,630		\$160,800
Unemployment Law Project	\$210,400	\$70,000	\$135,000		\$20,000	\$435,400
Yakima Co. VAS	\$75,070	\$55,000		\$6,030		\$136,100
<b>Totals</b>	<b>\$7,792,500</b>	<b>\$550,000</b>	<b>\$669,000</b>	<b>\$300,000</b>	<b>\$200,000</b>	<b>\$9,511,500</b>

Special Grants	2020 LFW General Funds	Pro Bono Expansion	BoA Comm. Redev.	Total 2020 Grant
Center for Justice	\$50,000			\$50,000
Civil Survival Project	\$50,000	\$25,000		\$75,000
Colectiva Legal del Pueblo	\$25,000			\$25,000
Communities Rise (formerly Wayfind)			\$100,000	\$100,000
Laurel Rubin Farmworker Justice Project	\$25,000			\$25,000
Lavender Rights Project	\$50,000			\$50,000
Northwest Justice Project	\$300,000			\$300,000
<b>Total</b>	<b>\$500,000</b>	<b>\$25,000</b>		<b>\$625,000</b>

Office of General Counsel

To: The President, President-elect, Immediate Past-President, and Board of Governors  
 From: Julie Shankland, General Counsel  
 Lisa Amatangel, Associate Director, OGC  
 Date: September 2, 2020  
 Re: Litigation Update

**PENDING LITIGATION:**

No.	Name	Brief Description	Status
1.	<i>Pillon v. WSBA</i> , No. 20-2-10965-7 (King Sup. Ct)	Grievant filed complaint against WSBA regarding handling of grievance.	Complaint filed 07/09/20; WSBA's motion to dismiss granted with prejudice on 08/31/20.
2.	<i>Small v. WSBA</i> , No. 19-2-15762-3 (King Sup. Ct.)	Former employee alleges discrimination and failure to accommodate disability.	On 07/17/19, WSBA filed an answer. Discovery ongoing.
3.	<i>Beauregard v. WSBA</i> , No. 19-2-08028-1 (King Sup. Ct.)	Alleges violations of WSBA Bylaws (Section VII, B "Open Meetings Policy") and Open Public Meetings Act; challenges termination of former ED.	On 08/27/19, the Washington Supreme Court granted direct discretionary review. On 09/26/19, WSBA filed a Designation of Clerk's Papers with the Superior Court, and a Statement of Arrangements with the Supreme Court. WSBA filed a report of proceedings with the Supreme Court on 11/25/19. WSBA filed its opening brief on 02/10/20. Respondent filed his response on 02/28/20; WSBA filed its reply brief on 04/01/20. On 05/15/20, the Supreme Court appointed Judges Korsmo and Bjorgen as Justices Pro Tem in this matter. On 05/28/20, the Supreme Court denied Respondent's motion to supplement the record. Oral argument held 06/23/20.
4.	<i>O'Hagan v. Johnson et al.</i> , No. 18-2-00314-25 (Pacific Sup. Ct.)	Allegations regarding plaintiff's experiences with legal system.	Motion to Dismiss granted on 08/05/19; on 08/28/19 plaintiff circulated a Notice of Intent to Appeal.
5.	<i>Scannell v. WSBA et al.</i> , No. 18-cv-05654-BHS (W.D. Wash.)	Challenges bar membership, fees, and discipline system in the context of plaintiff's run for the Washington Supreme Court.	On 01/18/19, the court granted WSBA and state defendants' motions to dismiss; plaintiff appealed. WSBA responded to plaintiff's opening brief on 09/30/19. On 04/09/20, Scannell filed a



			<p>“Motion for Injunction” and supporting declaration with the Ninth Circuit seeking a court order permitting him to run for open positions on the Supreme Court. On 04/20/20, WSBA filed a response to the Motion for Injunction. On 04/30/20, the State Defendants/Appellees filed a request for a 60-day extension to respond to the Motion for Injunction; Scannell opposed the request.</p> <p>On 05/14/20 the Ninth Circuit issued a memorandum/judgment affirming the district court’s dismissal of all of Scannell’s claims on the basis of <i>res judicata</i> and the <i>Rooker-Feldman</i> doctrine and denying “[a]ll pending motions and requests”.</p> <p>On 05/28/20 Scannell filed two motions: (1) a motion for rehearing and disqualification of one of the panel judges (Judge Miller), and (2) a motion for en banc review. These motions were denied on 08/31/20.</p>
6.	<i>Block v. WSBA et al.</i> , No. 18-cv-00907 (W.D. Wash.) (“ <i>Block II</i> ”)	See <i>Block I</i> (below).	<p>On 03/21/19, the Ninth Circuit stayed <i>Block II</i> pending further action by the district court in <i>Block I</i>. On 12/17/19, Block filed a status report with the Ninth Circuit informing the Court of the Block I Court’s reimposition of the vexatious litigant pre-filing order against Block. On 06/18/20, the Ninth Circuit lifted the stay order and ordered the appellees who have not yet filed their answering briefs to do so by 08/17/20 (WSBA filed its answer brief before the stay order was entered).</p>
7.	<i>Eugster v. WSBA, et al.</i> , No 18201561-2, (Spokane Sup. Ct.)	Challenges dismissal of <i>Spokane County 1</i> (case no. 15-2-04614-9).	<p>Dismissal order signed 01/06/20. On 01/16/20, WSBA filed a supplemental brief on fees under CR 11 and RCW 4.84.185. Fee award of \$28,586 granted</p>

			on 02/14/20; Eugster filed a notice of appeal on 03/02/20. Transferred to Division I. Schedule issued, clerk's papers and statement of arrangements filed 07/02/20. Awaiting opening brief.
8.	<i>Block v. WSBA, et al.</i> , No. 15-cv-02018-RSM (W.D. Wash.) (" <i>Block I</i> ")	Alleges conspiracy among WSBA and others to deprive plaintiff of law license and retaliate for exercising 1st Amendment rights.	<p>On 02/11/19, 9th Cir. affirmed dismissal of claims against WSBA and individual WSBA defendants; the Court also vacated the pre-filing order and remanded this issue to the District Court.</p> <p>On 12/09/19, the United States Supreme Court denied plaintiff's Petition of Writ of Certiorari.</p> <p>On 12/13/19, the District Court reimposed the vexatious litigant pre-filing order against Block; Block filed a notice of appeal regarding this order on 01/14/20. Block's opening brief is now due 10/06/20; WSBA's answering brief will be due 11/05/20.</p>
9.	<i>Eugster v. Littlewood, et al.</i> , No. 17204631-5 (Spokane Sup. Ct.)	Demand for member information in customized format.	Dismissed (GR 12.4 is exclusive remedy) and fees awarded; Eugster appealed. Merits and fee appeal briefing completed. Matter transferred to Division I and set for panel consideration on 09/25/20 without oral argument.
10.	<i>Eugster v. WSBA, et al.</i> , No. 18200542-1 (Spokane Sup. Ct.)	Alleges defamation and related claims based on briefing in <i>Caruso v. Washington State Bar Association, et al.</i> , No. 2:17-cv-00003-RSM (W.D. Wash.)	Dismissed based on absolute immunity, collateral estoppel, failure to state a claim. Briefing complete on appeal and cross-appeal on fees. Case transferred to Division II. Oral argument heard on 10/22/19. On 01/07/20, the Court affirmed dismissal and reversed fee denial. Eugster filed a petition for review with the Washington Supreme Court; petition denied on 07/08/20. Awaiting remand on fees.

**MEMO**

To: WSBA Board of Governors

From: Jennifer Olegario, Communication Strategies Manager

CC: Sara Niegowski, Chief Communications and Outreach Officer

Date: Aug. 28, 2020

RE: **Summary of Media Contacts, July 9–Aug. 28, 2020**

Date	Journalist and Media Outlet	Inquiry
July 9	Lewis Kamb, <i>Seattle Times</i>	Sought information about diploma privilege and bar exam statistics.
July 17	Joseph O’Sullivan, <i>Seattle Times</i>	Sought information about how WSBA would be administering the bar exam, in light of COVID.
July 21	Roy Strom, Bloomberg Law	Inquired how law firms are preparing to onboard practitioners who have taken advantage of diploma privilege rules.
July 27	Chad Sokol, <i>Spokesman-Review</i>	Sought bar exam statistics.
Aug. 17	Stephanie Francis Ward, <i>ABA Journal</i>	Inquired whether diploma privilege includes a supervised practice requirement.
Aug. 24	Philip Watness, <i>The Pioneer</i> (Skamania County)	Sought information and statistics about the grievance process.



Aug. 27	Charles Featherston, <i>Columbia Basin Herald</i>	Sought comment about diploma privilege ruling and effect it may have on the employment prospects of new lawyers or concerns about the quality of this year's lawyers because of it. Referred him to Supreme Court.
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## Media Coverage

### Re: Bar Exam/Diploma Privilege

- *Spokesman-Review*: [Hundreds Become Lawyers in Washington state Without Taking Bar Exam Due to COVID-19 Exemption](#)
  - + pickups of same story, including:
    - *Seattle Times, Centralia Chronicle, The Daily World, Everett Herald, The Pew Charitable Trusts*

### Re: LLLT sunset

- Above the Law: [Pressure Mounts to Restore Low-Cost Legal Services Program](#)
- *Seattle Times*: [Supreme Court Should Reinstate Low-Cost Legal Assistance Program](#)

### Re: Whatcom Local Hero Award Winner

- [Whatcom Talk: Boys and Girls Club of Whatcom County CEO Heather Powell Receives Local Hero Award](#)

## Media Outreach and News Releases

- Honoring Local Hero from Klickitat-Skamania Counties Bar
  - News release: [Jeff Baker Receives Washington State Bar Association Local Hero Award](#)
    - Columbia Gorge News (includes *White Salmon Enterprise, Hood River News, The Dalles Chronicle*)
    - *Skamania County Pioneer*
- Reelection of Daniel D. Clark as WSBA Treasurer
  - [News release](#)
    - iFiber One News
    - *Seattle Times*
    - *Spokesman-Review*
    - *Tri-City Herald*
    - *Walla Walla Union-Bulletin*
    - *Wenatchee World*
    - *Yakima Herald-Republic* ([In Basket for Aug. 2, 2020](#))

- *Yakima Valley Business Times* (article in Aug. 2020)

**WASHINGTON STATE**  
**BAR ASSOCIATION**

**TO:** WSBA Board of Governors  
**FROM:** Terra Nevitt, Executive Director  
Paris Eriksen, Volunteer Engagement Advisor  
**DATE:** September 4, 2020  
**RE:** WSBA Committee and Board Reports for 2019-2020 (FY20)

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As required by the WSBA Bylaws Article IX.3(b), 'Each Bar entity must submit an annual report to the Executive Director and submit such other reports as requested by the BOG or Executive Director.' The information contained in the reports was submitted by the respective staff liaison for each entity. Financial information as provided by the Finance and Administration Department. Demographic information was compiled using the optional information self-reported by members.

The annual reports included following this cover memo are:

Access to Justice Board  
Board of Bar Examiners  
Character and Fitness Board  
Chief Hearing Officer Report  
Client Protection Board  
Committee on Professional Ethics  
Continuing Legal Education Committee  
Council on Public Defense  
Court Rules and Procedures Committee  
Disciplinary Board  
Diversity Committee  
Editorial Advisory Committee  
Judicial Recommendation Committee  
Law Clerk Board  
Legislative Review Committee  
Limited License Legal Technician Board  
Limited Practice Board  
MCLE Board  
Practice of Law Board  
Pro bono and Public Service Committee  
Washington Young Lawyers Committee



# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Access to Justice Board (ATJ)
<b>Chair:</b>	Sal Mungia
<b>Staff Liaison:</b>	Diana Singleton, Bonnie Sterken
<b>Board of Governors Liaison:</b>	Carla Higginson
<b>Size of Committee:</b>	10
<b>Direct Expenses:</b>	\$24,000
<b>Indirect Expenses:</b>	\$104,142
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	13
<b>Purpose:</b>	
	The Access to Justice (ATJ) Board derives its authority from a 1994 Washington Supreme Court Order and 2016 reauthorization (NO. 25700-B-567) at the request of the Washington State Bar Association Board of Governors in response to a growing need to coordinate access to justice efforts in Washington. The ATJ Board works closely with its justice system partners to achieve equal access to the civil justice system for those facing economic and other significant barriers.
<b>Strategy to Fulfill Purpose:</b>	
	The ATJ Board's <i>2018-2020 State Plan for the Coordinated Delivery of Civil Legal Aid to Low Income People</i> (State Plan) is the current guide for its work. The ATJ Board also adopted updated two-year priorities in March 2020 to structure its work. The ATJ Board accomplishes its priorities through the work of a number of standing committees and special initiatives to address current and ongoing access issues.
<b>2019-2020 Accomplishments and Work in Progress:</b>	
	1) <b>Promote Racial Equity.</b> The Board continues to promote racial equity systemically in the justice system, organizationally amongst Alliance organizations and internally within the Board's own practices and organizational culture. In June 2020 the Board released a

statement acknowledging that it has “not done enough in the battle against racism against Black communities and other communities of color.” The Board adopted collective and individual commitments to actively resist racism. Currently, the Board is in the process of convening Alliance members, racial justice movement leaders, and representatives of communities most harmed by racism within the justice system to develop an Alliance-wide Action Plan combatting racism. The Board has engaged JustLead WA to guide the Board through this and its internal race equity process. The Board has also provided other financial and in-kind support to JustLead, which provides Alliance members with race equity trainings, facilitated board and staff meetings, and discrimination of a Race Equity Toolkit.

- 2) **Responding to COVID-19 Impact on Civil Legal Aid.** In June 2020, the ATJ Board began implementing a series of projects in response to the growing civil legal needs as a result of the pandemic. The current projects include 1) partnering with the Legal Foundation of Washington’s Communication Director to support Alliance members in with the public about the availability of legal aid and how to access services, 2) creating a tool to help the public and social service providers identify legal needs as a result of the pandemic, and 3) collecting and sharing information on how courts are addressing the pandemic in a way that is accessible to the public. A workgroup of the Board is implementing these projects and identifying other needs that might arise in the coming year.
- 3) **Implement 2018-2020 State Plan.** The ATJ Board is overseeing the implementation of the three-year State Plan. The plan is in its third and final year. A workgroup of the Board’s Delivery System Committee will be assessing the implementation over the past three years and making recommendations on how to move forward with the plan.
- 4) **Updated the ATJ Technology Principles.** In June 2020 the Court released an Order adopted the updated ATJ Technology Principles. The ATJ Board’s Technology Committee oversaw a rigorous process to update the Access to Justice Technology Principles, which were originally developed in 2004, to ensure technology enhances, not hinders, access to justice. The Board’s Technology Committee is in the process of disseminating the updated Principles through the Alliance and justice system and developing a process to monitor its implementation.
- 5) **Build Stronger Bridges with Other Justice Partners.** The ATJ Board aims to build stronger bridges with partners in the criminal and juvenile justice systems, child welfare systems, non-legal community organizations, and the LLLT and low bono communities serving clients of moderate means. In early 2020 the Board contracted with JustLead WA to conduct research to understand the potential harms experienced by communities of color, low-income communities, and other communities experiencing structural bias due to the compartmentalized, or “siloe,” nature of our civil, criminal, juvenile, and child welfare systems. With that research completed, the Board is now launching a process with JustLead WA to convene a task force to identify steps to “desilo” our civil, criminal, juvenile, and child welfare systems.
- 6) **Launch Planning for the 2021 Access to Justice Conference.** Continuing the momentum of the successful 2019 Access to Justice Conference, the Board has launched planning for the 2021 conference in the coming fiscal year.
- 7) **Alliance Communications.** The Board continues to send out regular newsletters and manage the Alliance website as a means to facilitate intra-Alliance communications, share about resources and opportunities, and promote Alliance related events, jobs, internships, etc.

#### 2020-2021 Goals:

- 1) **Promote Racial Equity.** The Board will continue to promote racial equity systemically in the justice system, organizationally amongst Alliance organizations and internally within the Board’s own practices and organizational culture. Much of the work is guided by the commitments outlined in the Board’s recent racial justice statement in support of Black Lives.

- 2) **Respond to the Growing Civil Legal Needs because of Covid-19.** The ATJ Board’s Covid-19 Response Workgroup will continue to monitor the impact that the pandemic has on the Alliance and our client populations. The Board will continue to development projects to address the needs.
- 3) **Build Stronger Bridges with Other Justice Partners.** As noted above, the Board is working with JustLead WA to convene a task force to identifying steps to “desilo” our civil, criminal, juvenile, and child welfare systems. The task force will meet over the coming year and the Board will develop an action plan in response to their recommendations.
- 4) **Moving Forward with the 2018-2020 State Plan.** As noted, the ATJ Board is overseeing the implementation of the three-year State Plan. This is an ongoing and critical element of the ATJ Board’s work. The Board will work with the Alliance to determine appropriate next steps, which might include extending the implementation period of the State Plan or modifying the Plan in response to the current environment.
- 5) **2021 Access to Justice Conference.** The Board will host its biennial Access to Justice Conference. The goals of the conference are to provide inspiration, to create and deepen partnerships, and to jumpstart innovative strategies that advance equity and justice.
- 6) **Communicate about the Updated ATJ Technology Principles.** As noted, the Court recently adopted the updated ATJ Technology Principles. The next year will involve an extensive effort to share the Principles broadly with the justice system community.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

Over the years, the ATJ Board has utilized the expertise of the WSBA’s diversity experts through trainings and consultation. The Board routinely collaborates closely with the WSBA Public Service and Diversity team, such as partnering on networking events around the state.

The ATJ Board meetings are well-attended by a variety of stakeholders. We seek and obtain input at these meetings as well as solicit input from various list serves and other outreach efforts. For example, the ATJ Technology Principles update process, for example, involved extensive outreach, focus groups and a joint drafting process involving a wide array of stakeholders. Also, the Board’s efforts to identify action steps to “desilo” our civil, criminal, juvenile, and child welfare system has been very intentional in listening to individuals and communities most harmed by structural bias and disparities.

The ATJ Board has engaged in its own equity and inclusion work every year since 2018 during retreats and public meetings. With guidance from JustLead, the Board has used an organizational race equity assessment and identified what internal work it needs to engage in to ensure a culture of inclusion.

The ATJ Board recently updated its Operational Rules, which sets out a commitment to diversity in the Board and Committees and creates a process for new leaders to get involved.

Addressing racial inequities is spotlighted in the State Plan and the Board’s two-year priorities and has been a focus of the Board’s most recent Access to Justice Conferences. Also, the Board is a leader in encouraging race equity work among its counterparts in other states.

<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<p>The ATJ Board supports the Equal Justice Community Leadership Academy and other trainings that promote leadership competencies like self-awareness and achieving workable unity in the legal profession and beyond. As a convener of civil legal aid organizations, the Board facilitates how they and the larger legal community can coordinate and collaborate to create more equitable access to justice.</p> <p>To the extent that professionalism includes having self-awareness about one’s own biases, the Board supports JustLead WA, which offers many trainings involving working against implicit bias.</p>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<p>The ATJ Board Manager has given presentations to the New and Young Lawyer Committee and Leadership Academy cohorts to encourage their participation on the Board and its committees and to engage in statewide activities like the biennial Access to Justice Conferences. The Board recruited new and young lawyers to co-chair the 2019 and 2021 Access to Justice Conference Planning Committee. This is an opportunity to take on a large, visible leadership role and demonstrated the Board’s commitment to including new and young lawyers in decision making.</p> <p>Examples of how the Board supports new and young lawyers and law student include the following:  a) the ATJ Board has supported summer orientations, trainings and networking events for public interest minded-law students; b) the Board supports a discount rate for students to attend the Access to Justice Conference and works with the law schools to encourage students to attend; and c) the ATJ Board fully welcomes and encourages the involvement and leadership of new and young lawyers and law students on its various committees.</p>
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>
<p>The ATJ Board benefits tremendously from having two community representatives on the Board, currently Esperanza Borboa and Mirya Munoz-Roach. Their voices on the Board have helped in keeping our work community and public focused.</p> <p>At the heart of everything the Board does is service to the public and those who face marginalization and inequities. Through the Board’s support of the Alliance and its advocacy work, the Board is working to dismantle systems of oppression that lead to inequity and poverty.</p> <p>Recently, the Board has dedicated time and resources to engage with social service and community partners who work directly with members of the public who qualify to receive legal aid services as a means to learn from them and make connections. Time was devoted to listening sessions at the Access to Justice Conference where attendees had a chance to hear directly from formerly incarcerated individuals, members of tribal communities and members of immigrant communities to</p>

learn about their unique experiences with the justice system. Every year the Board holds at least two meetings around the state where they make an effort to meet with community based programs to learn about their work and the people they serve.

While the Board does not routinely communicate directly with the public, the Board has facilitated trainings and resource opportunities so that Alliance providers can better communicate about how to access and support legal aid services.

**FY20 Demographics:** *To Be Completed by WSBA Staff*

**Gender:**

**Female (4)**

Transgender  
Non-Binary

**Male (4)**

Two-spirit  
Not Listed

**No Response (2)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

**Black/African-American/African Descent (2)**

**Asian (2)**

Middle-Eastern Descent

**Hispanic/Latinx (3)**

Pacific Islander/Native Hawaiian

**White/European Descent (4)**

Not Listed

Multi-Racial/Biracial

No Response

**Sexual Orientation:**

Asexual  
Two-Spirit  
Multiple Orientations

**Gay, Lesbian, Bisexual, Pansexual or Queer (2)**

**Heterosexual (3)**

Not Listed

**No Response (5)**

**Disability:**

Yes

**No (10)**



# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Board of Bar Examiners (BBE)
<b>Chair:</b>	Monica Wasson
<b>Staff Liaison:</b>	Gus Quiniones
<b>Board of Governors Liaison:</b>	Kim Hunter
<b>Size of Committee:</b>	34
<b>Direct Expenses:</b>	\$28,500
<b>Indirect Expenses:</b>	\$10,189
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	n/a
<b>Purpose:</b>	
<p>The Board of Bar Examiners (BBE) derives its authority from the Admission and Practice Rules (APR), which provide for appointment of BBE members by the Board of Governors.</p> <p>The BBE grades the Multistate Essay Examination (MEE) and Multistate Performance Test (MPT) answers for the Uniform Bar Examination (UBE), and produces the content for the Washington Law Component (WLC) test, in accordance with the APR as approved by the Washington Supreme Court.</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>The Multistate Bar Examination (MBE) is scored by the National Conference of Bar Examiners (NCBE) and the MEE and MPT are graded by the BBE. The grading is typically completed over the course of one long weekend in March and one in August, both in Seattle.</p> <p>The winter exam requires a total of 10 examiners to grade the MEE and MPT and the summer exam requires a total of 18 examiners. Each examiner must attend the mandatory scheduled NCBE grading workshop in person, by teleconference, or by review of the conference video prior to grading the exams.</p> <p>The WLC is reviewed and updated by members of the BBE every other year.</p>	

<p><b>2019-2020 Accomplishments and Work in Progress:</b></p>
<p>This fiscal year: Conducted a successful grading conference for the grading of February 2020 MEE and MPT exams. This was the first time grading was done remotely due to COVID-19.</p>
<p><b>2020-2021 Goals:</b></p>
<ol style="list-style-type: none"> <li>1) Continue to encourage BBE members to attend NCBE annual education conference and NCBE grading workshops.</li> <li>2) Due to COVID-19 pandemic, the summer 2020 bar exam will be administered in July and September 2020. Graders will conduct two exam grading conferences in order to grade both exams. Examiner grading will be done remotely.</li> <li>3) Beginning with the September 2020 bar exam, graders will be using a new digital grading software which allows graders to view and score essay answers digitally instead of hard copy paper answers.</li> <li>4) Next Fiscal year: Conduct successful grading conferences for the grading of the February 2021 and July 2021 MEE and MPT exams and begin the process of reviewing the questions, answers, and outlines for the Washington Law Component Test.</li> </ol>
<p><b>Please report how this committee/board is addressing diversity, equity and inclusion:</b>  <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<p>The BBE actively seeks to increase diversity among its members with the assistance of the Bar staff to promote outreach, and to notify minority and specialty bar associations of vacancies on the BBE.</p> <p>The Board's goal is to provide Diversity and Inclusion training annually as part of onboarding.</p> <p>Current members of the BBE include a range of geographic and other facets of diversity; however, the Board will always look to improve in this area.</p> <p>BBE leadership places greater consideration on diversity when screening applications to the Board. In addition, the Board and staff work to ensure that all members are welcomed into the Board and provided with the training and materials needed to help them be successful in performing this work.</p>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board's work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<p>The exam process for admission to the practice of law covers ethical and legal judgment issues that lawyers may face when engaging in their chosen profession. Demonstrating knowledge in these areas should increase the professionalism of applicants who are admitted to practice.</p> <p>The function of the BBE is to determine which applicants are capable of meeting the high competency standards of this profession, and this helps to ensure their professionalism.</p>

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

The BBE continues to make efforts to recruit lawyers who are newer to the profession, although most current members have been in practice for a number of years.

The BBE recently appointed one member who meets the description of a new and young lawyer.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

The Board of Bar Examiners conducts closed session meetings when grading the MEE and MPT exams. The work of the BBE in helping to ensure the competency and professionalism of people licensed to practice law in Washington works to the benefit of the public who may need legal services.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (13)**

Transgender

Non-Binary

**Male (17)**

Two-spirit

Not Listed

**No Response (3)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan

Native

Asian

Middle-Eastern Descent

**White/European Descent (27)**

Not Listed

Black/African-American/African Descent

**Hispanic/Latinx (1)**

Pacific Islander/Native Hawaiian

**Multi-Racial/Biracial (2)**

No Response

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (17)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (3)**

**Heterosexual (7)**

Not Listed

**Disability:**

**Yes (2)**

**No (27)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Character and Fitness Board (CFB)
<b>Chair:</b>	Jeremy Rogers
<b>Staff Liaison:</b>	Jean McElroy
<b>Board of Governors Liaison:</b>	Bryn Peterson
<b>Size of Committee:</b>	15 currently (can vary)
<b>Direct Expenses:</b>	\$15,000
<b>Indirect Expenses:</b>	\$111,650
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	16
<b>Purpose:</b>	
	<p>The Character and Fitness Board (CFB) derives its authority from the Washington Supreme Court under APR 20 - 25.6, most recently amended in 2016.</p> <p>The CFB conducts hearings upon referral from Regulatory Services Counsel to determine: (1) if applicants to take the Bar Examination have demonstrated current good moral character and fitness to be admitted or re-admitted to the practice of law, or (2) have met the requirements to be reinstated after disbarment.</p>
<b>Strategy to Fulfill Purpose:</b>	
	<p>Upon referral from Bar counsel after review of application materials and supplemental information, the CFB conducts hearings, prepares written findings, and makes recommendations to the Washington Supreme Court (which makes the final decision on all admission/licensing recommendations). The CFB meets as frequently as necessary, generally meeting one day a month for hearings. Hearings are generally scheduled to last one-half to one day, and the CFB may complete up to two hearings in one meeting.</p>
<b>2019-2020 Accomplishments and Work in Progress:</b>	

**Goal:** Continue to conduct hearings as necessary, completing all written findings and recommendations in a timely fashion.

**Accomplishments:** So far this fiscal year, the Board has met three times – once for an implicit bias training, and twice to conduct hearings. Board findings and a recommendation have been filed with and approved by the Supreme Court in one of the two hearings, and are being reviewed by the Supreme Court in the second hearing. Three other hearings were continued upon request from the applicants, due to COVID19 restrictions on in-person gatherings, because the applicants preferred to wait for a hearing date where they could meet in person with the Board rather than have their hearing by Zoom. The Board is expected to complete two or three more hearings this year.

**Goal:** Provide additional diversity training at the start of FY'20.

**Accomplishment:** This was successfully completed during the first CFB meeting.

**Goal:** Continue to use electronic tools (Box, templates, etc.) and provide Board members with staff assistance in order to produce written opinions in a timely fashion while ensuring the confidentiality of the underlying proceedings.

**Accomplishments:** The CFB is continuing to use the electronic tools for both receiving and reviewing hearing materials and for producing written opinions in a timely fashion while ensuring confidentiality. The Board will also be using the electronic tools to provide additional legal and other research materials to CFB to CFB members.

**2020-2021 Goals:**

1. Continue to conduct hearings as necessary, completing all written findings and recommendations in a timely fashion.
2. Learn and recognize the additional functions provided by the new online application system when that system is functional, in order to understand how that affects applicants' ability to provide accurate and up-to-date information in their applications.
3. Provide diversity training at the first CFB meeting, for consideration and reference when conducting all hearings during the year.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

The CFB is not currently using specific tools provided by WSBA, other than WSBA diversity training. The CFB discusses diversity issues as they arise in cases.

Yes, the CFB received diversity training from the WSBA diversity specialist.

The CFB's makeup is governed by Court rule (APR 23(a)). The members of the CFB come from each congressional district, a wide variety of practice areas and settings, and a variety of ethnic, racial, gender, sexual orientation, disability, and other diversity factors, and therefore represent broad geographic, practice, and experiential diversity. The Board also includes community representatives and it can include additional members from each Congressional district (which occurs sometimes in order to include additional members from historically underrepresented backgrounds). The Chair encourages discussion and invites input from all members, and the CFB works cooperatively, even when there are significant disagreements in particular cases; diversity of viewpoints is paramount to the deliberative process.

The Chair always ensures that each member in attendance at a particular hearing has an opportunity to speak during both questioning and deliberations, and encourages thorough discussion of all viewpoints.

The hearings involve applicants who come from a wide range of backgrounds and experiences, many of whom have overcome very difficult personal, societal, and institutional obstacles in order to reach the point of applying for admission. The Board recommends the admission of many of these applicants after consideration of their individual circumstances, thereby helping applicants from historically underrepresented groups enter the profession (if the Court approves the Board's recommendation for admission). C&F hearings, by design, require a holistic view of the individual applicant; such a view necessarily requires the Board to take account of each applicant's individual circumstance.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board's work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

Among other considerations, the CFB may consider factors that affect and relate to respect and civility within the legal community. (APR 21(a)(5), (6), (8) and (9).) The CFB also demonstrates respect and civility within the legal community by how it conducts its hearings and treats applicants appearing before it.

Among other considerations, the CFB may consider factors that affect and relate to relationships between and among lawyers, judges, staff and clients. (APR 21(a)(5), (6), (8) and (9)).

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

In order to reduce the need for recusals by CFB members, and to ensure that Board members have an adequate understanding of the stresses associated with practicing law once removed from any supports that might be provided by law schools for new grads, the rules governing the Board require lawyer members to have been admitted for at least 5 years. Nevertheless, the CFB continues to make efforts to recruit lawyers who are newer to the profession.

The CFB directly or indirectly helps some young lawyers, because going through the C&F hearing process may encourage or require applicants to have, and provide evidence to the CFB about, among other things, debt management or the supports applicants have in place to assist them in maintaining the fitness to practice law despite obstacles and stressors in an actual practice setting.

**Please report how this committee/board is addressing the needs of the public:**  
*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

The public is directly impacted by the character and fitness of persons admitted to the practice of law in this state; therefore, attempting to ensure that applicants are of current good moral character and have the fitness to practice law serves a direct public protection function.

By Court rule, the Board has three public members that serve on it. These public members play an active role in the hearings and deliberations, and assist with writing findings and recommendations. The CFB very highly values the input it receives from the public members.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

<b>Female (6)</b>	<b>Male (6)</b>	<b>No Response(3)</b>
Transgender	Two-spirit	Multi
Non-Binary	Not Listed	

**Ethnicity:**

American Indian/Native American/Alaskan Native	<b>Black/African-American/African Descent (1)</b>
<b>Asian (1)</b>	Hispanic/Latinx
Middle-Eastern Descent	Pacific Islander/Native Hawaiian
<b>White/European Descent (9)</b>	<b>Multi-Racial/Biracial (1)</b>
Not Listed	<b>No Response (3)</b>

**Sexual Orientation:**

<b>Asexual (1)</b>	<b>Gay, Lesbian, Bisexual, Pansexual or Queer (1)</b>
Two-Spirit	<b>Heterosexual (3)</b>
Multiple Orientations	Not Listed
<b>No Response (10)</b>	

**Disability:**

Yes	<b>No (12)</b>
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2020 ANNUAL CHIEF HEARING OFFICER REPORT  
TO THE BOARD OF GOVERNORS

I. INTRODUCTION

The Washington Supreme Court appointed<sup>1</sup> me to serve as chief hearing officer for a two year term beginning October 1, 2019. WSBA compensates the chief hearing officer \$30,000.00 per year through an independent contractor contract. This report, required by the contract, covers the time period October 1, 2019 through August 20, 2020.

II. DUTIES OF THE CHIEF HEARING OFFICER

Rules for Enforcement of Lawyer Conduct Rule 2.5(e)(2) sets out the chief hearing officer's duties and authority. The chief hearing officer also attends the Discipline Advisory Round Table Meetings and participates as an ex-officio member of the Disciplinary Selection Panel. This report summarizes the chief hearing officer's ELC 2.5 duties.

A. HEAR MATTERS

The chief hearing officer can hear matters. I conducted four hearings during this fiscal year.

B. ASSIGN CASES

The chief hearing officer assigns hearing officers and settlement hearing officers to individual proceedings from those the Washington Supreme Court appoints to the list. I have appointed 28 hearing officers and 21 settlement hearing officers between October 1, 2019 and August 20, 2020. There are no proceedings currently waiting for hearing officer appointments.

I receive a weekly report listing the cases needing hearing officer and settlement hearing officer assignments. The Formal Complaints are placed in a Box folder so I can access them as needed. I review the information and contact hearing officers who do not have current assignments. I have not had any difficulty finding hearing officers willing to accept new assignments. In fact, several consistently volunteer for more work. I have attempted to broaden the experience of all hearing officers by assigning them equally to settlement conferences, as well as to disciplinary and disability proceedings. To this extent I feel I have been successful. Fortunately, most disciplinary hearings only require 2-3 days, which is easier for hearing officers to accommodate. I will be challenged finding and assigning hearing officers to longer proceedings (in excess of one week), and may need to explore bifurcating proceedings, so as to not create an undue hardship on

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<sup>1</sup> The Supreme Court, upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, appoints a chief hearing officer to an initial two year term, followed by renewable five year terms. ELC 2.5(e)(1).



the hearing officer. (This is something commonly done in workers' compensation cases at the administrative level with the Board of Industrial Insurance Appeals).

- C. **MONITOR AND EVALUATE HEARING OFFICER PERFORMANCE**  
I monitor and evaluate hearing officer performance through frequent contact with the hearing officers and through review of written orders and decisions. Hearing officers frequently contact me with questions about hearing procedures.
- D. **HEAR MOTIONS FOR HEARING OFFICER DISQUALIFICATION**  
The parties can request hearing officer removal without cause once in each proceeding.<sup>2</sup> In addition, the parties may move to disqualify a hearing officer for cause.<sup>3</sup> I have appointed a new hearing officer two times when a party requested removal without cause. I decided one motion requesting for cause removal.
- E. **HEAR PRE-HEARING MOTIONS WHEN NO HEARING OFFICER ASSIGNED**  
I have decided motions for orders of default, motions deferring discipline proceedings, motions objecting to investigative inquiries and investigative subpoenas, and approved stipulations. I have entered approximately two of these orders.
- F. **HEAR MOTIONS FOR PROTECTIVE ORDERS UNDER RULE 3.2(e)**  
I have decided no motions for protective order this year.
- G. **HEAR MOTIONS PRIOR TO MATTER BEING ORDERED TO HEARING, INCLUDING WHILE A GRIEVANCE IS BEING INVESTIGATED**  
I did not receive any of these motions this fiscal year.
- H. **HEAR REQUESTS FOR AMENDMENT OF FORMAL COMPLAINT UNDER RULE 10.7(b)**  
I have not decided any motions under this rule.
- I. **APPROVE STIPULATIONS TO DISCIPLINE NOT INVOLVING SUSPENSION OR DISBARMENT AS PROVIDED BY RULE 9.1(d)(2)**  
The chief hearing officer approves stipulations when a hearing officer has not been appointed. I approved approximately four stipulations during this fiscal year.
- J. **RESPOND TO HEARING OFFICER REQUESTS FOR INFORMATION OR ADVICE RELATED TO THEIR DUTIES.**  
I responded to frequent requests for hearing officer information or advice relating to their duties. Many of the questions lead to topics for next year's training.

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<sup>2</sup> ELC 10.2(b)(1).

<sup>3</sup> ELC 10.2(b)(2).

K. SUPERVISE HEARING OFFICER TRAINING IN ACCORDANCE WITH ESTABLISHED POLICIES

Hearing officer training is provided annually in the fall and includes CLE credit. We usually provide a five or six hour program in Seattle and provide Zoom to facilitate attendance by those outside of Seattle. Topics vary, but include changes to rules or procedures, Supreme Court cases decided over the last year, settlement skills, writing skills, diversity training and accessibility training. The most recent training was in November 2019. Our next training is targeted for November 2020.

III. HEARING OFFICERS

We have 33 hearing officers. Hearing officers are appointed by the Supreme Court of Washington for initial two year terms, followed by five year terms. There is no limit on the number of 5 year terms. Hearing officer initial and re-appointment applications are reviewed by the Discipline Selection Panel (DSP), including receiving input from the chief hearing officer, Office of Disciplinary Counsel and a representative from the respondent's counsel community. The DSP makes a recommendation to the WSBA Board of Governors. The Board forwards a recommendation to the Court.

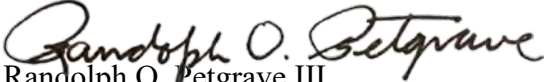
IV. STAFF

Allison Sato and Lisa Amatangel assist the chief hearing officer with his duties when needed.

V. CONCLUSION

I thank you all for the support I have received during my term as chief hearing officer. Please let me know if you have any specific questions.

Respectfully submitted this 21<sup>st</sup> day of August, 2020.

  
Randolph O. Petgrave III  
Chief Hearing Officer

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Client Protection Board
<b>Chair:</b>	Carrie Umland
<b>Staff Liaison:</b>	Nicole Gustine and Brenda Jackson
<b>Board of Governors Liaison:</b>	Carla Higginson
<b>Size of Committee:</b>	13
<b>Direct Expenses:</b>	\$1,200
<b>Indirect Expenses:</b>	\$130,396
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	7
<b>Purpose:</b>	<p>The Client Protection Board derives its authority from Admission and Practice Rules (APR) 15. The WSBA Board of Governors (BOG) serve as trustees of the Fund, while the CP Board, working with WSBA staff, administers it. The Washington Supreme Court has ordered an annual assessment on all active lawyer and LLLT members, to be held in trust for the purposes of the fund.</p> <p>The CP Board helps relieve or mitigate pecuniary losses sustained by clients by reason of the dishonesty of, or failure to account for money or property entrusted to, their lawyers. The CP Board reviews fund applications investigated by WSBA staff. Under APR 15, a decision by the CP Board to make a payment on an application for \$25,000 or less is final; a decision on an application for above \$25,000 is a recommendation and must be approved by the BOG.</p>
<b>Strategy to Fulfill Purpose:</b>	<p>The CP Board has a staff analyst and counsel/liaison in the WSBA Office of General Counsel. The CP Board meets four times per year to review applications. In accordance with APR 15, the CP Board provides a detailed report to the BOG and the Washington Supreme Court annually.</p>
<b>2019-2020 Accomplishments and Work in Progress:</b>	

- 1) Continue to educate WSBA members about the CP Board.
- 2) Increase the public awareness of the CP Board.
- 3) Continue to operate a fiscally responsible fund.
- 4) Continue to work to decide difficult claims.

**2020-2021 Goals:**

- 1) Continue to educate WSBA members about the CP Board.
- 2) Increase the public awareness of the CP Board.
- 3) Continue to operate a fiscally responsible fund.
- 4) Continue to work to decide difficult claims.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The CP Board is not using specific tools; however it is cognizant of diversity and prioritizes it.
- 2) The CP Board has been trained by the Diversity Specialist.
- 3) The CP Board actively recruits members from different backgrounds and areas of the state. It includes members who work in government, solo practice and in larger firms, as well as two community members.
- 4) The CP Board respects the voice and vote of each member. Each application is discussed extensively before a vote is taken.

The CP Board consists of eleven lawyers and two community members. It currently has a diverse membership.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board's work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

- 1) The CP Board promotes respect for the legal profession by relieving or mitigating losses caused by those few lawyers who betray the trust of their clients. Applicants (and lawyers who assist them in filing applications) frequently express appreciation for the CP Board's role in restoring some degree of trust in the legal profession by those injured.
- 2) See (1) above.

The CP Board promotes professionalism by righting wrongs of members of the legal profession who dishonestly deprive clients of their funds. The Board issues an annual report which details the amounts paid out to applicants, and the lawyers involved.

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

1) The CP Board encourages the application and appointment of newer lawyers. APR 15 does not have a minimum number of years of admission requirement for lawyer members. The Board is well suited to integrating young lawyers, and continues to do so. Younger lawyers can apply to be Chair or Vice-Chair.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

1) The CP Board promotes public confidence in the administration of justice and the integrity of the legal profession. Relieving or mitigating the pecuniary loss of injured members of the public often has a deep impact on their lives, and their view of the legal profession.

2) The CP Board actively recruits community or public members from different backgrounds and areas of the state. One of the CP Board’s goals is to increase public awareness of its work.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (7)**

Transgender

Non-Binary

**Male (4)**

Two-spirit

Not Listed

**No Response (2)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan

Native

Asian

Middle-Eastern Descent

**White/European Descent (6)**

Not Listed

**Black/African-American/African Descent (1)**

**Hispanic/Latinx (2)**

Pacific Islander/Native Hawaiian

**Multi-Racial/Biracial (2)**

**No Response (2)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (4)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (3)**

**Heterosexual (6)**

Not Listed

**Disability:**

Yes

**No (10)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Committee on Professional Ethics (CPE)
<b>Chair:</b>	Don Curran
<b>Staff Liaison:</b>	Jeanne Marie Clavere and Darlene Neumann
<b>Board of Governors Liaison:</b>	Kyle Sciuchetti
<b>Size of Committee:</b>	9
<b>Direct Expenses:</b>	\$5,000
<b>Indirect Expenses:</b>	\$44,120
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	15
<b>Purpose:</b>	
<p>The Committee on Professional Ethics (CPE) prepares advisory opinions addressing recurring or emerging ethics issues facing WSBA members. The advisory opinions cover a broad context and provide in-depth guidance on the Rules of Professional Conduct (RPCs) as applied to a wide variety of practice areas. The CPE also prepares recommendations for amendments to the RPCs and reports to the WSBA Board of Governors when requested regarding stakeholder proposed RPC and GR amendments submitted to the Supreme Court.</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>The CPE meets six times a year to review and edit draft advisory opinions and potential RPC amendments. In addition, subcommittees tasked with researching and developing drafts in particular areas spend significant time between meetings on their assignments. Committee work on proposed advisory opinions includes a review of considerations related to the North Carolina Dental Board case to be mindful of maintaining and promoting freedom of competition in the ethical practice of law. Moreover, advisory opinions are now provided to the Board of Governors (BOG) for information purposes before posting on the WSBA website.</p>	
<b>2019-2020 Accomplishments and Work in Progress:</b>	

RPC Amendments Proposed by the CPE

- An amendment to **RPC 1.15A(h)(9)** to allow LLLTs who work in a firm with lawyers to sign trust account checks without requiring a second signature by a lawyer. In November 2019, the Court published the suggested amendment for comment. The comment period expired September 30, 2020.
- A typographical correction to **RPC 6.1(a)(2)** was adopted by the Court in November 2019.

Supreme Court Requests to the CPE

- The committee reviewed the proposed amendments to the lawyer advertising rules (**RPC 7.1 to 7.5 and RPC 5.5**) to ensure integration with the ABA Model Rules. The amendments were proposed by the committee, approved by the BOG, and published for comment by the Court in November 2018. The comment period expired April 30, 2019.
- The committee reviewed and responded to a public comment the Court received on suggested new **comment [13] to RPC 4.2**, which had been published for comment on the court's website.

Board of Governors Requests to the CPE

- The committee reviewed an amendment to **comment [4] to RPC 4.4** and new **GR 38** regarding immigration status reporting as proposed by several stakeholder groups. The BOG adopted the CPE recommendation, which the WSBA president submitted as public comment in January 2020. The Court adopted the CPE recommended amendments to the rule on April 1, 2020.
- The committee reviewed an amendment to **RPC 6.5** pending at the Supreme Court concerning conflict of interest notice requirements proposed by several stakeholder groups. Members of a CPE subcommittee provided guidance to the stakeholders to help refine the proposal and planned to present its recommendation to the BOG on April 17, 2020. However, the stakeholders decided to withdraw their proposal, citing the COVID-19 public health emergency and other pressing issues. The CPE supported the action and will remain available for technical assistance to the stakeholders when the proposal is resubmitted in the future.
- The committee analyzed a revised draft amendment to **RPC 7.3** proposed by the Supreme Court that would exempt certain practice areas. The CPE presented its recommendation to the BOG on April 17, 2020, which it adopted and forwarded to the Court as comment.

Completed Work of the CPE

- **Review of Advisory Opinion 2223 (2012)**. The opinion concerns the ability of lawyer-mediators to draft and file legal documents for unrepresented parties in mediation. In August 2019, the CPE issued **Advisory Opinion 201901** that provided greater clarity on the issue. Advisory Opinion 2223 was withdrawn.
- **Lawyer Referral Services and Fee Sharing**. Washington's RPC contains a unique provision in **RPC 1.5(e)(2)** which allows lawyer referral services authorized by WSBA and county bar associations. The CPE analyzed the issue and proposed amendments to **RPC 7.2(b)**, **comment [6] to RPC 7.2**, new Additional Washington **Comment [5] to RPC 5.4**, and the deletion of RPC 1.5(e)(2). All proposed amendments were adopted by the BOG in May 2020 and submitted to the Court.
- **Special Assistant Attorney General Conflicts of Interest**. The committee reviewed conflict of interest issues regarding the duty of a contract SAAG attorney to a worker in an third party worker's compensation claim. The CPE issued **Advisory Opinion 201902** in Oct. 2019.
- **Trust Account Following Retirement**. The committee reviewed whether a retired lawyer may keep the trust account open to disburse client funds that are received over a period of time from settled cases. The CPE issued **Advisory Opinion 201903** in October 2019.

- **In-house Counsel Claims.** The CPE proposed amendments to **comment [4] to RPC 1.16** and new Additional Washington **comment [16] to RPC 1.13**, to cite to Karstetter v. King County Corrections Guild, 193 Wn.2d 672, 444 P.2d 1185 (2019), regarding in-house counsel and similarly situated lawyers with regard to wrongful termination claims. The BOG approved the proposed amendments in May 2020, and the submitted the proposed amendments to the Court.

Work in Progress

- **Ghostwriting.** The committee is working on a draft advisory opinion to provide member guidance on the issue of ghostwriting and limited scope representation.
- **Lawyer Mediator Practices.** The committee is drafting a comment to RPC 2.4 regarding lawyer mediators in family law who prepare legal documents for unrepresented parties.
- **Multiple Client Representation in Wrongful Death Cases.** The committee has completed its drafting of a proposed advisory opinion and is submitting it to the Board of Governors for approval.
- **Disclosure of Client Civil Commitment.** The committee is drafting an advisory opinion on the issue of disclosure of a client’s civil commitment in court proceedings.
- **Proposed amendment to comment [2] to RPC 1.11** to cite State v. Nickels, 195 Wn.2d 132, 456 P.3d 795 (2020), regarding disqualification of an entire elected county prosecutor’s office when the prosecutor had previous involvement representing the defendant.
- **Potential amendments to RPC 1.8(e)** concerning limited exceptions to the prohibition against providing financial assistance to the client due to the extraordinary circumstances caused by the COVID-19 pandemic.

Other Issues Reviewed by the CPE

- Compensation of attorney administrator of decedent’s estate by hired by same firm with a creditor’s action against the estate.
- Notification of material errors: current and former clients
- Lawyer well-being amendments to RPC
- RPC 4.2: communication with government employee represented by counsel for the government entity.
- Currency of Advisory Opinion 201501 (lawyer representing marijuana enterprise clients under state law legalizing marijuana) following the Court's amendment to comment [18] to RPC 1.2.

**2020-2021 Goals:**

1. Continue with its objective to address recurring or emerging ethics issues to provide in-depth guidance on the Rules of Professional Conduct in the form of advisory opinions;
2. continue to review and evaluate amendments to the RPC;
3. continue to respond to member inquiries regarding broader ethical issues;
4. to implement compliance with the letter and spirit of the Open Public Meeting Act; and
5. to continue its tradition of collegiality and collaborativeness among committee members and with staff.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your*



<p><i>committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession?</i></p>
<ol style="list-style-type: none"> <li>1) <i>How have you elicited input from a variety of perspectives in your decision-making?</i> The committee actively seeks input from interested stakeholders and bar members on proposed rule changes or draft opinions.</li> <li>2) <i>What have you done to promote a culture of inclusion within the board or committee?</i> At nine members, the committee is fairly small, includes one third women, and members of varying backgrounds. Each member brings a unique and valuable perspective to the discussions and work of the committee.</li> <li>3) <i>What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession?</i> Through its advisory opinions and analysis of the Rules of Professional Conduct, the CPE assists members of all backgrounds in clarifying their ethical duties under the rules thereby helping them to maintain their practices and thrive in the profession.</li> </ol>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> <li>1) <i>Does the committee/board’s work promote respect and civility within the legal community?</i> The CPE promotes and supports professionalism in the legal profession through advisory opinions and analysis of legal ethical practice for members.</li> <li>2) <i>Does it seek to improve relationships between and among lawyers, judges, staff and clients?</i> N/A</li> <li>3) <i>Does it raise awareness about the causes and/or consequences of unprofessional behavior?</i> Through its advisory opinions, the CPE helps to educate members about ethical conduct and provides guidance on ethical dilemmas to encourage professional behavior.</li> </ol>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<ol style="list-style-type: none"> <li>1) <i>How have you brought new and young lawyers into your decision making process?</i> The CPE includes younger members within its ranks and takes into account the practices of all members when formulating advisory opinions.</li> <li>2) <i>Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities?</i> N/A</li> <li>3) <i>Other?</i> Ethics Advisory Opinions promulgated by the CPE are specifically helpful to new and young lawyers as they transition from academic classroom discussions of the RPC to the real time application of the RPC to their practices.</li> </ol>
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>

- 1) *How is the public impacted by your work?* Lawyers practicing ethically enhance the public image of our noble profession resulting in increased public trust. Understanding clearly articulated advisory opinions and rules of professional conduct empower the lawyer to deal competently, confidently, and honestly with peers and the public.
- 2) *Has the committee/board sought input from the public, and/or communicated its work to the public?* During its review of AO 2223, the committee sought input from the public on lawyer mediator issues and distributed a proposed draft opinion to county bars, mediators, and numerous sections. It sought input from the parties in mediation and nonprofit mediation organizations. The lawyer mediator practices subcommittee has met with an expert on domestic violence issues to learn more about the impact on family law mediations.

**FY20 Demographics:** *To Be Completed by WSBA Staff*

**Gender:**

**Female (3)**

Transgender

Non-Binary

**Male (5)**

Two-spirit

Not Listed

**No Response (1)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

Black/African-American/African Descent

**Asian (1)**

Middle-Eastern Descent

Hispanic/Latinx

Pacific Islander/Native Hawaiian

**White/European Descent (7)**

Not Listed

Multi-Racial/Biracial

**No Response (1)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (4)**

Gay, Lesbian, Bisexual, Pansexual or Queer

**Heterosexual (5)**

Not Listed

**Disability:**

Yes

**No (8)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Continuing Legal Education (CLE) Committee
<b>Chair:</b>	Wil Miller
<b>Staff Liaison:</b>	Shanthi Raghu
<b>Board of Governors Liaison:</b>	Kim Hunter
<b>Size of Committee:</b>	18
<b>Direct Expenses:</b>	\$250
<b>Indirect Expenses:</b>	\$12,266
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	2
<b>Purpose:</b>	
	The purpose of the Continuing Legal Education (CLE) Committee is to support the Washington State Bar Association's (WSBA) development of continuing legal educational programming that ensures competent and qualified legal professionals, supports member transitions throughout the life of their practice, and helps to prepare members for the future with skills required for the 21 <sup>st</sup> century practice of law.
<b>Strategy to Fulfill Purpose:</b>	
	The CLE Committee provides input to the WSBA CLE Team in fulfilling its mission of serving the ongoing education needs of Washington legal professionals. The CLE Committee maintained two subcommittees in FY19: Marketing Intelligence and Programming.
<b>2019-2020 Accomplishments and Work in Progress:</b>	
	This year the committee convened three times, and focused on generating ideas for future CLE programming. The committee also developed two questions to include in Member Perception Survey calls in Q3 and Q4.
<b>2020-2021 Goals:</b>	

Identify new areas of programming for WSBA presents CLE programs  
 Identify potential speakers and chairs  
 Review member perception responses to help inform future delivery of CLE program  
 Help inform marketing strategies for WSBA CLE

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

The CLE committee encourages WSBA CLE staff to engage with a wide range of stakeholders in program development. In an effort to develop relevant and timely content, the WSBA CLE engages with a wide range of stakeholders including the WSBA Practice Sections, the DMCJA, the WSBA Diversity Committee and Public Service Committees, the WYLC and a variety of outside nonprofit organizations and local and minority bar associations.

The CLE Committee works affirmatively to identify and recruit a diverse group of committee members.

Additionally, this year, the CLE Committee provided comment on the MCLE Board’s recent preliminary suggested amendment to APR 11.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

The CLE Committee continues to address professionalism throughout all of its work by ensuring the most timely and relevant legal education is delivered to Washington legal professionals.

Content developed by WSBA CLE promotes professional and personal development which in turn aids in civility and professionalism. WSBA CLE offers an annual Ethics, Professionalism and Civility program that directly deals with the topics of civility and professionalism along with ethics issues associated with those topics.

WSBA CLE delivers many programs that deal directly with the consequences of unprofessional or unethical behavior within the profession. In FY20 WSBA CLE delivered many seminars related to this specific topic including Ethical Dilemmas, Ethics for Non-Attorneys, ALPS Ethics, Ethics Booster, and ethics related to practicing during a pandemic.

Many of the CLE programs that the CLE Committee supports specifically address relationships between lawyers and judges and professionalism in the legal profession. Law of Lawyering is an annual program that addresses these specific topics. This program was delivered in December, 2020 and is also available on-demand.

This year, the BOG elected for the WSBA to provide three free ethics credits (live and on-demand) for the members. The free ethics credits were developed in the following categories:

<p>1) equity, inclusion and the mitigation of bias, 2) mental health, addiction, and stress, and 3) technology education focusing on digital security.</p>											
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>											
<p>In conjunction with the WSBA New Lawyer Program, WSBA CLE develops a Trial Advocacy Program that specifically assists new lawyers in learning and developing trial skills. This program is scheduled to deliver in August and September 2020.</p> <p>In association with the WSBA New Member Education, the CLE team develops a Practice Primer Series which take a substantive area of law and build out a full curriculum from introductory to more advanced topics over the course of three learning tracks and approximately 21 hours of education. The goal of this programming is to provide new members (or transitioning members) a foundational education to jump start their entry into the substantive area of practice. New Member programming is deeply discounted for members who have been licensed for less than five years. In FY20 the Practice Primer Series focused on the area of Criminal Law. Attendees may join the Practice Primer Series live. The content is also made available as an on-demand seminar for purchase on the WSBA CLE Store. The Criminal Law Practice Primer Series was delivered in the months of February, March, April and September of 2020.</p>											
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>											
<p>The mission of WSBA CLE is to ensure the competency of the profession through education. By providing education that is relevant, timely and in demand by the membership, WSBA CLE helps to protect the public by ensuring competent legal professionals. That said, the committee has not done any specific outreach to the public. WSBA CLE does engage with various sectors of the public when developing various CLE programs because many of our faculty are non-WSBA members and members of the public.</p> <p>Additionally, this year, in light of the COVID-19, WSBA CLE developed a webinar series covering issues specific to navigating legal practice during the pandemic. Free CLEs (live and on-demand) were made available from April through the end of June. The content was vital to providing members with CLE content to better serve clients – the public - during a time of uncertainty, stress and challenge.</p> <p>Since March, WSBA CLE has moved to mostly remote operations, leveraging technology to continue to deliver programs virtually. The CLE Committee continued to help inform the CLE content to be developed.</p>											
<p><b>FY20 Demographics: To Be Completed by WSBA Staff</b></p> <table border="0"> <tr> <td><b>Gender:</b></td> <td></td> <td></td> </tr> <tr> <td><b>Female (1)</b></td> <td><b>Male (5)</b></td> <td><b>No Response (1)</b></td> </tr> <tr> <td>Transgender</td> <td>Two-spirit</td> <td>Multi</td> </tr> </table>			<b>Gender:</b>			<b>Female (1)</b>	<b>Male (5)</b>	<b>No Response (1)</b>	Transgender	Two-spirit	Multi
<b>Gender:</b>											
<b>Female (1)</b>	<b>Male (5)</b>	<b>No Response (1)</b>									
Transgender	Two-spirit	Multi									

Non-Binary	Not Listed
<b>Ethnicity:</b>	
American Indian/Native American/Alaskan Native	Black/African-American/African Descent
Asian	Hispanic/Latinx
Middle-Eastern Descent	Pacific Islander/Native Hawaiian
<b>White/European Descent (4)</b>	<b>Multi-Racial/Biracial (1)</b>
Not Listed	<b>No Response (2)</b>
<b>Sexual Orientation:</b>	
Asexual	<b>Gay, Lesbian, Bisexual, Pansexual or Queer (3)</b>
Two-Spirit	Heterosexual
Multiple Orientations	Not Listed
<b>No Response (4)</b>	
<b>Disability:</b>	
Yes	<b>No (6)</b>

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Council on Public Defense (CPD)
<b>Chair:</b>	Daryl Rodrigues
<b>Staff Liaison:</b>	Diana Singleton and Bonnie Sterken
<b>Board of Governors Liaison:</b>	Vacant
<b>Size of Committee:</b>	23
<b>Direct Expenses:</b>	\$7,000
<b>Indirect Expenses:</b>	\$38,035
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	16
<b>Purpose:</b>	
	The Council on Public Defense (CPD) was established in 2004 to implement recommendations of the Washington State Bar Association (WSBA) Blue Ribbon Panel on Criminal Defense for maintaining and improving constitutionally effective public defense services in Washington. The WSBA Board of Governors (BOG), finding that the CPD provided a unique and valuable forum for bringing together representatives across the criminal justice system, subsequently established the CPD.
<b>Strategy to Fulfill Purpose:</b>	
	The CPD unites members of the public and private defense bar, the bench, elected officials, prosecutors, and the public to address new and recurring issues impacting public defenders, the public defense system and the public that depends upon it. The CPD, after review of its Charter obligations, has recently worked on six issues in which it has the expertise to provide assistance to public defenders and formed the Pre-Trial Reform Committee, Legal Financial Obligations (LFO) Committee, Standards Committee, Mental Health/Involuntary Treatment Act Committee, Public Defense and Independence Committee, and Public Defense Structure Committee.
<b>2019-2020 Accomplishments and Work in Progress:</b>	
	1. The Pre-Trial Reform Committee distributed and promoted the Defender Resource Packet.

2. Guidelines for Criminal Appellate Performance were advanced to the WSBA BOG for approval for submission to the WA Supreme Court.
3. The Council's Standards Committee completed revisions to the Performance Guidelines for Criminal Defense Representation to include persistent offender cases.
4. The Council released a racial justice statement in response to the Court's Call to Action after the death of George Floyd. The statement emphasized public defense's role in embracing anti-racism, eliminating explicit and implicit biases, and dismantling white supremacy in the justice system.
5. The Council submitted comments in support of proposed amendments to CrR 3.1, CrRLJ 3.1 and JuCR 9.3.
6. The Council's Independence Committee continued work on proposed revisions to Standards 18 and 19.
7. The Council provided guidance to the Office of Public Defense and the State Supreme Court on revisions needed to the Indigent Defense Standards.

**2020-2021 Goals:**

1. Update persistent offender guidelines and review standards for public defenders assigned a persistent offender caseload.
2. Draft proposed revision to Standards 18 and 19 of the Indigent Defense Standards to include language on the need for independence in the selection and continuance of public defenders and other assigned council.
3. Provide guidelines and examine the impact of Covid-19 on the Indigent Defense Standards.
4. Address how to reduce the role of bias in the delivery of indigent defense services and work to improve diversity in the public defense offices and other indigent defense delivery systems.
5. Research improvements to delivery of public defense services in rural and small communities.
6. Support improvement of public defender services and accountability.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

Robin Nussbaum, Inclusion and Equity Specialist, conducted a Diversity in Decision Making training in February 2019. As a product of this training the Chair and Vice Chair resolved as follows:

- a. To Seek input from all CPD members not just those who volunteer input.
- b. To be mindful of geographic, age, race and other factors in making recommendations for appointments to the CPD.
- c. To begin meetings with short centering exercises to enable participants to be more fully present for meetings.
- d. To continue to stream meetings to provide broader access to those who cannot attend in person



The Chair and Vice Chair have emphasized that during discussions all CPD members will be asked for their input, not only those who volunteer input.

The CPD pays attention to issues of diversity and inclusion as it relates to recruiting and filling positions. The CPD takes diversity, including geographic diversity, into account when making its recommendations about appointments. The CPD has continued to focus on bringing together a broad group of criminal justice system stakeholders.

The Chair and VC have discussed the lack of generational diversity in the Council. In part it is logical that experienced policy makers/practitioners are older, however, on numerous occasions we experienced a differing perspective when we seek and take input from more diverse participants. We will continue to seek participation from younger members.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

1. The CPD unites diverse members of the legal community and public in a shared project of the WSBA to support work of public defenders to provide their clients with strong and accessible public defense services. The CPD has worked to include prosecutors and city attorneys as members in order to assure all voices and perspectives are at the table and engaged in the Council’s discussions.
2. The CPD actively promotes professionalism so all members can express, debate, and consider competing views respectfully and productively to fulfill this shared WSBA mission.
3. The CPD makes an effort to have discussions about ethical practices, which includes professionalism.

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

1. The CPD reaches out to younger members of the bar and law school students to participate in its work, both as active members and as interested parties. Some members, particularly those who teach at the Washington law schools, invite students and new and young lawyers to attend meetings. To the extent possible we encourage these individuals to attend meetings and always invite them to contribute to the conversation.
2. New and young lawyers are invited to attend meetings and find ways to get involved. New and Young Lawyers are encouraged to voice their opinions in meetings and actively participate in the work of the committees. Staff has presented to the New and Young Lawyers Committee about the work of the Council.
3. A major factor in non-participation from younger people is the fact that most younger lawyers are caseload carrying – and most Chief Defenders have little ability to provide caseload credit for participation and attendance. We are working with the larger PD offices to find ways to provide caseload relief so younger lawyers can participate actively.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

1. Members of the public are all subject to being criminally charged. Our efforts raise the standards for public defense Statewide.
2. We have one membership position for the general public.
3. We release our work through public comment (court rules) proposed guidelines (standards) and materials (e.g., pretrial checklists)

**FY20 Demographics:** *To Be Completed by WSBA Staff*

**Gender:**

**Female (3)**

Transgender  
Non-Binary

**Male (6)**

Two-spirit  
Not Listed

**No Response (9)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

Asian

Middle-Eastern Descent

**White/European Descent (8)**

Not Listed

**Black/African-American/African Descent (1)**

Hispanic/Latinx

Pacific Islander/Native Hawaiian

Multi-Racial/Biracial

**No Response (9)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (10)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (2)**

**Heterosexual (6)**

Not Listed

**Disability:**

Yes

**No (9)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Court Rules and Procedures Committee
<b>Chair:</b>	Isham Reavis
<b>Staff Liaison:</b>	Nicole Gustine and Kyla Jones
<b>Board of Governors Liaison:</b>	Brian Tollefson
<b>Size of Committee:</b>	28
<b>Direct Expenses:</b>	\$3,000
<b>Indirect Expenses:</b>	\$40,948
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	22
<b>Purpose:</b>	
	The Court Rules and Procedure Committee (Committee) studies and develops suggested amendments to designated sets of Washington court rules on a regular cycle of review established by the Washington State Supreme Court. It occasionally responds to requests for comment from the Supreme Court on proposals developed by others. The Committee performs the rules-study function outlined in General Rule 9 and reports its recommendations to the BOG.
<b>Strategy to Fulfill Purpose:</b>	
	The Committee consists of several subcommittees that review the court rules and obtain input from stakeholders as to possible amendments. Evolution in case law, changes in statutes, or other new developments since last amendment drive amendments to rules. The subcommittees vet, draft, and discuss proposed amendments and submit them to the full Committee for discussion and approval. Proposed amendments approved by the Committee are forwarded to the BOG for approval. If the BOG approves, the proposed amendments are forwarded to the Supreme Court in accordance with General Rule 9.
<b>2019-2020 Accomplishments and Work in Progress:</b>	

<p>To continue to carefully vet new proposals. In 2019-2020 the Committee reviewed the Civil Rules for Superior Courts and Civil Rules for Courts of Limited Jurisdiction.</p>
<p><b>2020-2021 Goals:</b></p>
<p>According to the schedule for review, the Rules of Appellate Procedure and the Rules for Appeal from Decisions of Courts of Limited Jurisdiction will be reviewed in 2020-2021.</p>
<p><b>Please report how this committee/board is addressing diversity, equity and inclusion:</b>  <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The Committee is cognizant of diversity in selecting its members. It is an important factor in recruitment and consideration of applicants.</li> <li>2) The Committee has received training from the Diversity Specialist.</li> <li>3) The Committee seeks input from a wide variety of stakeholders before finalizing proposals, including reaching out to several minority bar associations. The Committee also reaches out to organizations that represent minority viewpoints that might not normally be aware of the Committee’s work.</li> <li>4) During the application period, the current Chair reached out to the leadership of several specialty and minority bar associations to encourage their membership to apply to be on the Committee.</li> <li>5) The Committee is composed of members with a wide range of backgrounds, experiences, and identities.</li> <li>6) The current chair has attempted to spread subcommittee chair assignments across the state to ensure broad, geographic representation.</li> </ol>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The Committee seeks to engage members and the wider legal community in the process of studying and reviewing court rules. It promotes respect and civility by encouraging vigorous but civil debate even when members and/or stakeholders have strongly held but opposing views.</li> <li>2) By engaging WSBA members and stakeholders outside of the Committee in the rule review process, the Committee’s work seeks to improve relationships among lawyers and judges. The Committee includes three judges who serve as liaisons (non-voting), one each from the Superior Court, Court of Appeals, and District/Municipal Court. In addition, the Supreme Court Rules Committee seeks input from the WSBA Court Rules Committee, which furthers dialogue between WSBA lawyers and Justices of the state’s highest court.</li> </ol>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>

- 1) The Committee does not have a minimum number of years of admission requirement to serve. Its lawyer members have a wide range of years of experience, including members who have only a few years of practice experience. The Committee often attracts applicants who are newer to the profession, some of whom are selected to serve.
- 2) The Committee provides opportunities for all members, including young lawyers, to chair subcommittees and the larger Committee. It provides opportunities for younger members to meet and be mentored by experienced members, as well as judges.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

- 1) The committee vets and crafts rule language that impacts the justice system and the public accessing that system.
- 2) Pursuant to court order, the committee publicizes suggested rule changes for public comment before finalizing its recommendations. Members of the bar, bench, and public are encouraged to review these proposals and send comments to the committee.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (11)**

Transgender  
Non-Binary

**Male (12)**

Two-spirit  
Not Listed

**No Response (4)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

Asian

**Middle-Eastern Descent (2)**

**White/European Descent (18)**

Not Listed

Black/African-American/African Descent

Hispanic/Latinx

Pacific Islander/Native Hawaiian

**Multi-Racial/Biracial (1)**

**No Response (6)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (9)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (4)**

**Heterosexual (14)**

Not Listed

**Disability:**

Yes

**No (9)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Disciplinary Board
<b>Chair:</b>	Jeffrey Gates
<b>Vice-Chair</b>	Elizabeth Rene
<b>Staff Liaison:</b>	Nicole Gustine and Allison Sato
<b>Board of Governors Liaison:</b>	none
<b>Size of Committee:</b>	14
<b>Direct Expenses:</b>	\$4,000
<b>Indirect Expenses:</b>	\$99,311
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	8
<b>Purpose:</b>	
	The Disciplinary Board (D-Board) derives its authority from the Supreme Court (see ELC 2.3). The D-Board performs an important role in the disciplinary/regulation process by: (1) serving as an intermediate appellate body for contested disciplinary and disability matters; (2) approving, conditionally approving or rejecting certain stipulations negotiated by the Office of Disciplinary Counsel (ODC) and respondents; and (3) through its review committees, acting on requests from the ODC to order matters to hearing, and on requests from grievants for review of matters that have been dismissed by ODC.
<b>Strategy to Fulfill Purpose:</b>	
	The D-Board is made up of the board chair and vice-chair, plus 12 members composing four review committees, one of which meets every three weeks. The D-Board meets six times each year as a full board. At these meetings, the D-Board reviews hearing officer recommendations for suspension and disbarment when a timely request for review/appeal is filed (or sua sponte review is ordered by the Board), and automatically reviews stipulations for suspension or disbarment. The D-Board issues a written recommendation to the Supreme Court in contested matters. The D-Board holds oral

arguments in some cases, which are open to the public. The four review committees meet in person or by telephone to review requests for hearings and grievant appeals from dismissals. The review committees' work is confidential and not open to the public.

**2019-2020 Accomplishments and Work in Progress:**

In 2019, the review committees of the Disciplinary Board met 16 times to consider 449 matters. They issued 357 dismissals, ordered 52 matters to hearing, ordered investigation in 13 matters, issued two advisory letters and three admonitions, and decided 22 other non-routine matters, such as orders on deferrals, costs, etc. In 2019, the full Disciplinary Board considered 25 disciplinary and disability matters and ordered the transfer of five lawyers to disability inactive status. The full board reviewed and issued orders on one case on appeal, and on 23 stipulations, and heard one oral argument. Per court rule, they considered whether to order or deny sua sponte review in eight cases involving a recommendation of suspension or disbarment.

The chair and vice-chair participated in feedback to the WSBA drafting work group on the new draft Rules for Discipline and Incapacity.

As of August 2020, the COVID-19 public health emergency has not adversely impacted the D-Board's functions. WSBA staff continues to upload case files and coordinate meetings. The D-Board is conducting its full board meetings and review committee meetings by telephone and video-conference. Pursuant to temporary authority granted by the Chief Justice of the Supreme Court, the chair was involved in the issuance of emergency orders for the administration of the discipline and disability system.

**2020-2021 Goals:**

The Disciplinary-Board's work is determined by Court Rule (Rules for Enforcement of Lawyer Conduct). The goal is to continue to perform high quality work in a timely manner in accordance with Court Rules.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The Disciplinary Selection Panel (DSP), which is a separate entity from the D-Board, makes nominations to the BOG for members to serve on the Board. Under ELC 2.2(f), the DSP considers diversity in gender, ethnicity, disability status, sexual orientation, geography, area of practice and practice experience.
- 2) The D-Board has been trained by the Diversity Specialist.
- 3) The D-Board seeks input from all of its members, who must vote on each order/decision in matters involving the full Board. The D-Board has four public members, who each provide different perspectives. One public member serves on each review committee.
- 4) By court rule, the D-Board has ten lawyer members and four community representative members. The current D-Board includes members self-identified as from several different races/ethnicities. The DSP interviews prospective members and makes nominations to the BOG. As noted above, ELC 2.2(f) states that in making selections, the DSP and the BOG consider diversity.

<p>5) The D-Board provides many leadership opportunities for interested Board members to serve, as Chair or Vice-Chair of the full Board, or as Chairs of each of the four review committees.</p>																							
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>																							
<p>1) The D-Board adjudicates cases in which lawyers have behaved both unprofessionally and unethically. These issues are often raised in oral arguments and briefs, which are part of the public record.</p> <p>2) Although not directly part of its mission, the D-Board is mindful of the need to conduct itself in a manner that models cooperative and respectful relationships, even if people disagree.</p> <p>3) The D-Board serves important functions in the disciplinary process. In performing its court mandated functions, the D-Board raises awareness of ethical rules and of the consequences of unprofessional behavior. Most oral arguments in discipline cases before the D-Board are open to the public. In addition, the D-Board issues public orders and decisions in most of the matters that come before it (certain matters are nonpublic by court rule).</p>																							
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>																							
<p>1) Per court rule, the D-Board’s lawyer members must have been WSBA members for at least five years.</p>																							
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>																							
<p>1) The D-Board serves important functions in the disciplinary process, and protects the public by upholding professionalism and ethical conduct among legal practitioners.</p> <p>2) Four public members each serve three year terms on the D-Board, bringing their valuable experience and perspective to the decisions that the Board makes in discipline review cases. Most oral arguments in discipline cases before the D-Board are open to the public. In addition, the D-Board issues public orders and decisions in most of the matters that come before it (certain matters are nonpublic by court rule).</p>																							
<p><b>FY20 Demographics: To Be Completed by WSBA Staff</b></p> <table border="0"> <tr> <td colspan="3"><b>Gender:</b></td> </tr> <tr> <td><b>Female (9)</b></td> <td><b>Male (6)</b></td> <td><b>No Response (1)</b></td> </tr> <tr> <td>Transgender</td> <td>Two-spirit</td> <td>Multi</td> </tr> <tr> <td>Non-Binary</td> <td>Not Listed</td> <td></td> </tr> <tr> <td colspan="3"><b>Ethnicity:</b></td> </tr> <tr> <td>American Indian/Native American/Alaskan</td> <td colspan="2">Black/African-American/African Descent</td> </tr> <tr> <td>Native</td> <td colspan="2"></td> </tr> </table>			<b>Gender:</b>			<b>Female (9)</b>	<b>Male (6)</b>	<b>No Response (1)</b>	Transgender	Two-spirit	Multi	Non-Binary	Not Listed		<b>Ethnicity:</b>			American Indian/Native American/Alaskan	Black/African-American/African Descent		Native		
<b>Gender:</b>																							
<b>Female (9)</b>	<b>Male (6)</b>	<b>No Response (1)</b>																					
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<b>Ethnicity:</b>																							
American Indian/Native American/Alaskan	Black/African-American/African Descent																						
Native																							



Asian	<b>Hispanic/Latinx (1)</b>
Middle-Eastern Descent	Pacific Islander/Native Hawaiian
<b>White/European Descent (14)</b>	Multi-Racial/Biracial
Not Listed	<b>No Response (1)</b>
<b>Sexual Orientation:</b>	
Asexual	<b>Gay, Lesbian, Bisexual, Pansexual or Queer (1)</b>
Two-Spirit	<b>Heterosexual (12)</b>
Multiple Orientations	Not Listed
<b>No Response (3)</b>	
<b>Disability:</b>	
<b>Yes (3)</b>	<b>No (13)</b>

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Diversity Committee
<b>Chair:</b>	Laura Wulf and Governor Jean Kang
<b>Staff Liaison:</b>	Dana Barnett
<b>Board of Governors Liaison:</b>	n/a
<b>Size of Committee:</b>	14 (+4 BOG Members)
<b>Direct Expenses:</b>	\$21,250
<b>Indirect Expenses:</b>	\$52,047
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	15
<b>Purpose:</b>	
The Washington State Bar Association’s Diversity Committee (Committee) is dedicated to implementing WSBA’s Diversity and Inclusion Plan. The work of the Committee promotes historically underrepresented groups to enter and stay in the profession of law.	
<b>Strategy to Fulfill Purpose:</b>	
The Diversity Committee fulfills its purpose through collaborative relationships and community building activities, which highlight the numerous societal benefits of a diverse law profession.	
<b>2019-2020 Accomplishments and Work in Progress:</b>	
<ol style="list-style-type: none"> <li>1. Hosted programs with students at UW Law School to assist them with their Diversity Fellowship applications, and to provide mentorship for students from underrepresented groups about entering the practice of law.</li> <li>2. Advocated to ensure that Diversity, Equity and Inclusion and Access to Justice programming are part of the mandatory Bar to the Bar Structure Workgroup.</li> <li>3. Increased the opportunities for interaction and collaboration between the WSBA Diversity Committee and MBAs by attending MBA annual events.</li> </ol>	

4. Continued to follow and support the passing of MCLE rule change proposal in collaboration with the MBAs and the MCLE Board.
5. Published pieces in NWLawyer that relate to Diversity, Equity, and Inclusion.
6. Continued to work with school programs and community partners to explore new avenues to support students and new and young lawyers from underrepresented groups.
7. Worked with the Board of Governors to amend the bylaw related to the election process for At-Large Governors.
8. Submitted a letter to the Board of Governors to provide recommendations in support of the WSBA taking an “inside out” approach to equity and inclusion.
9. Approved a proposal to redistribute funds unused by the Diversity budget, due to COVID-19, to create a grant for MBA scholarships.
10. Developed topics and presented CLEs in three diversity, equity and inclusion areas.

Please note: The Diversity Committee had several in-person programs scheduled with law schools, undergraduate programs and community organizations for the year, most of which were canceled due to COVID-19.

**2020-2021 Goals:**

1. Work with Law Schools and other educational partners to re-imagine partnerships and support for underrepresented students within the virtual sphere.
2. Review and make decisions on scholarships for the Judge Pro Tem CLE.
3. Work collaboratively with the WYLC and the Board of Governors to develop a process for At-Large Governors elections.
4. Revisit the bylaw definition of “diversity” and the roles and responsibilities of the At-Large diversity positions.
5. Support the MCLE rule change proposal regarding one mandatory ethics credit in elimination of bias.
6. Continue to support the WSBA in reaching its stated goals and commitments around diversity, equity and inclusion.
7. Work to increase participation and leadership of historically marginalized groups in WSBA volunteers, committees, and boards.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The committee is staffed by the Equity and Justice Program Manager, and the Equity and Justice Lead, both of whom have educational experience and expertise in diversity topics, both lead regular workshops and training with committee members throughout the year. This year we also conducted an equity assessment of our committee dynamics.

<ol style="list-style-type: none"> <li>2) We have integrated more group discussion and collaboration in decision making, as well as supported committee members with resources, tools and training to be confident ambassadors about the work of diversity and inclusion at WSBA.</li> <li>3) Training, education and awareness building activities on diversity and inclusion are all consistent elements integrated in and throughout our meetings, events and programming.</li> <li>4) All our programming and work is focused on these goals, the committee has also acted to support the Board of Governors in pursuing equity and inclusion goals.</li> </ol>									
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>									
<ol style="list-style-type: none"> <li>1) The Committee integrates and connects a focus on professionalism throughout its programming. The substantive content of workshops, seminars, etc. provide interpersonal and organizational skills necessary to support the professional development of attorneys.</li> <li>2) The Committee seeks to educate the legal community on diversity issues through legal lunchboxes and town halls.</li> <li>3) The Committee raises awareness of the consequences of unprofessional behavior that are rooted in personal bias and systemic inequity.</li> <li>4) Committee members mentor new attorneys and students, advising on issues of professionalism.</li> </ol>									
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>									
<ol style="list-style-type: none"> <li>1) We have new and young lawyers on our committee.</li> <li>2) We offer WYLC members the opportunity to partner on our community networking events and to speak publicly to represent the committee.</li> <li>3) This year we had members attend WYLC meetings and invited representatives to our meeting to discuss court dress code policy.</li> </ol>									
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>									
<p>The Diversity Committee invites community organizations and members of the public to attend our Community Networking Events. The committee sees acknowledges that the public are stakeholders in the work of equity in the legal profession and creates this opportunity for partnership, education, and dialogue with the public and the committee. This year we were unable to hold these events due to COVID-19.</p>									
<p><b>FY20 Demographics: To Be Completed by WSBA Staff</b></p> <table border="0"> <tr> <td><b>Gender:</b></td> <td></td> <td></td> </tr> <tr> <td><b>Female (11)</b></td> <td><b>Male (3)</b></td> <td><b>No Response (1)</b></td> </tr> <tr> <td>Transgender</td> <td>Two-spirit</td> <td>Multi</td> </tr> </table>	<b>Gender:</b>			<b>Female (11)</b>	<b>Male (3)</b>	<b>No Response (1)</b>	Transgender	Two-spirit	Multi
<b>Gender:</b>									
<b>Female (11)</b>	<b>Male (3)</b>	<b>No Response (1)</b>							
Transgender	Two-spirit	Multi							

Non-Binary	Not Listed
<b>Ethnicity:</b>	
<b>American Indian/Native American/Alaskan Native (1)</b>	<b>Black/African-American/African Descent (3)</b>
<b>Asian (3)</b>	<b>Hispanic/Latinx (3)</b>
Middle-Eastern Descent	Pacific Islander/Native Hawaiian
<b>White/European Descent (4)</b>	<b>Multi-Racial/Biracial (1)</b>
<b>Not Listed (1)</b>	No Response
<b>Sexual Orientation:</b>	
Asexual	<b>Gay, Lesbian, Bisexual, Pansexual or Queer (3)</b>
Two-Spirit	<b>Heterosexual (9)</b>
Multiple Orientations	Not Listed
<b>No Response (4)</b>	
<b>Disability:</b>	
<b>Yes (1)</b>	<b>No (10)</b>

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Editorial Advisory Committee
<b>Chair:</b>	Ralph Flick
<b>Staff Liaison:</b>	Kirsten Abel
<b>Board of Governors Liaison:</b>	Sunitha Anjilvel
<b>Size of Committee:</b>	12
<b>Direct Expenses:</b>	\$800
<b>Indirect Expenses:</b>	\$4,764
<b>Number of Applicants for FY21 (October 1, 2020 – September 30, 2021)</b>	6 (1 returning, 3 new)
<b>Purpose:</b>	<p>The Editorial Advisory Committee (EAC) derives its authority from the WSBA Bylaws.</p> <p>Members of the Editorial Advisory Committee work with the editor and WSBA staff overseeing publication of the WSBA's official magazine, <i>Washington State Bar News</i>. This may include establishing guidelines and editorial policy, maintaining an editorial calendar, writing articles, securing content, identifying topics and issues relevant to members, identifying authors for content, reviewing articles, and advising on issues related to content. The magazine's mission statement is: <i>Washington State Bar News will inform, educate, engage, and inspire by offering a forum for members of the legal community to connect and to enrich their careers.</i></p>
<b>Strategy to Fulfill Purpose:</b>	EAC members consult with WSBA staff regarding content selection, recruiting of authors or writing articles themselves, and providing suggestions for feature stories and columns that will provide readers with information about other Bar members and their practices, current events and trends of interest to the legal community, career advice and other practice-oriented topics, programs and services provided to members by the WSBA, and the work of the Board of Governors.
<b>2019-2020 Accomplishments and Work in Progress:</b>	

1. Continue to increase reader interest and engagement/response with timely, relevant, and provocative articles.
  - **Progress:** We have published a number of timely, relevant, and provocative articles in our 2019-2020 issues, including articles on:
    - (1) Cybersecurity considerations for lawyers working from home during the COVID-19 pandemic (July/August 2020);
    - (2) Washington’s recently passed first-in-the-nation state law regulating governmental use of facial recognition technology (July/August 2020);
    - (3) What businesses and the lawyers who represent them should know about business interruption insurance coverage during the COVID-19 pandemic (June 2020);
    - (4) The first WSBA member to win a MacArthur Genius Grant—Seattle lawyer Lisa Dugaard, in 2019 (November 2019); and
    - (5) What employers, employees, and lawyers need to know about Paid Family Medical Leave that went into effect in Washington on Jan. 1, 2020 (February 2020).

In the September 2020 issue, we will be publishing an article that explores the recent Washington Supreme Court decision in *Yim v. Seattle*, and we will be launching a new semi-regular column called “From the Spindle” that will highlight significant recent Washington Supreme Court opinions.

In addition, in response to a suggestion from the Board of Governors, we are revamping our “Section Spotlight” series with a questionnaire that focuses on section accomplishments, member benefits of joining a section, opportunities for mentorship, and career advice for building a successful practice in the area of law related to each section. The EAC is taking the lead on sending the questionnaire out to the chairs of each of the WSBA’s 29 sections. The responses to the questionnaire will be published in upcoming issues as “Section Spotlights.”

2. Continue to work to include voices from divergent backgrounds and areas of practice, with a variety of views and perspectives.
  - **Progress:** One way in which we are fulfilling this goal is through the “Guest Column,” a new feature implemented in the magazine at WSBA President Rajeev Majumdar’s suggestion. This column allows us to publish a wide variety of voices including those of leadership from the Loren Miller Bar Association, Washington Women Lawyers, the Indian Law Section, Northwest Indian Bar Association, the South Asian Bar Association of Washington; QLaw Foundation, Latina/o Bar Association of Washington, Sexual Violence Law Center, and LAW Advocates. In addition, we have also made progress on this goal by creating themed issues such as the February 2020 Black History Month issue, the April/May 2020 issue focusing on the 100th anniversary of the 19th Amendment, and the June 2020 issue focusing on LGBTQ rights.
3. Work to establish relationships with new authors.
  - **Progress:** The 2020 issues of *Bar News* have featured more than 20 first-time authors. In addition, we created an “Author Recruitment” Google form (located [here](#)) that we share with the WSBA membership via social media, Take Note (the WSBA’s twice-a-month electronic newsletter), the magazine, and the WSBA website. The form allows people to provide their name, contact information, practice area, and other information to help us build up a database of potential authors from all over the state. More than a dozen members have responded via the Google form so far.

4. Work to include member-authors from all parts of the state, as well as topics important to areas other than the Seattle metropolitan corridor.
  - **Progress:** In the last several issues, we have featured articles like “Creative Counsel” (July/August 2020), which features six lawyer-artists from around the state; “Words of Wisdom From 3 Law School Deans” (March 2020), which includes short interviews with the deans from all three of Washington’s law schools; “Around the World” (Nov. 2019), which includes nine WSBA members who live and practice law overseas; as well as other content from authors outside of the Seattle area. Our new “Author Recruitment” Google form is also helping us to find new authors in other parts of the state. In addition, many of our EAC members live and work outside of the Seattle area, and therefore have close contacts in other parts of the state.
5. Continue to increase ad sales revenue and bring the magazine closer to revenue-neutral status.
  - **Progress:** We are working with our ad sales partner, SagaCity Media, to continue to develop relationships with additional advertisers and increase revenue. Our goal for the 2020 fiscal year was to cover all direct costs of the magazine through ad sales. We made significant headway toward that goal—with upward trends in ad sales compared to previous years—through March 2020 when the global pandemic disrupted many businesses, including SagaCity and our current and potential advertisers. The COVID-19 crisis has affected advertising revenue, and the impact over the next year is uncertain. Our work toward a new online platform for *Bar News*, which we hope to launch in the coming year, will create an additional revenue stream from online advertising.
6. Smoothly transition the magazine name from *NWLawyer* to *Washington State Bar News*.
  - **Progress:** We successfully implemented and executed a plan for the name change. The plan included communicating the name change to members and advertisers, working with the company that hosts the online version of the magazine to create and move all content to a new URL, updating our email inbox and signatures, and more. The *Washington State Bar News* name launched with the April/May issue of the magazine.

**2020-2021 Goals:**

1. Continue to increase reader interest and engagement/response with timely, relevant, practical, and provocative articles.
2. Increase opportunities for the magazine (within the parameters of GR 12.2) to be a civil, thought-provoking forum for dialogue among members about current issues relating to the legal system and access to and administration of justice.
3. Continue to work to include voices from divergent backgrounds and areas of practice, with a variety of views and perspectives.
4. Continue to establish relationships with new authors.
5. Continue to include member-authors from all parts of the state, as well as topics important to areas other than the Seattle metropolitan corridor.
6. Continue to increase ad sales revenue and bring the magazine closer to revenue-neutral status.
7. Build a new, modern, more accessible website for *Bar News* online content. This site will allow for more visibility for authors, better content-sharing capabilities, an overall more modern look and feel, online advertising capabilities, and eventual substantial reduction in online web hosting fees.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your*



*committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

**Please report how this committee/board is addressing diversity:**

- 1) Robin Nussbaum, former WSBA Senior Inclusion and Equity Specialist, attended our annual planning meeting on May 7, 2019, and gave committee members and *Bar News* staff a 75-minute diversity training. We plan to continue to work with the WSBA Equity and Justice Team to implement additional tools and trainings related to implicit bias and diversity in 2020 and 2021.
- 2) There is diversity in background, years in practice, areas of practice, and perspectives among the EAC members who weigh in on story ideas and unsolicited submissions. We are in regular dialogue with the WSBA Equity and Justice Team regarding language and images used in the magazine. The WSBA Equity and Justice Team also reviews the *Bar News* six-month editorial calendar every month and provides feedback and suggestions.
- 3) We encourage EAC members to help us, by reaching out through their networks and soliciting authors, to include within the magazine voices that are not as frequently heard from, so that many different points of view are expressed.
- 4) We have worked to ensure that members with diverse backgrounds and perspectives are well represented in the magazine, via solicitation of “Beyond the Bar Number” members to feature, as well as through WSBA President Rajeev Majumdar’s “Guest Column,” a new feature implemented in the magazine at President Majumdar’s suggestion. This column has allowed us to publish a wide variety of voices including those of leadership from the Loren Miller Bar Association, Washington Women Lawyers, the Indian Law Section, Northwest Indian Bar Association, the South Asian Bar Association of Washington; QLaw Foundation, Latina/o Bar Association of Washington, Sexual Violence Law Center, and LAW Advocates.
- 5) In addition, we have created themed issues such as the February 2020 Black History Month issue, the April/May 2020 issue focusing on the 100th anniversary of the 19th Amendment, and the June 2020 issue focusing on LGBTQ rights.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

The following are relevant to all the questions above:

- 1) Mark Fucile, former chair of the Committee on Professional Ethics, writes a column called “Ethics and the Law” for every issue that addresses not just avoiding violations of the RPCs but issues of professionalism and civility.
- 2) Additional articles promoting civility and professionalism: “Possible Risk with Online Advertising,” (June 2020); “Systemic Advocacy: Principles and examples from Columbia Legal Services,” and “The Power of Pro Bono,” (October 2019) (promoting pro bono volunteering); “Leave a Legacy as a Steward of Justice,” (December/January 2020)(a column by former Chief Justice Mary Fairhurst); and “2019 WSBA Apex Awards,” December/January 2020 (highlighting the 2019 winners and acknowledging professional excellence).
- 3) Every issue includes current disciplinary notices. Starting with the April/May 2020 issue, the published disciplinary notices were expanded somewhat to include more detail. This is something members have been requesting for years. In addition, every year we publish the “WSBA Discipline System Annual Report Snapshot.” This year’s snapshot ran in the June 2020 issue and includes information about how the lawyer discipline system works, the number and nature of grievances filed, and the number of disciplinary actions taken.

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

- 1) Four 2019-2020 members of the EAC are new/young lawyers (admitted fewer than five years ago). In addition, two new members nominated to the committee for the 2020-2021 year are new/young lawyers.
- 2) The committee is intentional about developing article ideas for the magazine that will be of interest and useful to new and young lawyers. We publish regular and semi-regular columns that address topics of relevance to new and young lawyers including our “Innovation in the Law” column on technology and innovation in the legal field written by WSBA member Jordan Couch, a legal writing column authored by University of Washington School of Law professors entitled “Write to Counsel,” and our “Ask a Law Librarian” column written by Gonzaga Law Librarian Ashley Sundin. Other individual articles of relevance to new and young lawyers include “Technically Speaking: A WSBA practice management advisor shares considerations and tips for choosing your law firm technology” (December/January 2020) and “Law School Deans Offer Words of Wisdom” (March 2020).

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

- By educating legal professionals about important topics such as ethics, practice management, pro bono opportunities, and other significant news, we are helping to ensure the competency and integrity of the legal profession on behalf of the public.
- We occasionally include articles by non-members, such as Lucien Dhooge, George Institute of Technology professor of law and Washington resident, who wrote about the Washington Supreme Court’s decision in *State v. Arlene’s Flowers* (June 2020); Mar Brettman, Ph.D., executive director of Businesses Ending Slavery and Trafficking, who wrote on how lawyers can help businesses develop policies and practices to eliminate the risk of sex trafficking occurring on business premises (May 2019); and Gonzaga University School of Law student Sara Wilmot, who wrote about the Myra Bradwell Award (April 2019).
- In addition, our March 2020 issue focused on legal education, including an article about the Legal Pathways program at the University of Washington Tacoma; an article featuring advice from all three of Washington’s law school deans; and an article about Washington’s alternative pathways into the legal profession, including the Law Clerk program and the Rule 9 Licensed Legal Internship.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (6)**

Transgender

Non-Binary

**Male (4)**

Two-spirit

Not Listed

**No Response (2)**

Multi

**Ethnicity:**

**American Indian/Native American/Alaskan**

**Native (1)**

Black/African-American/African Descent

Asian	Hispanic/Latinx
Middle-Eastern Descent	Pacific Islander/Native Hawaiian
<b>White/European Descent (7)</b>	Multi-Racial/Biracial
<b>Not Listed (1)</b>	No Response
<b>Sexual Orientation:</b>	
Asexual	Gay, Lesbian, Bisexual, Pansexual or Queer
Two-Spirit	<b>Heterosexual (8)</b>
Multiple Orientations	Not Listed
<b>No Response (4)</b>	
<b>Disability:</b>	
Yes	<b>No (9)</b>

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Judicial Recommendation Committee (JRC)
<b>Chair:</b>	Michiko Fjeld
<b>Staff Liaison:</b>	Sanjay Walvekar
<b>Board of Governors Liaison:</b>	Alec Stephens, Jean Kang
<b>Size of Committee:</b>	22
<b>Direct Expenses:</b>	\$2,000
<b>Indirect Expenses:</b>	\$2,436
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	12
<b>Purpose:</b>	
<p>The Judicial Recommendation Committee (JRC) derives its authority from the Bylaws of the WSBA. The JRC screens and interviews candidates for state Court of Appeals and Supreme Court positions. Recommendations are reviewed by the WSBA Board of Governors (BOG) and referred to the Governor for consideration when making judicial appointments.</p> <p>Per the JRC Guidelines, “[t]he proceedings and records of the committee, including the comments of applicants, committee discussions, and committee votes, shall be kept strictly confidential.”</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>The JRC screens and interviews candidates for the state’s appellate courts, the Washington Supreme Court and the Washington State Court of Appeals. Thereafter, it makes recommendations to the BOG. Following Board approval, the recommendations are sent to the Washington State Governor’s Office as part of the committee’s role of preparing and maintaining a list of individuals who are well-qualified for and interested in appointment to the appellate bench.</p>	
<b>2019-2020 Accomplishments and Work in Progress:</b>	

<p>The Committee has been on hiatus since May 2019, pending the Supreme Court’s decision regarding OPMA applicability to the WSBA.</p>
<p><b>2020-2021 Goals:</b></p>
<p>The main goal of the Committee is to begin meeting and working again as soon as possible.</p>
<p><b>Please report how this committee/board is addressing diversity, equity and inclusion:</b>  <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<p><b>Please report how this committee/board is addressing diversity:</b></p> <ol style="list-style-type: none"> <li>1) A diversity of perspectives is embedded in the JRC Guidelines under “Composition,” for selection of committee members.</li> <li>2) The committee received a training from the Senior Inclusion &amp; Equity Specialist at the JRC’s first meeting.</li> <li>3) Without going into too much detail due to confidentiality of the process, some of the criteria the committee considers when recommending a candidate are related to a commitment to diversity.</li> </ol>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<p>Without going into too much detail due to the confidential nature of this committee, some of the criteria the committee considers when recommending a candidate are related to aspects of professionalism.</p>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<p>While there are several new and young lawyers on the committee who have an equal say in the vetting process (e.g., voting), the nature and work of this committee is most suited to those who have familiarity and experience with the appellate bench.</p>
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>
<ul style="list-style-type: none"> <li>• The JRC’s work directly benefits the public by providing the Governor’s office with recommendations that help it make informed and quality judicial appointments.</li> <li>• Columbia Legal Services and Disability Rights Washington recommended that the WSBA reach out to the Bazelon Center for Mental Health in New York for confidential feedback on the JRC’s</li> </ul>

guidelines and processes. The feedback received from the Bazelon Center led to changes to the committee guidelines approved by the Board of Governors in September 2018.

**FY20 Demographics:** *To Be Completed by WSBA Staff*

**Gender:**

**Female (5)**

Transgender  
Non-Binary

**Male (14)**

Two-spirit  
Not Listed

**No Response (3)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

Asian

Middle-Eastern Descent

**White/European Descent (18)**

Not Listed

**Black/African-American/African Descent (1)**

Hispanic/Latinx

Pacific Islander/Native Hawaiian

Multi-Racial/Biracial

**No Response (3)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (12)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (1)**

**Heterosexual (7)**

Not Listed

**Disability:**

**Yes (2)**

**No (17)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Law Clerk Board
<b>Chair:</b>	Benjamin Phillabaum
<b>Staff Liaison:</b>	Katherine Skinner
<b>Board of Governors Liaison:</b>	Dan Clark Hunter Abell
<b>Size of Committee:</b>	9
<b>Direct Expenses:</b>	\$6,000
<b>Indirect Expenses:</b>	\$34,945
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	7
<b>Purpose:</b>	
<p>The Law Clerk Board (LCB) derives its authority from Rule 6 of the Admission and Practice Rules (APR). The Board of Governors (BOG) appoints the members of the LCB.</p> <p>The purpose of the LCB is to assist the WSBA in supervising the APR 6 Law Clerk Program (Program).</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>The LCB considers applications for enrollment in the Program, interviews and evaluates law clerks and tutors before and during the course of study to ensure they are meeting the requirements of the Program.</p>	
<b>2019-2020 Accomplishments and Work in Progress:</b>	
<p><b>Process Improvement:</b> The LCB continues to streamline processes and delegate tasks to staff as appropriate.</p>	

**Outreach:** The LCB, in collaboration with staff, is promoting the Program to primary, secondary and college students. Information about the Program has been included in presentation materials regarding innovative pathways to the practice of law.

**Events and Meetings:** In January 2020, WSBA staff attended the Access to Justice Board’s Delivery System Committee meeting to provide information about the Program and discuss how the Program can assist legal aid providers in rural areas with recruitment and retention. In February 2020, staff presented to Legal Pathways students at UW Tacoma. (Legal Pathways is a new initiative funded by the legislature to support law-related opportunities and promote the success of students interested in pursuing law school, professional studies related to law, and law-related careers.) In an effort to strengthen outreach to underrepresented groups, staff also gave a presentation to the WSBA Diversity Committee to share information about the Program and seek input.

**Materials:** Developed two law clerk promotional videos. The videos capture unique stories of two law clerks and their time in the law clerk program. Developed rack cards and flyers that provided all information a perspective clerk or tutor would need to get started in applying for the law clerk program.

**Law Clerk Certificate:** The Board redesigned the law clerk certificate. The new certificate can be printed in-house which eliminates the need for certificates to be sent out to a calligrapher simplifying the process while reducing costs.

**2020-2021 Goals:**

- 1) Continue to find ways to improve efficiency of the LCB to accommodate potential increase in the number of law clerks.
- 2) Increase the public’s knowledge of the program through outreach events and communications.
- 3) Review Law Clerk Board Policies as needed.
- 4) Propose amendments to APR 6 to improve program efficiency and clarify certain processes including advanced standing and re-enrollment requests.
- 5) Continue conversations in strategizing reaching out to rural counties in the state to increase access to justice.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The LCB continues to seek board members who represent diversity in geography as well as members who self-identify as individuals that are underrepresented in the legal profession.
- 2) Yes. The LCB received training from WSBA’s Inclusion and Equity Specialist in FY 2019. The goal is offer this training on an annual basis as part of the New Board Member Orientation.
- 3) The LCB seeks to have a diverse group of board members in order to bring a variety of perspectives to the table.
- 4) The equity and inclusion training provided board members with tools to promote a culture of inclusion within the board.
- 5) The Program itself provides an alternative to law school for legal education for those who may have barriers to attending law school. Through continuous outreach, the LCB hopes to increase the diversity of the law clerks enrolled in the Program.



**Please report how this committee/board is addressing professionalism:**

*Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

- 1) Clerks participating in the Program learn about professionalism during the course of their education. The LCB raises issues of professionalism during interviews and evaluations when necessary.
- 2) No
- 3) Clerks are required to take a Professional Responsibility course in order to complete the program.

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

- 1) Lawyers who have recently completed the Law Clerk Program serve on the LCB. While there are limited positions available, clerks who are about to complete the Program and take the bar exam are encouraged to participate with other WSBA Boards and Committees to share the Program perspective with the broader WSBA community.
- 2) The Law Clerk Program is an affordable alternative to law school. It allows new and young lawyers to start their careers without having to worry about student loan debt. In addition, clerks are required to work during the Program which means that they have already begun making connections within the legal community.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

- 1) The Program seeks to increase access to legal education for those who may not be able to afford law school.
- 2) The LCB is collaborating with WSBA staff on outreach efforts to increase knowledge of the Program.

**FY20 Demographics: To Be Completed by WSBA Staff**

*Gender:*

Female x Male x Multi x Non-Binary x Transgender x Two-spirit x Not Listed x No response x

*Ethnicity:*

American Indian/Native American/Alaskan Native x	Asian x
Black/African-American/African Descent x	Hispanic/Latinx x
Middle-Eastern Descent x	Pacific Islander/Native Hawaiian x
White/European Descent 10	Multi-Racial/Biracial x
Not Listed x	
No response 1	

*Sexual Orientation:*

Asexual x Gay, Lesbian, Bisexual, Pansexual or Queer 2 Heterosexual 4

2019-2020

Two-spirit x	Multiple orientations x	Not Listed x	No response 3
<i>Disability:</i>			
Yes x	No 11	No response x	
<i>New/young lawyer:</i>			
Yes x	No x		

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Legislative Review Committee
<b>Chair:</b>	Kyle Sciuchetti
<b>Staff Liaison:</b>	Sanjay Walvekar
<b>Board of Governors Liaison:</b>	Kyle Sciuchetti
<b>Size of Committee:</b>	26
<b>Direct Expenses:</b>	\$3,000
<b>Indirect Expenses:</b>	\$24,363
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	26
<b>Purpose:</b>	
<p>The WSBA Legislative Review Committee (Committee) reviews internal legislative proposals before making a recommendation for sponsorship or support to the Board of Governors (BOG). The Committee's primary purpose is to ensure that WSBA-request legislation fulfills GR12 and is vetted both internally and externally. The Committee may also consider non-WSBA proposals submitted to the Committee for the purpose of seeking WSBA input and support. WSBA-request bills approved by the BOG are introduced in the upcoming legislative session.</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>The Committee determines if a legislative proposal fulfills GR 12.2. If the Committee determines a legislative proposal fulfills GR 12.2, the Committee conducts a thorough analysis of the issue, discusses details with the WSBA entity offering the proposal, and ensures input is included from a broad stakeholder network.</p>	
<b>2019-2020 Accomplishments and Work in Progress:</b>	
<p>The Committee met three times and reviewed three legislative proposals for the 2020 legislative session. One of these proposals became <a href="#">SB 6037</a> which passed both houses and was signed into law on 3/27/2020. This law went into effect on 6/11/2020. The two other proposals that the Committee</p>	

<p>received were carefully reviewed but were ultimately withdrawn from consideration by their entity sponsors. To ensure proper vetting of proposed legislation by a wide variety of practitioners and stakeholders around the state, the Committee’s policies and procedures were modified by the Board of Governors in January 2020 to expand the Committee’s membership from nine members to up to thirty five members.</p>
<p><b>2020-2021 Goals:</b></p>
<p>The Committee will continue to work collaboratively with WSBA entities to thoroughly vet and analyze legislative proposals impacting the practice of law and our justice system.</p>
<p><b>Please report how this committee/board is addressing diversity, equity and inclusion:</b>  <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<p>The Senior Inclusion &amp; Equity Specialist led the Committee members in a discussion and training regarding WSBA inclusion and equity policies and procedures during the Committee’s first meeting.</p> <p>Committee appointments follow WSBA’s diversity guidelines and the Committee includes representatives from multiple districts, a variety of practice areas, new/young lawyers, gender, race/ethnicity and other factors.</p>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The Committee practices a team-based approach in executing its charge: proposals are created in collaboration with various WSBA entities and external stakeholders throughout the broader legal community. In addition to the Committee playing a critical role within the organization, individual members also play a critical role in reviewing legislative proposals from their own unique perspective, area of practice, professional experience, and knowledge of the legislative process (including key legislative stakeholders). Professionalism is a cornerstone of relationship building and, ultimately, legislative success.</li> <li>2) The work of the Committee is grounded in relationship building; similar to Washington’s Legislature. The Committee continues to promote professionalism through various communication mechanisms including its annual fall meetings and member training opportunities.</li> </ol>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>

With a changing profession and evolving legislative dynamics, the Committee recognizes the critical role new/young lawyers play in the long-term success of the Bar and WSBA’s legislative agenda. The Committee strives for institutional knowledge to be passed from longer-serving committee members to new members such as new/young lawyers. The knowledge shared is not only related to legislative and public policy issues, but also information related to the profession itself.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

- 1) Legislation recommended by the Committee and supported by the BOG that passes through the legislature, such as the many Corporate Act Revisions Committee recommendations, directly impact the public as they become state laws. These legislative proposals are carefully vetted to best ensure that they will positively impact both the legal community and the public.
- 2) The Committee works to ensure that any legislative proposal it receives has been properly vetted by stakeholders, often in the public, that will be affected by, or be able to offer feedback and suggestions to, the proposed legislation.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (11)**

Transgender  
Non-Binary

**Male (13)**

Two-spirit  
Not Listed

**No Response (2)**

Multi

**Ethnicity:**

**American Indian/Native American/Alaskan Native (1)**

**Asian (3)**

**Middle-Eastern Descent (1)**

**White/European Descent (18)**

Not Listed

Black/African-American/African Descent

Hispanic/Latinx

Pacific Islander/Native Hawaiian

Multi-Racial/Biracial

**No Response (3)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (7)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (1)**

**Heterosexual (18)**

Not Listed

**Disability:**

**Yes (2)**

**No (21)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Limited License Legal Technician (LLLT) Board
<b>Chair:</b>	Steve Crossland
<b>Staff Liaison:</b>	Renata Garcia
<b>Board of Governors Liaison:</b>	Peter J. Grabicki
<b>Size of Committee:</b>	15
<b>Direct Expenses:</b>	\$14,000
<b>Indirect Expenses:</b>	\$88,057
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	7
<b>Purpose:</b>	<p>The Limited License Legal Technician (LLLT) Board derives its authority from the Washington Supreme Court under Rule 28 of the Admission and Practice Rules (APR), adopted effective September 1, 2012. By order of the Court, the WSBA is to administer and fund the LLLT Board and the program.</p> <p>APR 28 authorizes persons who meet certain educational and licensing requirements to advise clients on specific areas of law. The only currently approved practice area is domestic relations (family law). The Supreme Court established the LLLT Board to oversee the LLLT license.</p>
<b>Strategy to Fulfill Purpose:</b>	<p>From 2013-2016, the LLLT Board concentrated on creating the operational details for the LLLT license; the LLLT Board is now focusing on the promotion, expansion, and development of the license.</p>
<b>2019-2020 Accomplishments and Work in Progress:</b>	<p><b>New Practice Areas</b></p> <p>Two new practice areas were recommended to the Supreme Court for approval: (1) Administrative Law and (2) Eviction and Debt Assistance.</p>

### **Licensing Barriers**

In an effort to address many of the licensure barriers identified by LLLTs and LLLT candidates, the LLLT Board recommended several amendments for the Court's consideration, including reduction of the years of substantive legal experience required for licensure.

### **Working Toward Self-Sufficiency/Business Plan**

The LLLT Board developed a 10-year business plan that aligns its goal to achieve self-sufficiency with its original Court mandate to recommend new practice areas to address unmet civil legal needs in the state.

### **Mandatory Supplemental Education**

The LLLT Board successfully developed the required training for currently licensed LLLTs and prospective LLLTs who wish to get a head start on this supplemental requirement. The required training was offered in July 2019 (online sessions) and August 2019 (in-person sessions). LLLTs and candidates may complete the online sessions on demand, as needed. Another opportunity to obtain the required in-person sessions was scheduled to take place in June 2020. Due to COVID-19, the in-person requirement was lifted and the sessions were offered synchronously online.

### **Core Education Accessibility**

The LLLT Board has worked with representatives from community colleges that offer the LLLT core curriculum in hopes of developing a standard curriculum for the LLLT courses that can be shared between colleges including Wenatchee Valley College and Yakima Valley College. South Puget Sound Community College also expressed interest in applying to teach the LLLT core education and was provided with an application in spring 2020.

### **Outreach**

The LLLT Board worked with staff to create additional outreach materials about the license including rack cards to be distributed to the general public.

- The LLLT license has been included in presentation materials regarding innovative pathways to the practice of law. In February 2020, staff and a volunteer LLLT presented to Legal Pathways students at UW Tacoma. (Legal Pathways is a new initiative funded by the legislature to support law-related opportunities and promote the success of students interested in pursuing law school, professional studies related to law, and law-related careers.) In an effort to strengthen outreach to underrepresented groups, staff also gave a presentation to the WSBA Diversity Committee to share information about the license and seek input.
- In June 2020 the LLLT Board started hosting virtual roundtables as a way to connect with LLLT candidates and educators, answer questions, and engage in thoughtful discussions regarding the license.
- Bench Card: The LLLT Board in collaboration with staff and judicial officers developed a LLLT bench card for distribution to judicial officers across the state. The bench card's content was reviewed by multiple stakeholders and approved by AOC legal services in June 2020.

Outreach efforts to increase the LLLT pipeline will not resume unless the Court decides not to sunset the program or extends the timeline for licensure. Instead, the LLLT Board will continue to reach out to those already in the pipeline and, to the extent possible, support their efforts to achieve licensure before the deadline established by the Court.

### Addressing the Court's decision to sunset the LLLT Program

The LLLT Board recently asked the Court to reconsider its decision to sunset the LLLT program or, at a minimum, extend the deadline to provide those in the pipeline sufficient opportunity to complete all licensing requirements. The Court then ordered the following changes.

- The substantive law-related work experience requirement for licensing has been reduced from 3,000 to 1,500 hours.
- Candidates who have met all other requirements by July 31, 2021 now have until July 31, 2022 to complete their substantive law-related work experience under the supervision of a lawyer.

The LLLT Board submitted an additional request to the Supreme Court which asked that candidates be allowed to take the LLLT core education courses out of sequence, so that they have the opportunity to enroll in the last cohort of Family Law courses offered in fall 2020 at Whatcom Community College.

On August 6, 2020, the Washington Supreme Court entered an Order suspending [APR 28 Regulation 3\(B\)\(1\)\(a\)](#) which requires that the prerequisite core education courses be completed prior to enrolling in the Family Law practice area courses.

### 2020-2021 Goals:

#### Reduce barriers to LLLT licensure

In light of the Court's decision to sunset the LLLT program, the Board will continue to assess barriers to LLLT licensure so that more candidates might have the opportunity to obtain their license by July 31, 2022.

In August, the LLLT Board submitted a request that the Court eliminate the requirement that candidates pass the PCC exam in order to obtain their LLLT license. The LLLT Board recommended that the Court either 1) waive the PCCE requirement entirely or 2) allow an LLLT candidate to present proof of passing the PCCE as a requirement of licensing rather than a qualification to sit for the LLLT examination. If the Court chooses the second option, the LLLT Board recommends giving LLLT candidates until July 2022 to complete this requirement as they may need to obtain up to one year of legal experience prior to sitting for the PCCE under the FastTrack program.

The LLLT Board also requested that the Court consider removing the PCCE requirement for those who have passed the Paralegal Advanced Competency Exam (PACE). The PACE is a higher-level, duplicative exam.

#### Please report how this committee/board is addressing diversity, equity and inclusion:

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The LLLT Board seeks members from different backgrounds and experiences and work together to foster a positive work environment in concert with WSBA's commitment to diversity and inclusion.



- 2) Yes, the LLLT Board received training from WSBA’s Diversity Specialist. The goal is to offer the training on an annual basis.
- 3) The LLLT Board seeks input from all WSBA members as well as the legal community in general when making important decisions such as developing a new practice area.
- 4) APR 28 has been amended at the request of the LLLT Board to allow LLLTs and LPOs as well as attorneys with judicial and emeritus pro bono status to serve as Board members, to apply for Board positions.
- 5) The core curriculum educational approval process reflects the LLLT Board’s commitment to diversity in that it requires any institution offering the core curriculum to have diversity, inclusion, and equal access policies and practices in place. The LLLT Board also sought to increase diversity within the LLLT profession by extending the limited time waiver (see APR 28 Regulation 4) to December 31, 2023 in order to allow a group of candidates qualified by work experience rather than by education to enroll in the practice area classes. This increases access to justice by removing some of the barriers that may prevent qualified potential LLLTs from entering into the profession. The ongoing effort to provide a pathway to financial aid for the practice area classes also aims to provide more opportunities to join the LLLT profession to prospective applicants from diverse socio-economic backgrounds.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

- 1) The LLLT Board has set up rules of professional conduct and a disciplinary system for LLLTs. The Board also requires LLLTs to carry malpractice insurance and conform to the same rules as lawyers regarding IOLTA accounts.
- 2) The LLLT Board has worked to promote LLLTs in the legal community and educate all legal professionals about the permitted scope and models for LLLT practice, as well as highlighting the ways in which collaboration with LLLTs can contribute to the efficiency and accessibility of any legal practice.
- 3) See answer 1 above. LLLTs must abide by the LLLT rules of professional conduct and are subject to professional discipline.

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

- 1) All WSBA members are invited to provide comments on rules and new practice area suggestions and development, including new and young lawyers.
- 2) N/A

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

- 1) The creation of LLLTs increases access to justice by providing affordable legal services at significantly lower rates than attorneys. Those in need of legal help, who may not be able to afford an attorney, now have the option of hiring a LLLT at a reduced cost. The LLLT pathway also

increases access to justice for those interested in joining the legal profession without the high cost of law school.

- 2) The Board invited public comment regarding the Consumer, Money, and Debt practice area that is under consideration. It has also spread awareness about the LLLT license and services through an informational video and outreach events throughout the state.

**FY20 Demographics:** *To Be Completed by WSBA Staff*

**Gender:**

**Female (10)**

Transgender  
Non-Binary

**Male (1)**

Two-spirit  
Not Listed

**No Response (2)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

Asian

Middle-Eastern Descent

**White/European Descent (10)**

Not Listed

Black/African-American/African Descent

Hispanic/Latinx

Pacific Islander/Native Hawaiian

Multi-Racial/Biracial

**No Response (3)**

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (9)**

Gay, Lesbian, Bisexual, Pansexual or Queer

**Heterosexual (4)**

Not Listed

**Disability:**

**Yes (1)**

**No (9)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Limited Practice Board
<b>Chair:</b>	David Bastian
<b>Staff Liaison:</b>	Renata Garcia
<b>Board of Governors Liaison:</b>	Carla Higginson
<b>Size of Committee:</b>	9
<b>Direct Expenses:</b>	<b>\$3,00.00</b>
<b>Indirect Expenses:</b>	<b>\$31,833</b>
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	<b>6</b>
<b>Purpose:</b>	
The Limited Practice Board (LPB) derives its authority from the Washington Supreme Court under rule 12 of the Admission and Practice Rules (APR). The purpose of the LPB is to oversee the Limited Practice Officer (LPO) license program.	
<b>Strategy to Fulfill Purpose:</b>	
The LPB will meet four to six times a year to develop and grade the LPO exam and discuss issues and items of concern or that are relevant to the LPO license.	
<b>2019-2020 Accomplishments and Work in Progress:</b>	
<ol style="list-style-type: none"> <li><b>1) Outreach:</b> The LPB is working with staff to create outreach materials for the program including rack cards and a promotional video. The LPO license has been included in presentation materials regarding innovative pathways to the practice of law. In February 2020, staff and a volunteer LPO presented to Legal Pathways students at UW Tacoma. (Legal Pathways is a new initiative funded by the legislature to support law-related opportunities and promote the success of students interested in pursuing law school, professional studies related to law, and law-related careers.) In an effort to</li> </ol>	

strengthen outreach to underrepresented groups, staff also gave a presentation to the WSBA Diversity Committee to share information about the license and seek input.

- 2) **Practice Questions:** The LPB received an inquiry as to whether LPOs are permitted to select and prepare IRS tax forms necessary for compliance with the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA). The Board discussed the question at its October 2019 meeting and determined that LPOs are **not** authorized to select and prepare IRS tax forms - including 8288, 8288A, and 8288B - required for compliance with FIRPTA. A reminder that LPOs are only authorized to select and prepare forms approved by the LPB was sent to all LPOs. Forms approved by the LPB are identified on the WSBA website. The Board has received subsequent inquiries regarding FIRPTA from attorneys and LPOs since then and is welcoming requests for discussion at future meetings.
  
- 3) **Request for Support re Legislation Impacting LPO Employment:** The Board received requests from LPOs to support their petition to reconsider House Bill 1450 regarding non-compete clauses or agreements. It was brought to the Board’s attention that LPOs making over \$100,000 are bound by non-compete clauses making it very difficult for LPOs in remote locations to find employment or start their own business after leaving “big title companies.” The issue appears to be worsened by the economic impact of COVID-19. The Board will discuss the request at its next meeting and would welcome the BOG’s input on this matter.

**2020-2021 Goals:**

- 1) Continue to work with Ergometrics to develop the LPO examination.
- 2) Review and make changes to LPO forms, as needed.
- 3) Review bank of LPO multiple choice and essay questions to ensure content and format appropriately assess the required knowledge and skills to practice law as an LPO.
- 4) Review APR 12 requirement that all active LPOs, including those who are on Active status but currently unemployed, demonstrate financial responsibility.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The LPB is dedicated to furthering WSBA’s commitment to diversity and inclusion through Board recruitment and ongoing interactions with each other, members, and the general public.
- 2) Yes, the LPB received training from WSBA’s Inclusion and Equity Specialist. The goal is to have this training on an annual basis as part of new board member orientation.
- 3) N/A
- 4) The equity and inclusion training provided board members with tools to promote a culture of inclusion within the board.
- 5) The LPO license provides an opportunity to enter the legal profession, albeit in limited practice, for those who have had barriers to completing higher education.

**Please report how this committee/board is addressing professionalism:**

*Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?*

- 1) LPB members are invited to speak at LPO Continuing Education seminars; examples of situations regarding the LPO Rules of Professional Conduct are a popular topic.
- 2) N/A
- 3) LPOs must abide by the LPO rules of professional conduct and are subject to professional discipline.

**Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:**

*How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?*

- 1) There is no “years-of-practice” requirement for the LPB so all are welcome to apply. However, members of the LPB tend to be more experienced.
- 2) As members of the bar, new and young LPOs, are now able to take advantage of many WSBA services including debt management, free and low cost CLEs and leadership opportunities.

**Please report how this committee/board is addressing the needs of the public:**

*How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?*

- 1) LPOs work directly with members of the public as they are licensed to select, prepare, and complete approved documents for use in closing a loan, extension of credit, sale, or other transfer of real or personal property.
- 2) No, The Board works to ensure that any legislative proposal it receives has been properly vetted by stakeholders, often in the public, that will be affected by, or be able to offer feedback and suggestions to, the proposed legislation.

**FY20 Demographics: To Be Completed by WSBA Staff**

*Gender:*

Female 3 Male 6 Multi x Non-Binary x Transgender x Two-spirit x Not Listed x No response 1

*Ethnicity:*

American Indian/Native American/Alaskan Native x	Asian x
Black/African-American/African Descent x	Hispanic/Latinx 1
Middle-Eastern Descent x	Pacific Islander/Native Hawaiian x
White/European Descent 7	Multi-Racial/Biracial x
Not Listed x	

No response 1

*Sexual Orientation:*

Asexual x	Gay, Lesbian, Bisexual, Pansexual or Queer x	Heterosexual 6
Two-spirit x	Multiple orientations x	Not Listed x
		No response 3

*Disability:*

2019-2020

Yes x	No 8	No response 1
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# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Mandatory Continuing Legal Education (MCLE) Board
<b>Chair:</b>	Asia Wright
<b>Staff Liaison:</b>	Adelaine Shay
<b>Board of Governors Liaison:</b>	Russell Knight
<b>Size of Committee:</b>	7
<b>Direct Expenses:</b>	\$2,500
<b>Indirect Expenses:</b>	\$66,684
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	2
<b>Purpose:</b>	
<p>The Mandatory Continuing Legal Education Board (MCLE Board) derives its authority from the Washington Supreme Court under Admission and Practice Rule (APR) 11. The purpose of the MCLE Board is to oversee the administration of the MCLE program and requirements and ensure compliance by WSBA members.</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>The Supreme Court-appointed MCLE Board typically meets five times each year to fulfill its duties as listed in APR 11. The MCLE Board considers MCLE policy issues, determines and adjusts fees, reviews and suggests amendments or regulations to APR 11, audits approved courses to ensure compliance with the standards set forth in APR 11, and approves mentoring programs that meet requirements and standards established by the MCLE Board for MCLE credit under APR 11.</p> <p>The MCLE Board considers petitions of undue hardship and determines when to waive or modify a lawyer's, LLLT's, or LPO's compliance with the requirements of APR 11. The MCLE Board accredits courses and educational programs that satisfy the educational requirements</p>	

of APR 11. The MCLE Board delegates the initial review of educational activities and undue hardship petitions to the Bar staff subject to MCLE Board review and approval. The MCLE Board reviews any determinations or decisions regarding approval of activities made by the Bar staff that adversely affect any lawyer, LLLT, or LPO or sponsor upon request of the lawyer, LLLT, LPO, sponsor, or Bar staff.

**2019-2020 Accomplishments and Work in Progress:**

- 1) Completed and resolved by motion 67 petitions from members (through August 7, 2020) for modifications and waivers of one or more MCLE requirements.
- 2) Audited 14 courses, provided an audit report to the MCLE Board, and provided detailed reports to each sponsor regarding the strengths and weaknesses of the course as well as recommendations for improvement.
- 3) The MCLE Board has started to work on a suggested amendment to the Admission and Practice Rule (APR) 11 ethics requirement.

**2020-2021 Goals:**

- 1) MCLE Board members have a goal of auditing two or more accredited sponsor courses each.
- 2) Taking into consideration feedback from the public, licensed legal professionals, and the WSBA Board of Governors, the MCLE Board will determine whether to recommend to the WA Supreme Court an amendment to the Admission and Practice Rule (APR) 11 ethics requirement.
- 3) Continue to work to increase the diversity of the MCLE Board.

**Please report how this committee/board is addressing diversity, equity and inclusion:**

*How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?*

- 1) The Board has not attempted to use tools provided by WSBA.
- 2) Participated in a diversity training presented by the WSBA Inclusion and Equity Specialist in October 2019.
- 3) The MCLE Board continues to seek members who represent diversity in geography, and all other diversity criteria used by the WSBA. In addition, the MCLE Board has done targeted outreach to members and/or sponsors regarding topics that the Board has considered during the year. Also, the Board routinely receives and considers input from members affected by the MCLE rules when considering petitions filed by the members.
- 4) The MCLE Board fosters an atmosphere of civility and collegiality insofar as how it receives comments from Bar members, staff, fellow board members and others. This is accomplished by actively listening to all and engaging in discussions focused on fairness and similar treatment of issues. Consistency in the application of the rules is maintained by active discussion on the merits with the goal being consensus.
- 5) Although this may or may not apply directly or only to members from historically underrepresented groups, the MCLE rules and the Board's considerations include requests



<p>for accommodation of various disabilities as well as consideration of issues causing “undue hardship” and financial issues.</p> <p>6) The MCLE Board previously sent a suggested amendment of the ethics requirement to the Washington Supreme Court in 2019, which the Supreme Court rejected. Now, the MCLE Board is interested in recommending a related but much narrower amendment to the rule, to focus on a one-credit equity, inclusion, and mitigation of bias requirement. The MCLE Board is currently soliciting feedback. The MCLE Board plans to ask the Board of Governors for support at the September Board of Governors meeting. Taking into consideration feedback from the public, licensed legal professionals, and the WSBA Board of Governors, the MCLE Board will determine whether to recommend to the WA Supreme Court an amendment to the Admission and Practice Rule (APR) 11 ethics requirement in October of 2020.</p>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The MCLE Board is primarily regulatory. However, through auditing courses, the Board is able to gauge and monitor the level of professionalism presented during seminars. In addition, the Board treats members with respect and courtesy while enforcing the Supreme Court’s MCLE requirements and ensuring protection of the public.</li> <li>2) The Board seeks to improve relationships between and among lawyers, judges, and clients by reviewing and approving quality continuing legal education courses that provide the skills necessary for making and maintaining successful relationships.</li> <li>3) Although the Board itself is not involved in raising such awareness, the Supreme Court’s MCLE rules that are applied by the Board do allow for accreditation of MCLE activities that raise awareness about the causes and/or consequences of unprofessional behavior.</li> <li>4) The MCLE Board is considering an amendment to require that, of the six required ethics credits for legal professionals, one credit be required in equity, inclusion, and the mitigation of bias.</li> </ol>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The MCLE Board continues to seek members who represent new and young lawyers.</li> <li>2) The Board supports new and young lawyers by encouraging mentorship as a tool for professional and personal development.</li> </ol>
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>
<ol style="list-style-type: none"> <li>1) As stated in APR 11 the purpose of “Mandatory continuing legal education (MCLE) is intended to enhance lawyers’, LLLTs’, and LPOs’ legal services to their clients and protect the public by assisting lawyers, LLLTs, and LPOs in maintaining and developing their competence as defined in RPC 1.1 or equivalent rule for LLLTs and LPOs, fitness to practice as defined in APR 20, and</li> </ol>

character as defined in APR 20. These rules set forth the minimum continuing legal education requirements for lawyers, LLLTs, and LPOs to accomplish this purpose.”

- 2) The WA Supreme Court appoints one public member to serve on the MCLE Board. MCLE Board meetings are open to the public, except for when the MCLE Board is discussing confidential information as defined in APR 11(k). Additionally all MCLE Board minutes are posted on the WSBA website.

**FY20 Demographics:** *To Be Completed by WSBA Staff*

**Gender:**

**Female (4)**

Transgender

Non-Binary

**Male (3)**

Two-spirit

Not Listed

No Response

Multi

**Ethnicity:**

American Indian/Native American/Alaskan Native

Asian

Middle-Eastern Descent

**White/European Descent (4)**

Not Listed

**Black/African-American/African Descent (1)**

Hispanic/Latinx

**Pacific Islander/Native Hawaiian (1)**

**Multi-Racial/Biracial (1)**

No Response

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (2)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (1)**

**Heterosexual (4)**

Not Listed

**Disability:**

Yes

**No (6)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Practice of Law Board
<b>Chair:</b>	Douglas Walsh, Interim Chair.
<b>Staff Liaison:</b>	Julie Shankland
<b>Board of Governors Liaison:</b>	Sunitha Anjilvel
<b>Size of Committee:</b>	13; minimum of five required to be persons not currently licensed to practice law.
<b>Direct Expenses:</b>	<b>\$12,000</b>
<b>Indirect Expenses:</b>	<b>\$33,386</b>
<b>Number of Applicants for FY21</b> <i>(October 1, 2020 – September 30, 2021)</i>	<b>8</b>
<b>Purpose:</b>	
<p>The Practice of Law Board (POLB) was established by the Washington Supreme Court in 2002 and derives its authority from GR 25 as amended in December 2018, to follow the Court's 2015 Order reconstituting the Board and refocusing its mission. In 2015, the Court directed the Board to add a new focus on educating the public about how to receive competent legal assistance and increase its focus on considering new avenues for other legal professionals to provide legal and law-related services.</p>	
<b>Strategy to Fulfill Purpose:</b>	
<p>In pursuit of the above directive, the POLB seeks to reach beyond the mainstream to identify cutting edge strategies that track and anticipate developments in the profession, in technology, the market for legal services, and in consumer needs generally.</p> <p>The POLB works with strategic affiliates to develop new ideas on delivering safe, effective and efficient legal services to everyone in the State of Washington, while assisting with public protection from unauthorized delivery of legal services, in support of this State's reputation as a national leader in innovative legal practice. The POLB works with stakeholders to think strategically, creatively and</p>	

beyond existing models of dispute resolution and legal service delivery, including assisting licensed legal professionals in integrating new ideas while maintaining effective and successful legal practices.

The POLB appointed a liaison to the Access to Justice Board to ensure that the two boards have frequent communication and to prevent duplication of effort. The POLB is working closely with the ATJ Board Technology Committee on a current project and will likely partner on additional projects.

**2019-2020 Accomplishments and Work in Progress:**

1. Developed suggested changes to both GR 25 and GR 24. The changes were withdrawn for further work and data collection after a stakeholder meeting. The Board made a records request to the Washington Attorney General’s Office for complaints relating to public harm caused by legal services provided by people not licensed to practice law. The Board has received four installments of records and continues to process the information. Board member Michael Cherry is leading the Board in considering ways to develop data driven models of legal services delivery that will provide an analytical structure to determine how to move forward with this concept (regulating online legal services). Several Board members are working with members of the Access to Justice Board’s Technology Committee on this concept.
2. Continued to work, slowly, with a third-party contractor on development of the Legal Health Check Up App. Discussions with the contractor are ongoing and the Board plans to either complete the project in the next six months, or reimagine the original ideas based on COVID-19 related changes in legal needs.
3. Met with representatives from LegalShield regarding proposed legislation.
4. Invited Courthouse Facilitators to attend a future meeting to provide input on the need for assistance with education resources. The Board will consider this input early in the next fiscal year.
5. Reviewed and provided input on an Amicus Request related to unauthorized practice of law.
6. Received 28 complaints alleging unauthorized practice of law. Five of the complaints were closed without referral; 6 were referred to appropriate investigative agencies; and 17 remain pending. The Board has received 10 complaints in the last month—explaining the relatively high number of pending complaints.

**2020-2021 Goals:**

1. **Complete and launch the Legal Health Check Up Application. (Either using the original plan or a revised plan based on changes in need related to COVID-19). The Board may work with stakeholders, including the ATJ Technology and Delivery of Legal Services Committees, and WSBA staff to complete this project.**
2. **Continue to analyze and collect information to determine the recommended approach to encouraging innovation in the delivery of legal services while protecting the public. Working to use a data driven approach to understanding whether additional regulations are needed.**
3. **Determine what role the POLB should play in assisting Courthouse Facilitator Programs with access to high quality, affordable educational programming.**
4. **Continue to address and refer unauthorized practice of law complaints.**
5. **Continue to determine the future of the Practice of Law Board.**

**Please report how this committee/board is addressing diversity, equity and inclusion:**

<p><i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The Board and staff consult the Diversity Dictionary and the Accessible Event Planning Guide to assist the Board.</li> <li>2) The Board will seek training from the WSBA Equity and Justice Team.</li> <li>3) Diversity is considered when the POLB members are appointed and is considered in every appointment request sent to the Court. This POLB’s success in its “blue sky” mission will depend heavily on diversity.</li> <li>4) The Board actively seeks diverse perspectives from Board members and from stakeholders.</li> </ol>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The POLB is dedicated to promoting professionalism through its purpose of promoting appropriate and competent legal services and ensuring that the public receives legal services from those dedicated to being ethical, professional, competent and appropriate to the needs of the public.</li> </ol>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The POLB has new and young lawyer members and will continue to actively seek new and young lawyer participation.</li> <li>2) The POLB has heard presentations from new and young lawyers.</li> </ol>
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The public will be directly affected when the Legal Health Check Up is launched. The public will also be directly affected if the Court adopts regulations around online delivery of legal services.</li> <li>2) Yes. The Board, with the ATJ Technology Committee and WSBA has held events to gather stakeholder and public input.</li> </ol>
<p><b>FY20 Demographics: To Be Completed by WSBA Staff</b>  <b>Gender:</b>                  Female 4 Male 6 Multi x Non-Binary x Transgender x Two-spirit x Not Listed x No response 3   <b>Ethnicity:</b></p>

2019-2020

American Indian/Native American/Alaskan Native x	Asian 1		
Black/African-American/African Descent 1	Hispanic/Latinx x		
Middle-Eastern Descent x	Pacific Islander/Native Hawaiian x		
White/European Descent 8	Multi-Racial/Biracial x		
Not Listed x			
No response 3			
<i>Sexual Orientation:</i>			
Asexual x	Gay, Lesbian, Bisexual, Pansexual or Queer x	Heterosexual 7	
Two-spirit x	Multiple orientations x	Not Listed x	No response 4
<i>Disability:</i>			
Yes 1	No 9	No response 3	

**WSBA COMMITTEE/BOARD ANNUAL REPORT FY 20: October 2019 – September 2020**

<p><b>Pro Bono and Public Service Committee</b></p> <p>Chairs: Nicholas Larson, Nancy Chupp</p> <p>Staff Liaison: Paige Hardy, Diana Singleton</p> <p>BOG Liaison: Kim Hunter</p>	<p>Size of Committee: 14</p> <p>Direct expenses: \$2,000</p> <p>Indirect expenses: \$18,119</p> <p>Number of FY20 Applicants: 10</p>
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**Background & Purpose:**

The Pro Bono and Public Service Committee’s (Committee) purpose is to enhance a culture of service.

**Strategy to Fulfill Purpose:**

The Committee fulfills its purpose by promoting opportunities and best practices that encourage WSBA members to engage in pro bono and public service, with a particular emphasis on services to low and moderate income individuals.

**2019-2020 Accomplishments and Work in Progress:**

The Committee established workgroups to accomplish the following tasks, and to carry out the following future goals:

- 1) Pro Bono Policy/Rules Workgroup:
  - a) Received BOG approval of draft model pro bono policies that law firms, government agencies, and in-house legal departments can adopt, adapt, and implement internally to enhance the culture of pro bono within their company or organization.
    - i) Promulgating and publicizing the model policies using WSBA communication channels, the soon to be updated Pro Bono WA website, and the committee’s networks with the pro bono and legal aid community.
  - b) Drafted statement of support to proposed Comment to RPC 6.5
  - c) Drafted statement of support for MCLE Board’s proposal to make mandatory that one of the six ethics credits address implicit and explicit bias.
  - d) Analyzed WSBA emeritus pro bono status and analogues from other states related to impact on the number of pro bono attorneys in the state, identified potential barriers for converting to emeritus status, and developed possible solutions to those barriers—such as reducing the number of years of practice required.
    - i) Drafted proposed amendments and potential improvements to the emeritus pro bono status guidelines, and soliciting feedback from stakeholders within WSBA as well as across the state,
    - ii) Submitted proposed amendments to BOG for review and approval.
    - iii) Received BOG approval in July 2020 for proposed bylaw amendment. Workgroup will work with the Office of General Counsel to move forward with the Supreme Court’s rule change process via GR 9.
- 2) Strategic Planning Workgroup:
  - a) Created a strategic planning workgroup to continually assess the ongoing mission, values, goals, structure, and work of the Committee. This includes contemplating recruitment techniques that center diversifying the committee, as well as making it more inclusive and equitable.
- 3) CLE Workgroup:

- a) Developed and promoted CLE programs focused on topics relevant to pro bono work, including the October 2019 Legal Lunchbox focused on pro bono representation in administrative law hearings and the October 2020 Legal Lunchbox focusing on Family Law issues.
- b) Actively working with the law schools in the state to create further CLEs.
- 4) Publications Workgroup:
  - a) Produced, in collaboration with partners, several articles in the October/November 2019 NW Lawyer Magazine highlighting pro bono achievements throughout Washington.
  - b) Working to produce articles for the October 2020 NW Lawyer Magazine.
  - c) Engaging in discussions with pro bono providers throughout the state to offer promotional opportunities for such programs via WSBA communication channels, such as articles in the NWLawyer or blog posts on the NWSidebar.
- 5) Technology:
  - a) Reviewed the pro bono portal ([www.probonowa.net](http://www.probonowa.net)), the existing online clearinghouse for pro bono opportunities in Washington and began to identify areas for improvement, such as user experience, information accessibility, and website navigation.
  - b) Identified stakeholders, such as the Seattle Pro Bono Coordinators and the Access to Justice Board Technology Committee and Communications Committee for a larger workgroup to address and improve the portal.
  - c) Started holding regular meetings with Stakeholders in an effort to improve [www.probonowa.net](http://www.probonowa.net) with the goal to finalize the website before the end of FY20 or early in FY21.

Additionally, the Committee continues to develop and implement a liaison program by which it assigns one or more committee members to most of the organizations active in the pro bono space throughout the state, including the Access to Justice Board, the Volunteer Legal Programs, Qualified Legal Service Providers, Minority Bar Associations, county bar associations, and the three law schools. This outreach is ongoing and multi-directional, and has resulted in the conceptualization of new CLE opportunities and articles for publication, as well as increased collaboration and communication between the Committee and these organizations across the state.

**2019-2020 Goals:**

- Continue conducting the liaison program to foster communication and collaboration with pro bono providers and organizations statewide.
- Develop outreach to the public to ensure that the Committee’s work is responsive to the needs of low-to-moderate income Washington residents.
- Continue the workgroup projects set forth above, including the following:
  - Create multiple CLEs on topics relevant to pro bono work and promote them to WSBA members as a benefit for volunteering with a QLSP;
  - Draft and submit proposed Emeritus Pro Bono-related rule changes to the Supreme Court; Create and publish articles publicizing issues surrounding pro bono;
  - Promulgate and promote model pro bono policies and look for ways to encourage adoption statewide;
  - Improve [probonowa.net](http://probonowa.net) and ensure its ongoing viability and relevance; and
  - Continue to identify rules and policies that might inhibit participation in pro bono work and seek ways to remove such barriers

**Please report how this committee/board is addressing diversity:**



1) *Are you using any of the tools provided by WSBA and if so, how? 2) Have you sought out training or consultation from the Inclusion and Equity Specialist? 3) How have you elicited input from a variety of perspectives in your decision-making? 4) What have you done to promote a culture of inclusion within the board or committee? 5) What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? 6) Other?*

- 1) The Committee is planning to devote scheduled meeting time to diversity and inclusion training by WSBA staff.
- 2) The Committee is planning to hold part 2 of the training when in-person meetings can resume.
- 3) The co-chairs worked to solicit input from every Committee member regarding next steps in the Committee's future. Similarly, the Committee's workgroups operate democratically with significant opportunity for participation by all members.
- 4) The co-chairs sought out as much participation as possible from the entire group.
- 5) The Committee has carefully considered equity and inclusion as we have sought to fill out our Committee for the coming year, and have actively reached out to members of minority bar associations and groups with historically underrepresented backgrounds for potential members. Although we seek to encourage the promotion of equity with all members of the committee, we can absolutely work toward incorporating more inclusive and equitable practices. This could be in consultation with the Inclusion and Equity Specialist or through an outside facilitator.
- 6) N/A

**Please report how this committee/board is addressing professionalism:**

*1) Does the committee/board's work promote respect and civility within the legal community? 2) Does it seek to improve relationships between and among lawyers, judges, staff and clients? 3) Does it raise awareness about the causes and/or consequences of unprofessional behavior? 4) Other?*

- 1) The Committee's primary objective is to promote the culture of service, specifically pro bono work, in the legal profession. Not only does this work align with GR 12.2, the preamble to the Rules of Professional Conduct, or RPC 6.1, the committee seeks ways to make volunteering easier for lawyers through its work on changes the rules for emeritus pro bono, model pro bono policies, and outreach to entities statewide.
- 2) Yes. The Committee is actively working to increase collaboration and communication among organizations that provide pro bono services, and is actively working to encourage greater participation by lawyers in pro bono work. For example, the committee worked with the Office of Administrative Hearings (OAH) and several Administrative Law Judges to put on a Legal Lunchbox in October 2019. We also made sure that several Committee members were in attendance at the recent Goldmark Luncheon benefitting LFW. The Committee Co-Chairs are also liaisons to the King County Bar Association and the Access to Justice Board to stay apprised of the needs of the legal aid communities.
- 3) Yes, we promote the idea that it is ethically required for attorneys to do pro bono work and we seek to promote as many pro bono opportunities as possible to encourage WSBA attorneys to meet the requirements of RPC 6.1, which states that attorneys "should aspire to render at least thirty (30) hours of pro bono publico service each year."
- 4) N/A

**Please report how this committee/board is integrating new and young lawyers into its work:**

1) How have you brought new and young lawyers into your decision making process? 2) Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? 3) Other?

- 1) Several of our Committee members are new lawyers and we make sure that they are involved in the broader Committee work, but are also contributing in meaningful ways to the workgroups. Encouraging attorneys to commit to pro bono service is particularly valuable at the early stages of an attorney’s legal career. Our Committee seeksto encourage new and young lawyers to engage in those efforts.
- 2) The Committee encourages a variety of pro bono work, which is often engages with new lawyers. Often Qualified Legal Service Providers have pro bono opportunities and CLEs that are catered to attorneys new to the practice of law by training them in both substantive and procedural areas of law.
- 3) The staff liaison has presented to the Young Lawyers Committee about the opportunities to cross-collaborate with the Committee and members have been doing outgoing outreach with all three law schools to connect law students to the work of the Committee.

**Please report how this committee/board is addressing the needs of the public:**

1) How is the public impacted by your work? 2) Has the committee/board sought input from the public, and/or communicated its work to the public? 3) Other?

- 1) Our Committee works to increase pro bono publico work, which directly affects and increases access to justice for the vast majority of the public that does not ordinarily enjoy legal counsel due to the exorbitant costs of hiring private attorneys.
- 2) In this fiscal year, we have yet to prioritize communicating with or seeking additional input from the public. All our meetings are public, however, and this priority will be emphasized as we develop our strategic plan for the upcoming fiscal year to work with the communities that we seek to serve.
- 3) N/A

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (10)**

Transgender

Non-Binary

**Male (4)**

Two-spirit

Not Listed

No Response

Multi

**Ethnicity:**

American Indian/Native American/Alaskan Native

Black/African-American/African Descent

**Asian (1)**

Middle-Eastern Descent

**Hispanic/Latinx (2)**

Pacific Islander/Native Hawaiian

White/European Descent (11)

Multi-Racial/Biracial

Not Listed

No Response

**Sexual Orientation:**

Asexual

Gay, Lesbian, Bisexual, Pansexual or Queer

Two-Spirit

**Heterosexual (13)**

Multiple Orientations

Not Listed

**No Response (1)**

**Disability:**

**Yes (2)**

**No (12)**

# WASHINGTON STATE BAR ASSOCIATION

## WSBA COMMITTEE/BOARD ANNUAL REPORT FY 2020: October 1, 2019 – September 30, 2020

*The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.*

<b>Name of Committee or Board:</b>	Washington Young Lawyers Committee
<b>Chair:</b>	Jordan Couch
<b>Staff Liaison:</b>	Julianne Unite
<b>Board of Governors Liaison:</b>	Russell Knight
<b>Size of Committee:</b>	18
<b>Direct Expenses:</b>	\$15,000
<b>Indirect Expenses:</b>	\$63,620
<b>Number of Applicants for FY21 (October 1, 2020 – September 30, 2021)</b>	6
<b>Purpose:</b>	
<p>The Washington Young Lawyers Committee (WYLC) derives its authority from the WSBA Bylaws, WSBA Board of Governors (BOG) Committees and Boards Policy, and WYLC Appointment Policy.</p> <p>Per Section XII.A of the WSBA Bylaws, the WYLC's purpose is to encourage the interest and participation of:</p> <ol style="list-style-type: none"> <li>1) new and young lawyers and law students in the activities of the WSBA;</li> <li>2) developing and conducting programs of interest and value to new and young lawyers consistent with the focus areas of public service and pro bono programs, transition to practice, and member outreach and leadership; and upholding and supporting the Guiding Principles of the WSBA.</li> </ol>	
<b>Strategy to Fulfill Purpose:</b>	
<p>This year's focus on fulfilling the WYLC's purpose involves seven key areas:</p> <ol style="list-style-type: none"> <li>1. Outreach and communication;</li> <li>2. Debt;</li> <li>3. Public Service and Leadership;</li> <li>4. Rural Practice Project;</li> </ol>	

5. Northwest Regional Summit;
6. ABA YLD Representation; and
7. PREP

The accomplishments and FY20 goals outlined in this document reflect how the work of the WYLC addresses these priorities and fulfills the purpose of the WYLC. These priorities are focused on the four key areas identified in the November 2014 new lawyer survey and July 25, 2015 Generative Discussion of the BOG with the WYLC for key issues facing new and young lawyers: Employment, Debt, Community, and Leadership.

This year, the WYLC replaced subcommittees with project teams to address discrete issues. Project team members may involve constituents who are not members of the WYLC to help accomplish the project team goals.

**2019-2020 Accomplishments and Work in Progress:**

**2019-2020 Goals:**

Outreach and Communication

1. The WYLC tasked a specific member, Past Chair Kim Sandher, with keeping social media accounts updated with content to inform the public of the WYLC’s activities.
2. Unfortunately, COVID-19 impacted the WYLC’s ability to host socials/events/mixers as originally planned. Planned socials in Pierce County and Skamania were cancelled and no further socials are being planned until Washington’s phased approach progresses. Meetings have taken place virtually via Zoom.

Debt

1. The debt project team presented a Loan Repayment Assistance Program (LRAP) bill to the WYLC. The WYLC voted to forward the bill to the WSBA’s legislative affairs team. WYLC Chair-elect Brian Neuharth is currently identifying and reaching out to stakeholders for additional input.
2. The debt project team is researching alternative approaches to addressing debt, including income share agreements. The project team generally has met in alternating months to discuss findings.

Public Service and Leadership

1. The Public Service and Leadership Award (PSLA) exists to connect and recognize new and young lawyers that demonstrate values of public service and leadership. The WYLC received several applications and voted to honor four new or young lawyers this year with the PSLA. Current WYLC At-large member, and incoming Chair-elect Emily Ann Albrecht will write an article about the PSLA recipients for and upcoming Washington State Bar News issue.
2. WYLC Chair Jordan Couch was recognized as the WSBA Outstanding Young Lawyer APEX Award recipient this year.

Rural Practice Project

1. WYLC Access to Justice (ATJ) and Rural Recruitment and Retention (RRR) project team, led by WYLC member Alixanne Pinkerton, met with the BOG’s rural practice project stakeholders and staff regarding the results of their contacts with rural practitioners in Washington State.
2. The WSBA requested the WYLC to assist with research gathering for the rural practice project. WYLC will assist with a specific focus on what will help new and young lawyers in underserved rural areas. WYLC can connect with other groups who are already researching or involved with rural community outreach, to gain information helpful to the issue of legal access in rural communities in Washington State. WYLC could help identify who those entities are that WSBA should be connecting with who have information helpful to the rural practice project.

Northwest Regional Summit

1. After researching possibilities and value, the WYLC chose not to co-host the Northwest Regional Summit in partnership with the Oregon New Lawyers Division in 2020.
2. Instead of a summit, the WYLC is working on establishing ongoing relationships with new and young lawyers in Oregon, Idaho, Montana, and South Dakota to collaborate on addressing the legal needs of rural areas.

ABA YLD Representation

1. The WYLC continued to provide the ABA YLD Meeting Scholarships for new and young lawyers attending ABA meetings as delegates. No delegate spots went unfilled, maximizing Washington’s voting power. Scholarship recipients reported to the WYLC regarding their experiences and identified additional ABA opportunities of value to new and young lawyers.
2. Current WYLC At-large member and incoming Chair-elect Emily Albrecht served as the ABA YLD District Representative for Washington and Oregon.
3. Due to the WYLC’s work this past year, the WYLC was acknowledged as an ABA YLD “Star Affiliate” at the ABA Annual Meeting this summer, which recognizes young lawyers who go above and beyond the YLD, the legal profession, and/or the community on a national scale.

Preadmission Education Program (PREP)

1. The WYLC successfully worked with the WSBA in developing PREP materials.

**2020-2021 Goals:**

1. Debt – The WYLC will continue to coordinate with the WSBA’s legislative affairs team in the hopes of having the LRAP bill considered in Olympia. Should there be delays in either presenting the bill or the bill actually being passed, the debt project team hopes present recommendations to the WYLC regarding Income Share Agreements. The project team also seeks to identify at least one new mechanism to address debt issues for research. The project team will review the need for a 2021 Financial Focus Series to help educate young lawyers. The need for a new installment will depend on identifying a new topic that has not been previously addressed.
2. PSLA — The WYLC will award four PSLAs to new or young lawyers and write an article for the *Washington State Bar News* magazine highlighting the impact of the new lawyer’s work in the community.
3. ATJ/RRR— The WYLC will work on establishing ongoing relationships with new and young lawyers in Oregon, Idaho, Montana, and South Dakota to collaborate on addressing the legal needs of rural areas. The WYLC hopes to become involved in the Western States Bar Conference next year to better connect with rural states and collaborate on solutions. The WYLC will also continue contributing to the WSBA’s rural practice project with research.
4. Outreach and Communication—It is vital to connect new and young lawyers with WSBA programs, services, and activities. To accomplish this, the WYLC plans to:
  - a. Work on a stronger social media presence by liking, posting, and sharing relevant content and WSBA posts with their new and young lawyer social networks. The WYLC is exploring if new social media platforms are needed to better reach its intended audience as user preferences change over time.
  - b. When Covid-19 phase guidance permits, the WYLC will resume focusing on developing in-person outreach/communications/events/mixers in partnership with WYLC regional representatives and local bar association young lawyer divisions.
  - c. Determine the best way of distributing a calendar of new lawyer regional events for the year to new admittees.
5. ABA YLD representation – The WYLC’s budget for the next fiscal year provided more funding for ABA YLD scholarships to defray the costs of attending and ensure a full delegation is sent to every meeting. As long as Covid-19 restrictions remain in place, meetings are taking place virtually and scholarships may not be necessary.

<p><b>Please report how this committee/board is addressing diversity, equity and inclusion:</b>  <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>
<ol style="list-style-type: none"> <li>1) A WSBA new member survey included demographic information to help the WYLC understand its constituency.</li> <li>2) The WYLC is currently working on a proposed amendment regarding dress codes for in court appearances. WYLC members reached out to the WSBA Diversity Committee and they are supportive. The proposal has been submitted the WSBA for formal approval and submission to the Court.</li> <li>3) WYLC members brought up the ABA’s Embracing Diversity Challenge Award. Sponsored by the ABA YLD, the Challenge recognizes and awards top young lawyer organization programs that increase diversity in the legal profession.</li> </ol>
<p><b>Please report how this committee/board is addressing professionalism:</b>  <i>Does the committee/board’s work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The WYLC regularly invites speakers to educate WYLC members and guests on various topics so that members have the information they need.</li> <li>2) The WYLC is on-boarded to understand WSBA communication norms, values, and conflict resolution expectations. Over the course of the year, the WYLC has continued to discuss the value of following the communication norms and consequences of failing to do so. We’ve focused on social media and closer interaction with the BOG. Unfortunately, WYLC was unable to meet with the BOG at Skamania due to Covid-19.</li> <li>3) As above, the WYLC is currently working on a proposed amendment regarding dress codes for in court appearances.</li> </ol>
<p><b>Please report how this committee/board is incorporating new and young lawyers and/or their perspectives into its work:</b>  <i>How have you brought new and young lawyers into your decision making process? Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The WYLC is entirely made up of new and young lawyers.</li> <li>2) Yes, the WYLC focuses entirely on these topic areas.</li> </ol>
<p><b>Please report how this committee/board is addressing the needs of the public:</b>  <i>How is the public impacted by your work? Has the committee/board sought input from the public, and/or communicated its work to the public? Other?</i></p>
<ol style="list-style-type: none"> <li>1) The public has interest in having competent representation. As new and young lawyers come in, the WYLC helps those lawyers navigate through difficult issues.</li> <li>2) We have a project team dedicated to access to justice.</li> <li>3) We have been using our Facebook page to interact with the public and make young lawyers more accessible to young lawyers.</li> </ol>

- 4) The WYLC continues to explore ways to include community involvement either by attending meetings or inviting them to come to events.
- 5) The WYLC encourages all new and young lawyers to participate in public service.

**FY20 Demographics: To Be Completed by WSBA Staff**

**Gender:**

**Female (9)**

Transgender

Non-Binary

**Male (5)**

Two-spirit

Not Listed

**No Response (4)**

Multi

**Ethnicity:**

American Indian/Native American/Alaskan  
Native

**Asian (1)**

Middle-Eastern Descent

**White/European Descent (11)**

Not Listed (1)

**Black/African-American/African Descent (1)**

**Hispanic/Latinx (1)**

Pacific Islander/Native Hawaiian

**Multi-Racial/Biracial (2)**

No Response (2)

**Sexual Orientation:**

Asexual

Two-Spirit

Multiple Orientations

**No Response (11)**

**Gay, Lesbian, Bisexual, Pansexual or Queer (2)**

**Heterosexual (5)**

Not Listed

**Disability:**

Yes

**No (14)**



# WASHINGTON STATE BAR ASSOCIATION

## MEMORANDUM

TO: The President, President-elect, and Board of Governors

FROM: The Committee on Professional Ethics (CPE)  
Don Curran, Chair  
Jeanne Marie Clavere, Staff Liaison and Professional Responsibility Counsel

RE: New Advisory Opinion 202001

DATE: August 25, 2020

<b>FOR INFORMATION</b>
------------------------

**DISCUSSION:** The attached Advisory Opinion was approved by the Committee on Professional Ethics at their August 14, 2020, meeting.

The advisory opinion addresses the issue of whether an attorney may ethically represent a personal representative in a wrongful death claim and give legal advice to two children, who are statutory beneficiaries.

Attachment:

- Advisory Opinion 202001

# WASHINGTON STATE BAR ASSOCIATION

**Advisory Opinion:** 202001

**Year Issued:** 2020

**Subject:** Multiple Client Representation in Wrongful Death Cases

**RPC:** 1.2(c), 1.7, 1.8(g)

**Summary:** *An attorney may represent the personal representative in a wrongful death damage claim and provide legal representation to two children, ages 21 and 15, who are statutory beneficiaries.*

**Facts:** A 45-year-old man was killed due to the negligence of a motorist. The man left two children, ages 15 and 21, and a wife. The motorist is insured and has sufficient limits of liability to pay any and all claims arising out of the death. The wife is appointed the personal representative of the estate. The wife employs an attorney to make a damage claim under RCW 4.20.010 (wrongful death), RCW 4.20.046 (general survival statute), and/or RCW 4.20.060 (special survival statute) for (1) economic and noneconomic damages sustained by the wife and children as a result of the death, (2) the economic damages of the estate, and (3) the pain and suffering, anxiety, distress, or humiliation suffered by the husband.

The personal representative (wife) wants the attorney to provide her two children, who are statutory beneficiaries of some of the potential claims, with updates about the case, secure their cooperation in the presentation of damages, defend them at deposition, and prepare them for testimony if the case goes to trial. No guardian ad litem has been appointed for the 15-year-old child.

*Issue 1:* May the attorney who represents the wife in her capacity as personal representative also represent the wife in her individual capacity as a statutory beneficiary of the claims?

*Issue 2:* May the attorney who represents the wife also represent the children for the limited purpose of presenting claims for damages for which they are statutory beneficiaries, preparing them to give testimony, and keeping them apprised of the status of the case?

## **Conclusion:**

### *Issue 1*

It is the opinion of the Committee on Professional Ethics that the lawyer can represent the wife in her individual and representative capacities. However, the lawyer should explain to the client the nature of the fiduciary role and insist that the client execute an informed waiver of any

right to have the lawyer advocate for the client’s personal interest in a way that is inconsistent with the client’s fiduciary duty.

*Issue 2*

It is the opinion of the Committee on Professional Ethics that a lawyer who represents the personal representative may also represent the children, who are statutory beneficiaries, for the limited purpose of presenting damages, preparing them to give testimony, and keeping them apprised of the status of the case, consistent with RPC 1.2(c), if the lawyer obtains informed consent. The lawyer may do so provided there are no facts or circumstances creating a conflict which is not remediable under RPC 1.7 (b).

***Other considerations:***

Given the complexity of Washington’s wrongful death and survival statutory scheme and the potential conflicting interests of the personal representative and statutory beneficiaries, lawyers seeking to represent multiple parties must be extremely cautious in evaluating existing and potential conflicts of interest, apprising all clients of such existing and potential conflicts of interest, and obtaining all necessary consents.

This opinion is limited to the facts stated here. Different facts may lead to a different analysis. For example, if the insurance limits were inadequate, or if there was an aggregate settlement, the opinion would need revision. Oregon Formal Opinion No. 2005-158 [Revised 2015], entitled *Conflicts of Interest, Current Clients: Representing Driver and Passengers in Personal Injury/Property-Damage Claims*, analyzes some of the ethical issues that may arise in cases where insurance limits are inadequate and/or the parties enter into an aggregate settlement.

**Applicable Rules and Statutes (in effect as of the date of this opinion):**

RCW 4.20.010 (Wrongful death—Right of action)  
RCW 4.20.020 (Wrongful death—Beneficiaries of action)  
RCW 4.20.046 (Survival of actions)  
RCW 4.20.060 (Action for personal injury survives)

RPC 1.2(c)  
RPC 1.7  
RPC 1.8(g)

**Analysis:**

*Issue 1:*

Under RPC 1.7, the lawyer under these facts may concurrently represent the wife in her individual and representative capacities if the attorney obtains a written waiver under RPC 1.7(b). ACTEC<sup>1</sup> COMMENTARIES ON MODEL RULES OF PROFESSIONAL CONDUCT, at 107 (5<sup>th</sup> ed. 2016) (given the potential for conflicts where a person wears multiple hats, e.g., where the

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<sup>1</sup> ACTEC is the American College of Trust and Estate Counsel Foundation.

lawyer represents a person in both an individual and fiduciary capacity, “a lawyer asked to undertake such a dual capacity representation should explain to the client the nature of the fiduciary role and insist that the client execute an informed waiver of any right to have the lawyer advocate for the client’s personal interest in a way that is inconsistent with the client’s fiduciary duty.”)

*Issue 2:*

1. The Committee on Professional Ethics does not believe the facts present a concurrent conflict of interest under RPC 1.7(a). A concurrent conflict exists when the representation of one client will be directly adverse to another client or where there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client.
  - a. Will the representation of the children be directly adverse to the wife/personal representative? Under Washington’s wrongful death and survival statutes, the personal representative brings claims for damages for the benefit of the decedent’s statutory beneficiaries, including the children and the wife. The personal representative’s duty is to maximize the total recovery for the statutory beneficiaries. The personal representative does not seek a certain amount of damages for the benefit of the wife, which would necessarily decrease what is left for the benefit of the children. As such, there does not appear to be a conflict between the interests of the wife/personal representative and the children for purposes of seeking such damages. How the damages recovered are apportioned amongst the wife and the children, or what other types of damages the personal representative seeks, is beyond the scope of this opinion.
  - b. Is there a significant risk that the representation of the personal representative will be materially limited by the lawyer’s responsibilities to the children and vice versa? Given the facts presented, the committee does not believe there is a significant risk of material limitation in the lawyer’s responsibilities to both the children and the wife/personal representative.
2. Under RPC 1.2(c), a lawyer may limit the representation of a client if the limitation is reasonable under the circumstances and the client gives informed consent.
  - a. Reasonableness: In the facts presented here, the limitation on the lawyer’s representation of the children appears reasonable under the circumstances, given that the claims for damages are for their and their mother’s benefit and the contemplated litigation will not pit the interests of the children against the mother in her individual or representative capacity.
  - b. Informed consent: Obtaining informed consent from the 21-year-old child is straightforward. Obtaining informed consent from the 15-year-old child is more complicated. The natural guardian of an underage child is his or her parent. Here, the mother is both the personal representative and a statutory beneficiary. However, as explained above, the nature of the damages sought does not lend

itself to a conflict of the mother's interests on one side and the children's interests on the other. As such, the committee does not see an issue in getting the 15-year-old child's consent through his or her mother.

3. RPC 1.8(g) prohibits a lawyer from "participat[ing] in making an aggregate settlement of the claims of . . . the clients. . ." Here, the only party asserting claims under the wrongful death and survival statutes is the personal representative. Thus, any settlement under these facts is not an aggregate settlement for purposes of RPC 1.8(g).
4. Facts may emerge that would create a concurrent conflict of interest in the course of a lawyer's representation of both the children and the wife/personal representative. It is incumbent upon the lawyer to be cognizant of this and to remediate the conflict, if possible, if it arises, per RPC 1.7(b). In the event of a conflict, obtaining informed consent from the 15-year old child in writing as per RPC 1.7(b)(4) may require the appointment of a guardian ad litem.

\*\*\*

Advisory Opinions are provided for the education of the Bar and reflect the opinion of the Committee on Professional Ethics (CPE) or its predecessors. Advisory Opinions are provided pursuant to the authorization granted by the Board of Governors, but are not individually approved by the Board and do not reflect the official position of the Bar association. Laws other than the Washington State Rules of Professional Conduct may apply to the inquiry. The Committee's answer does not include or opine about any other applicable law other than the meaning of the Rules of Professional Conduct.



September 4, 2020

**TO:** Rajeev Majumdar, WSBA President  
**FROM:** Vicky Cullinane, AOC Liaison to the JISC  
**RE:** 2020 Proposed Amendments to Judicial Information System Rule 13

The Judicial Information System (JIS) is the computer system used by thousands of judicial officers, attorneys, the media and the public every day to administer justice for Washington's citizens and ensure that justice is transparent to them. JIS is also the central statewide repository for criminal and domestic violence case histories. Public safety and access to justice for all Washingtonians requires complete and accurate court records.

The Administrative Office of the Courts (AOC) designed and operates the JIS systems pursuant to JISC Rules (JISCR) and Chapters 2.56 and 2.68 RCW, to serve the courts of Washington under the direction of the Judicial Information System Committee (JISC) and with the approval of the Supreme Court. RCW 2.68.010 provides for the JISC to "determine all matters pertaining to the delivery of services available from the judicial information system."

JISCR 13 governs JISC review and approval of local city or county automated court records systems. The rule was adopted in 1976, and has not been amended since. It does not reflect the current realities of technology system development.

Before 2012, there were only two local automated record systems: Pierce County Superior Court and Seattle Municipal Court. For many years, Pierce County Superior Court staff entered some data into JIS manually or through some automated processes. Seattle Municipal Court shares limited data with JIS systems through a nightly process. For many years, practitioners and judicial officers in King County have complained that the lack of data makes it difficult for them to do their jobs.

In 2013, the JISC learned that a number of courts were considering independent computer systems and at the time there was no way for them to share their system data with the rest of the state in an automated way. It did not appear those courts in question would agree to manually enter their data into JIS systems so it would be accessible without logging onto multiple systems. Alarmed at this prospect, JISC members and other stakeholders spent over a year developing the JIS Data Standards and Implementation Plan, which delineate the minimum data that must be entered into the statewide judicial information system. However, the JIS Data Standards do not give the JISC the authority to require courts to share their data.

In 2014, the JISC overwhelmingly approved proposed amendments to JISC Rule 13 that required courts with independent systems to share their data through manual data entry until AOC had the resources to work with them to create an electronic data exchange. The proposed amendments also authorized the JISC to withhold state JIS Account funds from courts chose not share their data. Because of the legislative action, the JISC withdrew the proposed JISCR 13 amendments during the comment period.

Since that time, AOC has developed the Enterprise Data Repository (EDR) for electronic data sharing between courts with independent case management systems and the statewide systems. In the six years since the project started, only the King County Clerk's Office is connected to the EDR. King County District Court is expected to connect their independent system to the EDR in late 2020. Through this experience and an earlier experience building data exchanges with Pierce County, AOC has learned that creating electronic data exchanges is more complex and time-consuming than anyone ever imagined.

In 2019, when JISC members learned of other courts considering independent local systems, they once again suggested amendments to JISCR 13. After considerable discussion, the JISC voted to create a workgroup to develop a compromise proposal to bring back to the JISC. After four lengthy, arduous meetings, the workgroup unanimously agreed to the current proposal, which was passed by the JISC 13-1.

Chief Justice Mary Fairhurst appointed the following people to the workgroup, representing the diverse perspectives and viewpoints: Judge David Svaren of Skagit County Superior Court; Judge Donna Tucker of King County District Court; Judge Scott Ahlf of Olympia Municipal Court; Frank Maiocco, Court Administrator for Kitsap Superior Court; Howard Delaney, Court Administrator for Spokane Municipal Court; Paulette Revoir, Chair of the CLJ-CMS Project Steering Committee; Dawn Marie Rubio, State Court Administrator; and Vonnie Diseth, AOC Information Services Director.

The proposed rule clarifies that JISC approval is required for new or replacement alternative electronic court record systems, provides for increased notice of proposed systems, provides a process for communication and planning between AOC and courts planning alternative electronic court record systems, requires courts with alternative electronic court record systems to comply with the JIS Data Standards for Alternative Electronic Court Record Systems by sending court data to the EDR, and provides for dispute resolution by the JISC. The proposal promotes a collaborative approach to technology resource planning and prioritization by local and state authorities.

The amendments to JISCR 13 are supported by the Access to Justice Board and the Office of Civil Legal Aid, as well as a broad coalition of state court community representatives

cc: Dawn Marie Rubio, State Court Administrator  
Dirk Marler, AOC Court Service Division Director  
Vonnie Diseth, AOC Information Services Director  
Ramsey Radwan, AOC Management Services Director



MEMBERS

Francis Adewale  
Esperanza Borboa  
Judge Laura T. Bradley  
Hon. Frederick P. Corbit  
Hon. David S. Keenan  
Lindy Laurence  
Michelle Lucas  
Salvador A. Mungia, Chair  
Mirya Muñoz-Roach  
Terry J. Price

STAFF

Diana Singleton  
Equity and Justice Manager  
(206) 727-8205  
dianas@wsba.org



The Honorable Debra Stephens  
The Honorable Charles Johnson  
415 12th Ave SW  
PO Box 40929  
Olympia, WA 98504-0929  
Sent via email: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

Re: Proposed JISC Rule 13 Amendments

Dear Chief Justice Stephens and Justice Johnson:

The Access to Justice Board supports the proposed amendments to JISC Rule 13. Following the guidance of the Access to Justice Board Technology Committee, we urge you to consider the importance of the proposed amendments to the availability of court information statewide. To effectively represent/assist low-income individuals it is critical that legal professionals and the public have access to complete, accurate court records through modern technology.

It is crucial to public safety and access to justice for all Washington residents that they continue to have access to statewide judicial information. Every day the public depends on access to information from courts all around the state. We know that some courts already have their own case management systems, and still more are planning separate systems. Without a mechanism for those courts to reliably share information the public does not have access to critical information needed to ensure access to the legal system.

The proposed amendments to JISC Rule 13 provide a clear path for courts and AOC to plan for minimum disruption to statewide data sharing. They also make it clear that the JISC will settle any disagreements between courts and AOC on any temporary measures required to ensure that we and our clients continue to have information that is critical to fair and just outcomes.

The ATJ Board urges the Court to pass the proposed amendments to protect the integrity of the information the public depends on for the administration of justice.

Thank you for your consideration.

Sincerely,

Salvador Mungia, Chair  
Access to Justice Board



*Page 2*

Cc: Terra Nevitt, Interim Executive Director, Washington State Bar Association

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Tracy, Mary](#); [Linford, Tera](#)  
**Subject:** FW: Proposed amendments to JISC Rule 13  
**Date:** Tuesday, August 18, 2020 4:15:06 PM  
**Attachments:** [image001.png](#)  
[2020.8.17.JISC Rule 13 Amendments.ATJ board comments.pdf](#)

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**From:** Bonnie Sterken [mailto:[bonnies@wsba.org](mailto:bonnies@wsba.org)]  
**Sent:** Tuesday, August 18, 2020 4:03 PM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Cc:** Mungia, Sal <[SMungia@gth-law.com](mailto:SMungia@gth-law.com)>; Bradley, Laura (OAH) <[laura.bradley@oah.wa.gov](mailto:laura.bradley@oah.wa.gov)>; Jordan Couch <[Jordan@palacelaw.com](mailto:Jordan@palacelaw.com)>; Diana Singleton <[dianas@wsba.org](mailto:dianas@wsba.org)>; Terra Nevitt <[terran@wsba.org](mailto:terran@wsba.org)>  
**Subject:** Proposed amendments to JISC Rule 13

Good afternoon,

Attached, please find a letter from the ATJ Board regarding the proposed amendments to JISC Rule 13.

Thank you



**Bonnie Middleton Sterken | Equity and Justice Specialist**

**Washington State Bar Association** | 206.727.8293 | [bonnies@wsba.org](mailto:bonnies@wsba.org)  
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Thank you for your patience and understanding.*



## Washington State Office of Civil Legal Aid

1206 Quince St. SE  
Olympia, WA 98504  
MS 41183  
360-704-4135

James A. Bamberger, Director  
jim.bamberger@ocla.wa.gov

September 4, 2020

Hon. Debra Stephens, Chief Justice  
Hon. Barbara Madsen, JISC Chair  
Washington State Supreme Court  
415 12th Ave SW  
PO Box 40929  
Olympia, WA 98504-0929

Dear Chief Justice Stephens and Justice Madsen:

On behalf of the Office of Civil Legal Aid (OCLA), legal aid programs, and unrepresented litigants, I recommend that the Supreme Court favorably consider and adopt the proposed amendments to JISC Rule 13 relating to the availability of court information statewide. To effectively assist the representation of low-income people in Washington State, it is critical that legal aid providers – and unrepresented litigants -- have access to complete, accurate court records.

Every day low-income people and legal aid providers in Washington depend on access to information from courts all around the state. We know that some courts already have their own case management systems, and still more are planning separate systems. Without a mechanism for those courts to reliably share information, we lose critical information that we and the people we serve need to ensure equal access to justice.

The proposed amendments to JISC Rule 13 provide a clear path for courts and AOC to plan for minimum disruption to statewide data sharing. They also make it clear that the JISC will settle any disagreements between courts and AOC on any temporary measures required to ensure that legal aid programs and unrepresented litigants continue to have information that is critical to fair and just outcomes. That is why the proposed amendments to JISC Rule 13 are so important.

We look forward to the Court's favorable consideration of the proposed amendments.

Sincerely,

OFFICE OF CIVIL LEGAL AID

James A. Bamberger  
Director

**CIVIL LITIGATION RULES REVISION WORK GROUP**

To : Board of Governors  
From : Dan Bridges, Chair  
Date : September 2, 2020  
Re : Final Report

---

**I. OVERVIEW**

The work group has fulfilled its charter.

We took direct stakeholder input from the key litigation stakeholders.

In retrospect, much of the prior workgroup's proposed amendments have been left in tact.

Before I provide my formal report, I am going to take a point of personal privilege. As a litigator for over 25 years, it is been my honor and privilege to serve the board and the members by chairing this workgroup. I believe what the work group is providing you should be adopted. I would gladly implement in my practice, all these proposed changes. I believe they will streamline the process and result in more fair trial outcomes.

I suggest there is more work that could be done. For instance, King County has adopted a set of form discovery for personal injury cases. One of the issues this workgroup discussed was a prior recommendation to have mandatory laydown disclosures. As they exist in the federal court, we do not see those as a time or cost saving measure for reasons that are discussed below.

However, and I am only expressing my personal opinion, very specific subject area laydown disclosures could result in an enormous discovery cost savings. There are all manner of subject specific discovery issues that arise in every case that could be easily dispensed with by a mandatory laydown disclosure. The challenge in creating a one-size-fits-all approach however, is that one size does not fit all. But, a tailored approach could realize substantial time and thus cost savings. I will not detail those here but for example, in motor vehicle accident cases there are all manner of issues both sides ask in essentially every case that could simply be mandated provided. The same goes for contract cases, family law cases, etc.



## II. HISTORY AND CONTEXT

Several years ago the board created a workgroup to study ways to decrease what it perceived to be an escalating cost of civil litigation. That workgroup returned a variety of suggestions. That board voted up or down on those suggestions, one by one. The suggestions that were affirmed, were handed off to a workgroup to draft rules consistent with both the report of the original workgroup and the charter issued by the board.

When the prior rules drafting workgroup formed, it viewed its charter to be to strictly draft rules as directed by the board. It took some stakeholder input but at most it only took input on how a given rule was worded. It did not take input on whether a rule should be adopted. This was raised several times in those meetings, of which I was the liaison to as a governor, and it was stated quite clearly by the chair of that workgroup that their charge was to draft rules as directed and to not consider stakeholder input as to whether in practice there should be a given rule. That is likely the correct way to read their charter. I will note anecdotally, that the prior workgroup indicated various stakeholders were consulted who later indicated they were not consulted. I rely that was a good faith miscommunication as I experienced that one time myself in this workgroup.

The intention of the original workgroup, and its charter required, that the amended rules would be returned to the board for its direct consideration with at least four months for the board to take comment and stakeholder input. As our process provides, the board creates workgroups and gives instructions via charters. Workgroups provide work product back to the board. Then, the board takes input directly from members and stakeholders on whether the work product should be adopted.

The board has both the discretion and explicit duty to weight others' work product and determine whether it should be adopted. Creating a workgroup and asking it to do something is not a commitment to actually implement what the workgroup drafted. That is clear both by our bylaws and anecdotally. Last year the board rejected a proposed rule requiring attorney liability insurance despite having voted it wanted to explore it and creating a workgroup to draft a rule.

That is the function of the board. To gather information, take additional input from stakeholders, and then make a decision based on its own discretion. In this specific instance, it may be that a given rule, as drafted, did not fully capture the board's intention. Or, it may be that having drafted a rule, the board appreciates the policy value being sought could not be furthered by a rule or lead to unintended consequences.

When the original civil rule proposed amendments were brought back to this board for a vote last year, litigation stakeholders strongly indicated opposition to several aspects of the proposed amendments that expressed opposition *both* to how certain rules were drafted (worded) and that what was attempted could not be achieved by a rule (they objected to a given rule change being made at all).

However, over the course of the previous workgroup's efforts, they asked for two continuances of the due date to deliver their final work product. This board granted those continuances. Having done so, there was no time to take stakeholder input by the board and meet the Supreme Court's rulemaking deadline that

fall. Also, there was essentially no time to comment, even as among the board much less stakeholders, before the vote was to be called. As the agenda proceeded that day, this was one of the last items, on the last day, of the Board's meeting.

Given that, and given the strong stakeholder response, last year's board voted to pause the process and create this workgroup to take stakeholder input directly and to both weigh it on its merits and to determine if their concerns could be addressed in the proposed rule changes.

In that regard, what we are providing you as redlines are not the civil rules as they currently exist. Instead, so you can see the changes made by this workgroup, we are providing you the redline offered by the previous workgroup, and our workgroup's work is a redline of that redline.

I realize that may sound like a tautology. However, I think it is important you are able to see where this workgroup amended the prior workgroup's suggestions.

The actual sitting members of this workgroup are all active litigators. We also had a retired trial judge. All of our stakeholders were active litigators, appointed by their respective organizations.

### **III. PROPOSED AMENDMENTS**

Our work focused on five primary areas.

#### **A. Mandated "Cooperation"**

The largest stakeholder concern, both last year and now, were amendments that gave the trial courts the ability to issue sanctions even if a party followed all the rules and did *not* violate CR 11, but the court found the party was not "cooperating" sufficiently. The amended rule provided no definition of cooperation. Arguably, that would be left to each judge's subjective interpretation.

The workgroup and stakeholders discussed at length how a cooperation value could be implemented into the Civil Rules but could not find a way without encountering all manner of problems. We considered putting it into GR 1 but stakeholders expressed that would be a redundant addition given what GR 1 already says.

This workgroup concluded that the problem, if there is one, lays in the failure to enforce the rules we already have. Mandating "cooperation" in following the rules is not necessary because the rules need to be followed regardless. Further, one person's lack of cooperation is simply another person's zealous advocacy *within* the rules. As a policy value it fails to account for the fact that litigation is inherently adversarial. Finally, as originally proposed, allowing a sanction for conduct that is allowed under the Rules creates uncertainty. What is permissible in front of one judge would likely not be permissible in front of another. We already benefit from a well-developed body of law under CR 11 and CR 37. In the end, an undefined cooperation requirement would lead to more motions and more costs. Thus, this was removed.

**B. “Early” Forced Mediation**

By my reading of the rule provided by the prior workgroup, although I believe it is borne out by the records of the Board’s original vote on the ECCL, the suggested rule change did *not* create the rule the board asked for. Instead, it imposed a mediation requirement materially earlier.

Litigation stakeholders were unanimous and steadfast that while the policy value of early mediation is laudable, the reality is that cases are not amenable to settlement until the parties have sufficient information. Pushing mediation before that will not get cases settled; it will have the opposite effect. Insurance carriers (the drivers of most civil settlements) will not settle until they have for their claim file, certain information. No court rule will change that. Worse, of the cases that might settle earlier, there is the material risk they will be settled on incomplete information and leave injured persons with insufficient compensation.

Given the parties already have a high motivation to settle as soon as possible for a variety of reasons that can be explained but it is suggested should be self-apparent, a mandate for mediation by an “early” time arbitrarily fixed by a court rule will not result in more cases being settled.

Additionally, the previously suggested rule allowed parties an ability to avoid the rule imposed early mediation deadline but that would require a motion. Requiring parties to file a motion, which stakeholders indicated would essentially be done in every case, that would require a judge to take time to consider in order to rule on, does not further the goal of reducing the cost of civil litigation which was the purpose of the original task force.

In the end, this workgroup reports that while the attempt to create a pathway for more cases to settle earlier was reasonable, in application this is not something that can be reduced to a rule and an attempt to do so would have the opposite effect; it would increase the cost of litigation as cases forced to mediation before the parties are fully informed would actually lead to more cases going to trial and the increased cost that would create.

**C. Case Schedule Requirements**

A correction was made to the case schedule requirement. Previously, the rule as proposed left a large number of domestic and family law cases subject to the mandatory case schedule when they are either unworkable under a case schedule or a case schedule is in fact not necessary. We added language at the suggestion of DRAW to fix that.

**D. Discovery Supplementation Requirement**

Mr. Robert Wayne, of the King County Bar Association, made the excellent suggestion that if we want to decrease the cost of discovery, imposing a mandatory obligation to supplement discovery answers would facilitate that. The stakeholders either unanimously agreed or otherwise did not see a problem with that suggestion. Under the current rule, there is an obligation to supplement prior answers only under certain

narrow situations. As a matter of practice, given there is not a continuing duty to supplement, any competent attorney is put to either send letters to adverse counsel asking for a supplementation or having to send an entirely new set of discovery asking for a supplementation.

An automatic duty to supplement makes all of that work unnecessary thus decreasing the cost of litigation. It might be said it would require more work on the disclosing party to supplement and thus increase cost. It is suggested that is without merit. First, parties are asking for supplementation. The issue is not whether supplementation is done, it is only what work is required to bring it about. This is a net decrease. Second, even if this results in supplementation being done in the cases where the attorney might not have otherwise asked, it remains a benefit because they should have asked. Finally third, the duty would only be triggered if there was new information requiring supplementation. If there is not, there is no need to supplement.

This change should result in a net decrease work in discovery and more fair trials because it requires disclosure of relevant information. As context, the proposal offered here is similar (although not precisely the same) as the duty to supplement under the Federal Rules of Civil Procedure. See Rule 26(e)(1).

#### **E. Mandatory Laydown Disclosures**

With due and full respect to our learned federal bench, the litigation stakeholders were unanimous that the federal mandatory laydown disclosure requirement, in application, does not result in reducing the cost of, or time to conduct, discovery. Universally, those who participated in our meetings indicated the full extent of laydown disclosure requirements are replicated in every set of basic discovery requests. Thus, far from streamlining discovery, it actually duplicates it. Further, very little information is actually provided particularly given that fact it leaves it to the subjective impression of the party making the disclosure whether the information is relevant and thus needs to be identified.

The entire exercise in application is a “check the box” requirement that serves no purpose other than as a vehicle to exclude witnesses and evidence not disclosed in the laydown requirement. However, given our state law is dramatically different in the exclusion of evidence and witnesses for the failure to disclose them in discovery as compared to federal law, see, Burnet v. Spokane Ambulance, 131 Wn.2d 484 (1997) and Jones v. Seattle, 179 Wn.2d 322 (2013), a state imposed, one size fits all laydown disclosure requirement in our Civil Rules, does not do even that.

Meaningful decreases in the cost of discovery by a mandatory disclosure can only be achieved by case area specific laydown disclosures tailored to the needs of any one specific case area.

#### **IV. NEXT STEPS**

The Supreme Court has set forth what is essentially a form that must be completed with any proposed rule change. That must be done. Also, it is customary to send proposed rule changes with a report to the court explaining both the process and the reason for the changes. My understanding is historically, the chair has drafted that material and I would like to continue to volunteer for that duty. I think it is important that the



report be created by someone who has seen the process for more or less beginning to end and can provide the full context both for the original changes, and these changes to those changes.

**V. ATTACHMENTS**

We are providing:

1. Meeting memos for the work group;
2. The original stakeholder objection matrix presented to the board when this workgroup was created;
3. All rules in redline as discussed above;
4. Rules proposed by the original drafting task force that the workgroup did not revise.

# **ATTACHMENT 1**

# WASHINGTON STATE BAR ASSOCIATION

January 23, 2020

Washington Defense Trial Lawyers  
Rachel Tallon Reynolds, President  
1111 Third Avenue, Suite 2700  
Seattle, WA 98101

Jon. R. Morrone  
Washington Defense Trial Lawyers  
Court Rules Committee  
300 Valley Avenue  
Puyallup, WA 98371

Washington State Association for Justice  
John D. Allison, President  
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2208 West 2<sup>nd</sup> Avenue  
Spokane, WA 99201-5417

Christopher Love, WSAJ Court Rules Committee  
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Tacoma, WA 98402

WSBA Litigation Section  
Vincent Nappo  
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King County Bar Association  
[jm@medilaw.com](mailto:jm@medilaw.com)  
Ms. Jane Morrow, KCBA Judiciary/Litigation Committee  
[isham@aokilaw.com](mailto:isham@aokilaw.com)  
Mr. Isham Reavis  
1200 Fifth Avenue, Suite 700  
Seattle, WA 98101

Domestic Relations Attorneys of Washington  
701 Fifth Avenue, Suite 4550  
Seattle, WA 98104-7088

Re: Washington State Bar Association Civil Rules Workgroup

Dear Colleagues:

I am writing you because we either discussed the pending amendments to the Civil Rules last year, or you are the successor to an office of someone I did speak with last year.

I am honored to be the chairperson of the WSBA's Board of Governors Civil Rules Workgroup following up on work of a different workgroup that, last year, drafted sweeping amendments to the Civil Rules. You or your group provided input on those proposed amendments. The Board of Governors took your additional input seriously and created this new workgroup to ensure that you, as our critical litigation stakeholders, are fully heard in this process.

Having obtained the Board of Governors' agreement to pause this process *specifically to take your input*, I hope you will participate at our upcoming meeting where we will concretely discuss the proposed Civil Rule amendments you expressed concerns over. It is fair to say the Board having taken this pause specifically to obtain additional stakeholder input, can be reasonably relied upon to act quickly once the current workgroup returns its report. To borrow an auction phrase: this is last call. Of course, the Supreme



Litigation Stakeholders  
January 17, 2020  
Page 2

Court will take additional public comment as a component of its rule making process but this point in time provides a unique opportunity for you to have direct input. I do not believe an opportunity such as this to have an impact on our Civil Rules will happen again in our collective practice lifetimes.

In terms of how this process will proceed, I am attaching the agenda for our next meeting and a decision matrix. My current thought is that before we give consideration to specific language, we need to determine if the key stakeholders can come to a consensus as to how to best achieve cost savings in civil litigation. The decision matrix is only a guide. I have identified the broader issues identified by stakeholders but as noted in the last item, the workgroup welcomes and solicits your additional suggestions regarding how we can decrease the cost of civil litigation while not impairing the rights of parties in it.

*In the next few days you will receive a communication geared toward determining your availability.* Regretfully, I understand we may not obtain 100 percent participation. There will be an option to appear by phone but I urge you, if you are not available, to please appoint someone to appear in your stead. Without question we will give full consideration and weight to the written input you already provided. However, I can say without reservation there is no substitute for a personal appearance and we want to go beyond and build on your input to determine the best outcome. Please give us the benefit of your wisdom and experience while undertaking this important task.

My direct phone number is 425-462-4000. My email is [dan@mcbdlaw.com](mailto:dan@mcbdlaw.com). I welcome and invite any feedback you may have.

Sincerely,



Dan L. W. Bridges  
Workgroup Chairperson  
Past WSBA Treasurer and Governor, District 9

Attachments: Agenda, Decision Matrix  
cc: WSBA President Rajeev Majumdar  
WSBA President-Elect Kyle Sciuchetti  
WSBA Governors, Kang, Higginson, Tollefson  
James Macpherson, WDTL Liaison  
365 Ericksen Avenue, Suite 325  
Bainbridge Island, WA 98110  
Jean Cotton, DRAW Liaison  
P.O. Box 1311  
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Betsylew R. Miaale-Gix, WSAJ Liaison  
520 Pike Street, Suite 1425  
Seattle, WA 98101

**CIVIL LITIGATION RULES REVISION WORK GROUP**

To : Workgroup, Stakeholders, and Board of Governors  
From : Dan Bridges, chair  
Date : June 25, 2020

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Attached is a matrix of civil rule amendments based on our in-person meetings and stakeholder input. As you will recall, the board created this workgroup to take stakeholder input that may not have been completely addressed when the civil rule amendments were originally proposed.

I suggest the matrix and redline rules speak for themselves. This is only a work in progress.

To our stakeholders, given the current restrictions on meeting in person, these are being provided electronically. I strongly urge and respectfully request that you please provide your input by email as soon as possible. Depending on the scope of comments, we may hold an additional zoom meeting to address ongoing concerns. If your input indicates this draft is at least close, it may be possible to address any further concerns based on the written input alone.

As to the specific members of the workgroup, this is only my attempt to facilitate our workflow. We will need to hold an additional meeting before these are presented to the board for formal consideration.

There are a variety of civil rules implicated by the original workgroup's and amendments that I have not addressed here because they only arise because of internal citations issues. For instance, the workgroup may have added a section to CR 26 that changed the numbering or lettering of that rule. That would require changing other rules that referenced those subsection numbers that changed. To streamline the process I have not included any of those rules in either the matrix or the redline at this time. I am working on conforming those issues now. Also, there may likely be the same issues present in the redlines attached. I am aware of those and I am also working to conform those. However, as none of that impacts the substance I wanted to get these to you as soon as possible.

Please feel free to either respond directly to this email as you receive it from WSBA, or email me at [dan@mcbdlaw.com](mailto:dan@mcbdlaw.com) or call me 425-462-4000 I look forward to your responses.





July 20, 2020

Re: Governor Bridges' June 25, 2020 Memorandum on the Civil Litigation Rules Revision Work Group

Dear Committee Members:

The King County Bar Association Judiciary and Litigation Committee respectfully submits these comments regarding Governor Bridges' June 25, 2020, memorandum seeking input on certain proposed civil rule amendments. Our Committee has consistently taken an active role in evaluating and providing substantive feedback on proposed changes to the civil rules for years, including those referenced in Gov. Bridges' memorandum.<sup>1</sup> The document at issue is framed as "[Governor Bridges'] attempt to facilitate [the WSBA Civil Litigation Rules Revision Work Group's] workflow." The memorandum further provides, "[d]epending on the scope of comments, we *may* hold an additional zoom meeting to address ongoing concerns." (emphasis added). Following review of Gov. Bridges memorandum and discussion during an emergency Committee meeting convened on June 16, 2020, we are compelled to respond to certain procedural concerns.

The first issue we wish to highlight is the unilateral timeline to provide substantive feedback. We believe that the abbreviated timeline left our committee and other similarly situated stakeholders with insufficient time to fully respond to the proposals contained within the memorandum. With additional time we would have discussed how the proposals differed from, or were consistent with, the positions advanced by our committee in the past.<sup>2</sup> Our Committee is committed to providing substantive feedback on many proposed changes to the civil rules and look forward for the opportunity to do so in an open and structured manner that affords all stakeholders a genuine opportunity to provide substantive feedback on any proposed rule revisions.

The second area of concern is the extent to which the proposals in memorandum purport to reflect the position of the workgroup as a whole in light of the fact they are presented in summary fashion by the workgroup chairman. The memorandum provides limited information about the extent of any discussions or disagreements the committee members may have had about the proposed changes, and in fact, there is no identification whatsoever of the stakeholders that were involved in the work of your Task Force. Public disclosure and transparency into the nature and scope of stakeholder involvement with the workgroup is paramount to this process.

Finally, given the substance of the proposed changes and the potential impact on civil litigation in this State, we believe it is critical for all interested stakeholders to have the opportunity to substantively raise any issues they identify with any of the proposed changes. More specifically, we ask

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<sup>1</sup> See, e.g., Memorandum to WSBA Task Force Regarding Initial Disclosures, Apr. 30, 2018 (attached for reference).

<sup>2</sup> See, e.g., *id.*

that our Committee be afforded adequate opportunity to attend an open meeting of the drafting Work Group and provide comments on any final product produced by the Civil Litigation Rules Revision Work Group that the Work Group intends on presenting to the WSBA Board of Governors.

We hope that these comments are useful in the Civil Litigation Rules Revision Work Group's continued efforts and look forward to providing feedback on your committee's future work. Please contact our Committee co-chairs Jane Morrow (jm@medilaw.com) or Isham Reavis (Isham@aokilaw.com) if you have any questions or concerns about our comments.

Sincerely,

KCBA Judiciary and Litigation Committee

cc: Jane Morrow, Co-Chair  
Isham Reavis, - Co-Chair

**CIVIL LITIGATION RULES REVISION WORK GROUP**

To : King County Bar Association, Judiciary and Litigation Committee

From : Dan Bridges, chair

Date : July 23, 2020

---

First, thank you very much for your July 20, 2020 letter. You raise some important issues and I will respond in order.

Allow me to say at the top, however, that we will be holding an additional meeting via Zoom shortly to discuss this proposed amendment. I assure you that every person on the contacts you provided will be included in that scheduling. Please be on the lookout for that email which will come from WSBA directly. I hope you attend. We want your input.

Finally, **I would be grateful and I specifically ask that you please share this response with your full committee.** To save time, I would have cc'ed your members but they are not listed on your website.

To address your letter more specifically.

1. You expressed concern over a “unilateral time to provide substantive feedback.” We provided a deadline for a response but the workgroup has no intention on cutting off feedback. Considering stakeholder feedback was the reason this workgroup was created.

However, it has been our experience that without stating a deadline, responses are delayed to the point none are provided. The deadline was only intended as a nudge to receive feedback because we want to hear from you.

In terms of your organization’s specific input, as a gentle reminder please bear in mind we solicited input on the proposed amendments to the civil rules last year and your group provided incredibly helpful input that we implemented in this most recent redline. Additionally, you and I had a number of emails about your attendance at our last meeting and you in fact had a member of your group in attendance at that meeting. (Those emails were February 18 and 20, if you would like to review them). You told me via email on February 18 that Mr. Robert Wayne would attend for KCBA. He did. He was a very active and helpful participant.





That said, and I apologize if I cause offense, I confess I am a smidge confused by the overall gist of your letter as it implies we have not provided an opportunity for feedback and we have not involved you in the process. We provided all stakeholders, including you folks, notice of our meeting, and *your group attended the meeting and provided your input* – which we implemented. Yet, as I read your letter, the gist of it is we have not communicated with you at all.

2. In regard to the substance of my June 25 memo and your “concern (over) the extent to which the proposals in (the) memorandum purport to reflect the position of the work group as a whole in light of the fact they were presented in summary fashion by the workgroup chairman,” my memorandum was submitted to entire workgroup before being pushed out to stakeholders without disagreement as to its content.

Also, your representative attended that meeting. We provided you the memo, along with the other stake holders. I have not heard from Mr. Wayne that the memo provided did not reflect the consensus of comments at the meeting he attended. Given that, and again while intending no offense, I remain a smidge confused. Are you (or Mr. Wayne) saying the memo summary of the meeting is not accurate? He was there. If so, may I ask that you help me by identifying where. I would be grateful for any help you can provide.

I agree completely over the need for transparency. I feel we have done so but always welcome input.

3. You indicate “given the substance of the proposed changes and the potential impact on civil litigation in the state, we believe it is critical for all interested stakeholders to have the opportunity to simply raise any issues they identify with any of the proposed changes. More specifically, we ask that our committee be afforded adequate opportunity to attend an open meeting of the drafting workgroup and provide comments on a final product.”

*I agree with that sentiment one-thousand percent. I and the workgroup unreservedly welcome any and all input your organization, any stake-holder, or any person has.*

We have held two public meetings. I personally wrote an extended letter before our second meeting that was sent to WDTL, WSAJ, WSBA litigation section, Draw, and Ms. Jane Morrow and Mr. Isham Reavis of the KCBA Judiciary/Litigation committee. That letter concluded:

*In the next few days you will receive a communication geared toward determining your availability. Regretfully, I understand we may not obtain 100 percent participation. There will be an option to appear by phone but I urge you, if you are not available, to please appoint someone to appear in your stead. Without question we will give full consideration and weight to the written input you already provided. However, I can say without reservation there is no substitute for a personal appearance and we want to go beyond and build on your input to determine the best outcome. Please give us the benefit of your wisdom and experience while undertaking this important task.*

Your group attended that meeting. Thank you!

In conclusion, I want to thank you and your entire committee for your July 20 letter. *It is greatly appreciated!*

Please feel free to either respond directly to this email at [dan@mcbdlaw.com](mailto:dan@mcbdlaw.com) or call me 425-462-4000. I look forward to your responses.

PS: Your letter indicates there are attachments. There were no attachments to my copy. That is fine. I have the original document identified.



**PRESIDENT**

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Frank H. Roberts • Charles E. Peery

Arthur R. Hart • Robert P. Piper • Roy J. Mocchi

**VIA EMAIL**

July 23, 2020

Dan Bridges ([dan@mcbdlaw.com](mailto:dan@mcbdlaw.com))

Chair, Civil Litigation Rules Revision Work Group

Washington State Bar Association

1325 4th Avenue, Suite 600

Seattle, WA 98101-2539

**Re: WDTL Comments On June 25, 2020 Matrix of Civil Rule Amendments**

Mr. Bridges:

The Washington Defense Trial Lawyers (“WDTL”) has served as a voice for the civil defense bar since 1962. WDTL members defend small and large businesses, individuals, and other entities in supporting balance and fairness for all in civil trials. WDTL submits these initial comments to the proposed changes outlined in your June 25, 2020 Matrix of Civil Rule Amendments.

While WDTL supports the work group’s decision to drop the “stand-alone” cooperation violations in the proposed amendments to CR 11 and CR 37, it still has concerns about some of the remaining proposals.

First, while WDTL and its members believe that civility and cooperation in litigation must be a central tenet of modern practice, WDTL is concerned that the addition of an undefined “lack of cooperation” standard to CR 11 and CR 37 adds nothing meaningful to the inherent authority already available to address lack of cooperation under the rules, while adding an additional layer of ambiguity and confusion. We fear that in spite of removing the “standalone” violations in the rules, the inclusion of the undefined term will still invite uncertainty and/or abuse.

Second, the proposed amendments to CR 26(b)(5)(A)(1) is also likely to cause undue confusion and seems inconsistent with existing practice and the state of the law regarding consultants and putative experts. See CR 26(b)(5)(B). As in Federal Court, the time for expert discovery should come after the final decision to name an expert has taken place (typically, the deadline for disclosing experts). Prior to the disclosure of an expert, the potential expert is usually working in a consulting / preliminary role, subject to CR 26(b)(5)(B). A party typically will not have made the definitive decision as to whether that putative expert will be a testifying expert until so designated. Allowing discovery into the exact subjects required by the expert disclosure rule, prior to the expert disclosure, makes little sense. Moreover, language creating a presumption of a CR 37 violation for failure to respond to such discovery makes little sense



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where, in most cases, it will not yet be clear whether the discovery will be subject to CR 26(b)(5)(A) or CR 26(b)(5)(B).

Finally, we are concerned that the language of CR 26(g) regarding privilege logs, as proposed, is too rigid. Requiring “individual identification,” without any exceptions, appears even more stringent than the federal rules. For instance, under a strict reading of the proposed language, each written communication with your client in the ordinary course of representation would each need to be individually listed on a privilege log. Obviously, this would be exceptionally burdensome, and presumably far outside the intent of the rule. To the extent that clarification of privilege log rules is required, we believe tracking the language of the Fed. R. Civ. Proc. 26(b)(5)(A) makes more sense.

We sincerely appreciate the opportunity to submit these preliminary comments and look forward to continued involvement with honing these amendments to ensure that our Court Rules reflect a fair and pragmatic litigation process for all in our state.

Sincerely,

Michael Chait  
Chair, WDTL Rules Committee

**CIVIL LITIGATION RULES REVISION WORK GROUP**

To : Work Group and Stake Holders

From : Dan Bridges, chair

Date : August 7, 2020

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Thank you to everyone who provided written input or attended our most recent meeting on August 5. As we are narrowing the issues to a spear point, I will confine this memo to new issues and actions taken as opposed to reiterating past conversations.

I am attaching redlined versions of CR 1, 3.1, 11, 26, 37, and CRLJ 1 and 11 based on the input at our August 5 meeting. Those are the only rules that elicited negative input or request for changes from the preceding version.

Before outlining the changes, in terms of our process going forward, we will have an additional meeting to review these changes and take additional input. My sense given our last meeting is our next meeting should likely be our last meeting. I believe the changes identified below address essentially all of the stakeholder input with one possible exception that is identified.

1. **Cooperation.** At the unanimous request of all stakeholders and workgroup members in attendance, I have stricken all reference to a “cooperation” requirement. That language was found in CR 1, 11, 26, and 37. We had an extended discussion on retaining that language, even if only in CR 1, to articulate that attorneys should cooperate.

However, without providing a definition of cooperation, concern was discussed regarding subjective interpretation. One person’s definition of cooperation may simply be another person’s zealous use of the rules as written. We had a very long discussion on this issue and addressed a variety of ways to salvage retaining that term but ultimately the unanimous consensus was the rules already require parties to follow the rules and to not engage in dilatory behavior. If there is a need to obtain greater compliance with the rules, the answer is requiring greater compliance with the current rules. Mandating an undefined duty of “cooperation” was believed to be an attempt to legislate pleasant behavior which although of course desired, is perhaps not possible through written rules.

2. **Abuse of case schedules to delay disclosure.** WSAJ expressed concern over making a delayed disclosure of expert witnesses a discovery violation. More specifically, that a party may not know until well after retention whether an expert is going to be a testifying expert versus a consulting expert. WSAJ expressed concern over exclusion of such a witness.



It was pointed out the proposed amendment would not make a good faith later disclosure a violation because nothing in the proposed amendment would make it a violation to disclose a consulting expert. However, there was unanimous agreement, and certainly no dissent, that case schedule deadlines in regard to expert witnesses are persistently improperly used as a shield to delay responding to expert witness discovery with the oft stated response that experts will be disclosed by the case schedule deadline even when the expert is clearly (and well before the deadline) going to be a testifying expert. The case schedule deadline was never intended to be safe harbor to refuse to respond to discovery yet that has become a wide spread practice.

But, to address the concern, the language it would constitute a “per se” violation was deleted.

3. **Exclusion of family law matters from case schedule.** DRAW pointed out that the case schedule exclusions under CR 3.1 omitted several important family law issues (change of name, paternity, nonparent custody, etc.) under RCW Title 26 that should not (and really cannot) be subject to a case schedule. DRAW pointed out that as the previous workgroup exempted the entirety of RCW Title 11 from the case schedule requirement, CR 3.1 should similarly exempt RCW Title 26 in total as opposed to attempting to list the sections individually. That change was made.
4. **Privilege Log:** WSAJ indicated the proposed language regarding a privilege log was overbroad. It should be noted no stakeholder expressed opposition to a privilege log requirement when a party asserts a privilege to not produce discovery – it is clearly required by case law. I deleted the language proposed and inserted language essentially verbatim (I had to change the tense slightly) from Rental Housing Ass’n of Puget Sound v. City of Des Moines, 165, Wn.2d 525, 538 (2009).
5. **Supplementation.** Mr. Robert Wayne (in attendance on behalf of KCBA but making it clear he was not specifically authorized to speak for KCBA beyond the scope of its written input) raised the issue of a need to make the duty to supplement responses broader. The rule as presently understood requires a supplementation if the prior answer, if left to stand, would be misleading. There was general agreement that a more proactive supplementation requirement would be desirable and certainly no dissent on that.

In reviewing the rule as it exists, I have difficulty identifying language that could be added to enhance the duty of supplementation. Truly, if you consider the full scope of the rule, my impression is the rule does require supplementation greater than simply if the prior answer if left to stand would be misleading. Given I cannot identify language to add to create some type of ongoing duty to supplement greater than what is already stated, I did not draft additional language.

That said, I believe the litigation stakeholders expressed agreement with the sentiment expressed by Mr. Wayne. I invite Mr. Wayne or any stakeholder to propose language to accomplish the policy value he identified.

4. **CRLJ issues.** The only change in the CRLJs was cooperation. I deleted those provisions consistent with the foregoing.

**CIVIL LITIGATION RULES REVISION WORK GROUP**

To : Work Group and Stakeholders

From : Dan Bridges, chair

Date : August 28, 2020

Re : Overview of upcoming September 1, 2020 meeting

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Before addressing the September 1 meeting I must note a correction to my last memo. I attributed comments to WSAJ and Mr. Chris Love regarding expert disclosures that were in fact made by Michael Chait who is WDTL's delegate. I apologize for that. Please take this as a correction of our 'record' on this issue.

The only change raised at our last meeting was the suggestion we amend CR 26 to create an automatic, continuing duty to supplement discovery. There was no objection to doing so albeit we were unable to land on language. Happily, Mr. Robert Wayne, who is KCBA's delegate, provided a simplistic and excellent suggestion. The amended CR 26 includes that suggestion.

In short, with an automatic continuing duty to supplement, it streamlines the entire rule because as it exists, CR 26 has all manner of specific situations where a duty to supplement arises the rule spells out. Imposing an automatic duty to seasonably supplement allows the rule to be greatly streamlined, removing all of those circumstances, and simply imposes a duty to seasonably supplement.

The current rule uses the term "seasonally" supplement on the topics that currently require automatic supplementation. I make mention of that in the event anyone feels the phrase is vague. It may be. But, that is how the current rule reads and it is logical to maintain that consistency.

If you have any concerns or further suggestions about this CR 26 change or any other rules, I would be grateful if you could provide them before our September 1 meeting. Saying that, I not trying to impose an arbitrary deadline or close off input. I suspect it would be helpful for people to have your information in advance of the meeting so they may consider it. But, we will welcome information and points raised for the first time at the meeting itself.

If things go according to plan, the September 1, 2020 meeting should be the last meeting of this workgroup. I am hopeful the Board of Governors will take these proposals up at its September, 2020 meeting and approve submitting them to the Supreme Court. If so, I anticipate the Board will ask that an explanation



and history of the proposed amendments be provided. Historically, that is typically done by the workgroup chair in combination with staff. Assuming we proceed in that regard, I will ensure you receive a copy.

I want to thank every person who has contributed. Your input has been invaluable not only now, but last year when proposed amendments were brought to the Board for passage originally. Your timely and articulate written input persuaded the Board that additional work was needed. Never underestimate the power of focused determination on a specific issue.

If any of you have questions or comments leading up to the final meeting or after it, I would be very pleased to take any person's call at any time. Please feel free to either respond directly to this email at [dan@mcbdlaw.com](mailto:dan@mcbdlaw.com) or call me 425-462-4000.



# ATTACHMENT 2

COOPERATION REQUIREMENT

SUMMARY	King County Litigation and Judicial Committee	WSBA Litigation Section	Washington Defense Trial Lawyers	Washington State Association for Justice	DRAW – Domestic Relations Attorneys of Washington
<p>Imposes a “cooperation” requirement the runs across all Civil Rules subject to sanctions if found to not cooperate.</p> <p>No definition.</p> <p>Can be found to not cooperate even if does not violate rule.</p>	<p>Should be addressed by changes to current rules; CR 26(e) should more explicitly adopt CR 37 language</p>	<p>Flawed concept. Rules already impose.</p> <p>If intention is to decrease costs, needs specific definition so “it can be implemented in a consistent manner throughout the State.”</p> <p>Written to impose a subjective standard based on judge’s own opinion. No definition will lead to more motion practice, uncertainty over what constitutes cooperation, and post-hoc judgments. Will not decrease cost of litigation</p>	<p>Needs definition. Ambiguity in what is required will lead to inconsistent results. Imposing an additional sanction rule, in addition to already existing CR 11 and CR 37 sanctions and rules will not result in more cooperation and will lead to more motion practice.</p>	<p>Without a definition there will be inconsistent, subjective results. Ambiguity will lead to more motions.</p> <p>greater “critical issue” is the lack of “enforcement” of current rules. The data in the ECCL justifying this was only “unscientific, anecdotal surveys conducted between 2007 and 2009 by the ABA and WSBA.” The ECCL gave no weight to the same surveys finding the “prevailing common belief... is that judicial enforcement of the Civil Rules” that already exist will “solve the perceived problem.”</p>	<p>No comment made.</p>

MANDATORY EARLY MEDIATION

SUMMARY	King County Litigation and Judicial Committee	WSBA Litigation Section	Washington Defense Trial Lawyers	Washington State Association for Justice	DRAW – Domestic Relations Attorneys of Washington
<p>Hard deadline 6 months before trial.</p> <p>Departs from Board direction to not hold before party depositions.</p> <p>KCLR 4 deadline is 4 weeks pretrial.</p> <p>Can opt out with cause by requires a motion.</p>	<p>No comment.</p>	<p>“Will not have any marked effect on reducing the cost of litigation.” Will become a “check the box” act.</p> <p>In other jurisdictions with this early it has not led to more settlements and leads to fewer as will not mediation a second time.</p> <p>Many ambiguities more specifically addressed in feedback.</p>	<p>Need to be more specific to identify types of cases where may by of assistance versus applying to all.</p> <p>Will possibly lead to settlement in only small cases with undisputed facts. In most cases will deny parties ability to develop facts necessary to properly mediate and “does not support fair resolution of cases” where full facts are known.</p>	<p>Does not oppose general concept of early mediation but the rule as drafted will not be effective and increase overall costs.</p> <p>Whether cases settle “depends almost entirely on whether the adjuster has enough information” and too early of mediation will foreclose that.</p> <p>Changes in pre-litigation assessments “almost never occur” until not only party depositions but also key witnesses and experts.</p> <p>Possible changes are requiring a party to request it and pay for it.</p>	<p>“Opposed to this rule.”</p> <p>A required fee schedule will limit the pool of possible mediators and eliminate pro bono. Is an unfunded mandate on Courts to administer.</p>

CASE SCHEDULE/MANDATORY DISCLOSURES

SUMMARY	King County Litigation and Judicial Committee	WSBA Litigation Section	Washington Defense Trial Lawyers	Washington State Association for Justice	DRAW – Domestic Relations Attorneys of Washington
<p>Requires mandatory disclosures of all evidence, loosely modeled on FRCPs.</p> <p>No supplement duty, includes expert opinions, no language to protect against abuse.</p>	<p>Will increase cost of litigation, is only a box to check. Does not produce “adverse information held by opponent.” Will be a burden on Washington Courts to administer process.</p> <p>Deadline far too early or late depending on served date. FRCP works very well and should be mirrored if implemented.</p> <p>A subterfuge to not respond to other discovery. Already abuse with current case schedule with refusal to disclose certain information until deadline. Need language that deadlines are not safe harbors.</p> <p>Scope too large, other problems,</p>	<p>No comment made</p>	<p>No comment made</p>	<p>Does not generally oppose but rule is too broad. Should be limited to substantive evidence and made more clear does not interfere other discovery methods. Proposed deadline too soon. Expert opinions should not be included as not prepared yet. Is primarily a burden on injured plaintiffs, both in cost and ability as experts need discovery.</p> <p>Other problems exist regarding the disclosure on insurance, it is more limited than existing rule.</p>	<p>Needs more clear distinction for family cases. While the proposed rules ostensibly exclude family law, there are some areas that would be within the proposed case schedule which is not workable.</p>

# **ATTACHMENT 3**

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 1 – SCOPE AND PURPOSE OF RULES**

1  
2           These rules govern the procedure in the superior court in all suits of a civil nature,  
3 whether cognizable as cases at law or in equity, with the exceptions stated in rule 81. All parties  
4 and attorneys shall reasonably cooperate with each other and the court in all matters. ~~They~~ These  
5 rules shall be construed and administered consistently with this principle to secure the just,  
6 speedy, and inexpensive determination of every action.  
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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**New CR 3.1**

1           (a)     Initial Case Schedule. When a summons and complaint are filed, and unless  
2 exempted pursuant to this rule, the court shall, in addition to any Local Rule case schedule  
3 requirements, issue an initial case schedule with at least the following deadlines:

- 4           ~~1. Initial Discovery Conference. The parties shall hold an initial discovery~~  
5           ~~conference no later than 45 weeks before the trial commencement date.~~
- 6           ~~2. Discovery Plan and Status Report. The parties shall file a discovery plan and~~  
7           ~~status report no later than 43 weeks before the trial commencement date.~~
- 8           ~~3. Initial Disclosures. The parties shall serve initial disclosures no later than 39~~  
9           ~~weeks before the trial commencement date.~~
- 10          ~~4. Joint Selection of Mediator, if Any. If the parties intend to jointly select a~~  
11          ~~mediator, the plaintiff shall file a joint selection of mediator no later than 37~~  
12          ~~weeks before the trial commencement date.~~
- 13          ~~5. Appointment of Mediator if Parties Do Not Jointly Select. If the plaintiff does not~~  
14          ~~timely file a joint selection of mediator, the court shall appoint a mediator and~~  
15          ~~notify the parties and the mediator no later than 36 weeks before the trial~~  
16          ~~commencement date.~~
- 17          ~~6. Notice of Compliance with the Early Mandatory Mediation Requirement. The~~  
18          ~~plaintiff shall file a notice of compliance with the early mandatory mediation~~  
19          ~~requirement no later than 32 weeks before the trial commencement date.~~

20          17.    Expert Witness Disclosures.

21            A.     Each party shall serve its primary expert witness disclosures no later than  
22                    26 weeks before the trial commencement date.

23            B.     Each party shall serve its rebuttal expert witness disclosures no later than  
24                    20 weeks before the trial commencement date.

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**New CR 3.1**

1           8.     Discovery Cutoff. The parties shall complete discovery no later than 13 weeks  
2                     before the trial commencement date.

3           9.     Dispositive Motions. The parties shall file dispositive motions no later than nine  
4                     weeks before the trial commencement date.

5           10.    Pretrial Report. The parties shall file a pretrial report no later than four weeks  
6                     before the trial commencement date.

7           ~~11.    Pretrial Conference. The court shall conduct a pretrial conference no later than~~  
8                     ~~three weeks before the trial commencement date.~~

9           12.    Trial Commencement Date. The court shall commence trial no later than 52  
10                    weeks after the summons and complaint are filed.

11           (b)    If application of subsection (a) would result in a deadline falling on a Saturday,  
12                    Sunday, or legal holiday, the deadline shall be the next day in the future that is not a Saturday,  
13                    Sunday, or legal holiday.

14           (c)    The party instituting the action shall serve a copy of the initial case schedule on  
15                    all other parties no later than ten days after the court issues it.

16           (d)    Permissive and Mandatory Case Schedule Modifications.

17           1.     The court may modify the case schedule on its own initiative or on a motion  
18                    demonstrating (a) good cause; (b) the action's complexity; or (c) the  
19                    impracticability of complying with this rule. At a minimum, good cause requires  
20                    the moving party to demonstrate due diligence in meeting the case schedule  
21                    requirements. As part of any modification, the court may revise expert witness  
22                    disclosure deadlines, including to require the plaintiff to serve its expert witness  
23                    disclosures before the defendant if the issues in the case warrant staggered  
24                    disclosures.



**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**New CR 3.1**

1           2.     No case schedule may require a party to violate the terms of a protection, no-  
2                     contact, or other order preventing direct interaction between persons. To adhere to  
3                     such orders, the court shall modify the case schedule on its own initiative or on a  
4                     motion.

5           (e)     The following types of actions are exempt from this rule, although nothing in this  
6 rule precludes a court from issuing an alternative case schedule for the following types of  
7 actions:

8                     RALJ Title 7, appeal from a court of limited jurisdiction;

9                     RCW 4.24.130, change of name;

10                    RCW ch. 4.48, proceeding before a referee;

11                    RCW 4.64.090, abstract of transcript of judgment;

12                    RCW ch. 5.51, Uniform Interstate Depositions and Discovery Act;

13                    RCW ch. 6.36, Uniform Enforcement of Foreign Judgments Act;

14                    RCW ch. 7.06, mandatory arbitration appeal;

15                    RCW ch. 7.16, writs;

16                    RCW ch. 7.24, Uniform Declaratory Judgments Act;

17                    RCW ch. 7.36, habeas corpus;

18                    RCW ch. 7.60, appointment of receiver if not combined with, or ancillary to, an  
19 action seeking a money judgment or other relief;

20                    RCW ch. 7.90, sexual assault protection order;

21                    RCW ch. 7.94, extreme risk protection order;

22                    RCW Title 8, eminent domain;

23                    RCW ch. 10.14, anti-harassment protection order;

24                    RCW ch. 10.77, criminally insane procedure;

25                    RCW Title 11, probate and trust law;

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**New CR 3.1**

1 RCW ch. 12.36, small claims appeal;

2 RCW Title 13, juvenile courts, juvenile offenders, etc.;

3 ~~RCW 26.04.010, marriage age waiver petition;~~

4 ~~RCW ch. 26.09, dissolution proceedings and legal separation;~~

5 ~~RCW ch. 26.21A, Uniform Interstate Family Support Act;~~

6 ~~RCW ch. 26.33, adoption;~~

7 ~~RCW ch. 26.50, Domestic Violence Prevention Act;~~

8 RCW Title 26, Domestic relations;

9 RCW 29A.72.080, appeal of ballot title or summary for a state initiative or

10 referendum;

11 RCW ch. 34.05, Administrative Procedure Act;

12 RCW ch. 35.50, local improvement assessment foreclosure;

13 RCW ch. 36.70C, Land Use Petition Act;

14 RCW ch. 51.52, appeal from the board of industrial insurance appeals;

15 RCW ch. 59.12, unlawful detainer;

16 RCW ch. 59.18, Residential Landlord-Tenant Act;

17 RCW ch. 70.09, sexually violent predator commitment;

18 RCW ch. 70.96A, treatment for alcoholism, intoxication, and drug addiction;

19 RCW ch. 71.05, mental illness;

20 RCW ch. 74.20, support of dependent children;

21 RCW ch. 74.34, abuse of vulnerable adults;

22 RCW ch. 84.64, lien foreclosure;

23 SPR 98.08W, settlement of claims by guardian, receiver, or personal

24 representative;

25 SPR 98.16W, settlement of claims of minors and incapacitated persons; and

26

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**New CR 3.1**

1           WAC 246-100, isolation and quarantine.

2           (f)     In addition to the types of actions identified in subsection (e), the court may, on a  
3 party's motion or on its own initiative, exempt any action or type of action for which compliance  
4 with this rule is impracticable.

5           (g)     Imposition of a case schedule deadline does not excuse a party's obligation to  
6 timely respond to discovery propounded under these Rules. Parties are obligated to timely  
7 respond to discovery when propounded and shall not respond to discovery requests indicating a  
8 response will be provided by the case schedule deadline.

1 **SUGGESTED AMENDMENT**  
2 **SUPERIOR COURT CIVIL RULES (CR)**

3 **CR 11 - SIGNING AND DRAFTING OF PLEADINGS, MOTIONS, AND LEGAL**  
4 **MEMORANDA; SANCTIONS**

5 (a) – (b) [Unchanged]

6 ~~(e) Consistent with the overall purpose of these rules as set forth in CR 1, tThe court, upon after~~  
7 ~~finding a party or attorney violated CR 11 motion or its own initiative, may consider whether~~  
8 ~~impose an appropriate sanction on any the party or attorney failed to reasonably cooperate as~~  
9 ~~who violates the mandate of reasonable cooperation set forth in CR 1 and may include in any~~  
10 ~~sanction order , which sanction may include an order to pay to the other party or parties the~~  
11 ~~amount of the reasonable expenses incurred because of the lack of cooperation, including a~~  
12 ~~reasonable attorney fee. The court will not entertain any motion for a sanction based on a lack of~~  
13 ~~cooperation under this subsection unless the moving parties party certifies it have conferred with~~  
14 ~~the adverse party regarding the motionlack of cooperation and the court finds the adverse party's~~  
15 ~~lack of cooperation was without a good faith basis in law or fact. . The moving party shall~~  
16 ~~arrange for a mutually convenient conference in person or by telephone. The court may impose~~  
17 ~~sanctions if the court finds that any party or its counsel, upon whom a motion with respect to~~  
18 ~~matters covered by such rules has been served, has willfully refused or failed to confer in good~~  
19 ~~faith. Any motion seeking sanctions under this subsection shall include the moving party's~~  
20 ~~certification that the conference requirements of this rule have been met, or that the moving party~~  
21 ~~attempted in good faith to meet the conference requirements of this rule.~~

**SUGGESTED AMENDMENT  
SUPERIOR COURT CIVIL RULES (CR)**

**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 (a) Discovery Methods, ~~and Cooperation.~~

2 (1) Methods. Parties may obtain discovery by one or more of the following methods:  
3 depositions upon oral examination or written questions; written interrogatories; production of  
4 documents or things or permission to enter upon land or other property, for inspection and other  
5 purposes; physical and mental examinations; and requests for admission.  
6

7 ~~(2) Cooperation. Consistent with rule 1, parties and attorneys shall reasonably~~  
8 ~~cooperate with each other in using discovery, including using discovery methods; exchanging~~  
9 ~~discoverable information; scheduling depositions, inspections, and examinations; and reducing~~  
10 ~~the costs of discovery.~~

11 (b) Initial Disclosures.

12 ~~(1) Content of Initial Disclosures. When the case schedule or a court order requires~~  
13 ~~initial disclosures, a party shall, without awaiting a discovery request, provide to the other~~  
14 ~~parties:~~

15 ~~(A) The name, address, and telephone number of each individual possessing relevant~~  
16 ~~information supporting the disclosing party's claims or defenses, excluding retained experts or~~  
17 ~~any witness to be used solely for impeachment;~~

18 ~~(B) A copy of each document and other relevant evidence supporting the disclosing~~  
19 ~~party's claims or defenses, unless the use would be solely for impeachment; provided that if a~~  
20 ~~document or other relevant evidence cannot easily be copied, the disclosing party shall make it~~  
21 ~~reasonably available for inspection;~~

22 ~~(C) A copy of each document the disclosing party refers to in a pleading;~~  
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**Commented [DB1]:** This paragraph is completely redundant of CR 1 which already says it applies to the entire rules. There is no need to restate it.

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 ~~(D) A description and computation of each category of damages the disclosing party~~  
2 ~~claims; provided that, a description not a computation suffices for general and noneconomic~~  
3 ~~damages;~~

4 ~~(E) The declarations page of any insurance agreement under which an insurance~~  
5 ~~business may be liable to satisfy all or part of a judgment that may be entered in the action or to~~  
6 ~~indemnify or reimburse for payments made to satisfy the judgment; and~~

7 ~~(F) In any action where insurance coverage is or may be contested, a copy of the~~  
8 ~~insurance agreement, and all letters from the insurer regarding coverage.~~

9 ~~(2) Parties Later Joined or Served. A party joined or served after the other parties have~~  
10 ~~made their initial disclosures shall comply with this rule within 60 days of being joined or~~  
11 ~~served, unless the court orders otherwise.~~

12 ~~(3) Basis for Initial Disclosures; Unacceptable Excuses. A party shall make its initial~~  
13 ~~disclosures based on information known or reasonably available to that party. A party is not~~  
14 ~~excused from making its disclosures because it has failed to fully investigate the case, it~~  
15 ~~challenges the sufficiency of another party's disclosures, or another party has failed to make~~  
16 ~~required disclosures.~~

17 ~~(bc)~~ Discovery Scope and Limits. Unless otherwise limited by order of the court in  
18 accordance with these rules, the scope of discovery is as follows:

19  
20  
21  
22 [renumbered (c)(1) – (c)(4) unchanged.]  
23  
24  
25  
26

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 (5) Trial Preparation: Experts. Discovery of facts known and opinions held by experts,  
2 otherwise discoverable under the provisions of subsection ~~(b)~~(c)(1) of this rule and acquired or  
3 developed in anticipation of litigation or for trial, may be obtained only as follows:

4 (A)(i) A party may through interrogatories require any other party to identify each  
5 person whom the other party expects to call as an expert witness at trial, to state the subject  
6 matter on which the expert is expected to testify, to state the substance of the facts and opinions  
7 to which the expert is expected to testify and a summary of the grounds for each opinion, and to  
8 state such other information about the expert as may be discoverable under these rules. A case  
9 schedule deadline to disclose experts does not excuse a party timely responding to expert  
10 discovery. Delayed disclosure of an expert constitutes a per se violation of CR 37 if the trial  
11 court finds the responding party delayed based on a case schedule deadline. (ii) Unless  
12 these rules impose an earlier deadline, and in no event later than the deadline for primary or  
13 rebuttal expert witness disclosures imposed in by a case schedule or court order, each party shall  
14 identify each person whom that party expects to call as a primary or rebuttal expert witness at  
15 trial, state the subject matter on which the expert is expected to testify, state the substance of the  
16 facts and opinions to which the expert is expected to testify and a summary of the grounds for  
17 each opinion, and state such other information about the expert as may be discoverable under  
18 these rules.

19 (B) A party may, subject to the provisions of this rule and of rules 30 and 31, depose  
20 each person whom any other party expects to call as an expert witness at trial.

21 (BC) A party may discover facts known or opinions held by an expert who is not  
22 expected to be called as a witness at trial, only as provided in rule 35(b) or upon a showing of  
23

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 exceptional circumstances under which it is impracticable for the party seeking discovery to  
2 obtain facts or opinions on the same subject by other means.

3 ~~(e d)~~ Unless manifest injustice would result, (i) the court shall require that the party  
4 seeking discovery pay the expert a reasonable fee for time spent in responding to discovery  
5 under subsections ~~(b)(c)(5)(B)(A)(ii)~~ and ~~(b)(c)(5)(C)(B)~~ of this rule; and (ii) with respect to  
6 discovery obtained under subsection ~~(b)(c)(5)(B)(A)(ii)~~ of this rule, the court may require, and  
7 with respect to discovery obtained under subsection (b)(5)(~~C B~~) of this rule the court shall  
8 require, the party seeking discovery to pay the other party a fair portion of the fees and expenses  
9 reasonably incurred by the latter party in obtaining facts and opinions from the expert.

10 [renumbered ~~(b c)~~(6) – ~~(b c)~~(8) unchanged.]

11 ~~(e d)~~ [Unchanged]

12 ~~(d e)~~ [Unchanged]

13 ~~(e f)~~ Supplementation of Responses. A party who has provided initial disclosures or  
14 responded to a request for discovery ~~has a where the disclosure or response that was complete~~  
15 ~~when made is under no~~ duty to ~~seasonably supplement or correct supplement that response with~~  
16 ~~the disclosure or response to include~~ information thereafter acquired, ~~except as follows:~~

17 Supplementation shall set forth only the information being added or corrected.

18 ~~(1) A party is under a duty seasonably to supplement the disclosure or response with~~  
19 ~~respect to any question directly addressed to:~~

20 ~~(A) the identity and location of persons having knowledge of discoverable matters; and~~

21 ~~(B) the identity of each person expected to be called as an expert witness at trial, the~~  
22 ~~subject matter on which the expert witness is expected to testify, and the substance of the expert~~  
23 ~~witness's testimony.~~

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 ~~(2) A party is under a duty seasonably to amend a prior disclosure or response if the party~~  
2 ~~obtains information upon the basis of which:~~

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3 ~~(A) the party knows that the disclosure or response was incorrect when made; or~~

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4 ~~(B) the party knows that the disclosure or response though correct when made is no longer~~  
5 ~~true and the circumstances are such that a failure to amend the disclosure or response is in~~  
6 ~~substance a knowing concealment.~~

7  
8 ~~(3) A duty to supplement disclosures or responses may be imposed by order of the court,~~  
9 ~~agreement of the parties, or at any time prior to trial through new requests for supplementation of~~  
10 ~~prior disclosures or responses.~~

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11 ~~(4) Failure to seasonably supplement in accordance with this rule will subject the~~  
12 ~~party to such terms and conditions as the trial court may deem appropriate.~~

13 ~~(f) Discovery Conference. [UNCHANGED]~~

14 ~~(1) Initial Discovery Conference.~~

15 ~~(A) Timing of Initial Discovery Conference. No later than a date provided by a case~~  
16 ~~schedule or court order, the plaintiff shall schedule and all parties that have appeared in the case~~  
17 ~~shall conduct an initial in-person or telephonic discovery conference. Each party and attorney~~  
18 ~~shall reasonably cooperate in scheduling and conducting the initial discovery conference.~~

19 ~~(B) Subjects to Be Discussed at Initial Discovery Conference. At the initial discovery~~  
20 ~~conference, the parties shall consider:~~

21 ~~(i) Joinder of additional parties and amendments to pleadings;~~

22 ~~(ii) Amendments to the case schedule, if any;~~

23 ~~(iii) Possibilities for promptly resolving the case;~~

24 ~~(iv) Admissions and stipulations about facts;~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 ~~(v) — Agreements as to what discovery may be conducted and in what order,~~  
2 ~~and any limitations to be placed on discovery;~~

3 ~~(vi) — Preservation and production of discoverable information, including~~  
4 ~~documents and electronically stored information;~~

5 ~~(vii) — Agreements for asserting privilege regarding materials to be produced or~~  
6 ~~protective orders regarding the same; and~~

7 ~~(viii) — Other ways to facilitate the just, speedy, and inexpensive disposition of the~~  
8 ~~action.~~

9 ~~(C) Joint Discovery Plan and Status Report. Not later than 14 days after the initial~~  
10 ~~discovery conference, the plaintiff shall file and serve a joint discovery plan and status report~~  
11 ~~stating the parties' positions and proposals on the subjects stated in rule 26(g)(1)(B). The joint~~  
12 ~~discovery plan and status report shall substantially comply with any form the court prescribes.~~  
13 ~~shall be signed by all parties or their counsel, and shall certify that the parties reasonably~~  
14 ~~cooperated to reach agreement on the matters set forth.~~

15 ~~(D) Discovery Before Initial Discovery Conference. Nothing in this rule shall prevent~~  
16 ~~any party from initiating discovery before the initial discovery conference; nor does this rule~~  
17 ~~excuse any party from responding to another party's discovery requests or otherwise~~  
18 ~~participating in discovery another party initiates before the initial discovery conference.~~

19 ~~(2) Discovery Conference With the Court.~~

20 ~~(A) Subjects to Be Discussed at Discovery Conference. At any time after~~  
21 ~~commencement of an action the court may direct the attorneys for the parties to appear before it~~  
22 ~~for a conference on the subject of discovery. The court shall do so upon motion by the attorney~~  
23 ~~for any party if the motion includes:~~  
24

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

- 1 ~~(1)(i) A statement of the issues as they then appear;~~  
2 ~~(2)(ii) A proposed plan and schedule of discovery;~~  
3 ~~(3)(iii) Any limitations proposed to be placed on discovery;~~  
4 ~~(4)(iv) Any other proposed orders with respect to discovery; and~~  
5 ~~(5)(v) A statement showing that the party or attorney making the motion has~~  
6 ~~reasonably cooperated to reach agreement with opposing parties or their~~  
7 ~~attorneys on the matters set forth in the motion.~~

8  
9 ~~Each party and each party's attorney are under a duty to participate in good faith in the~~  
10 ~~framing of a discovery plan if a plan is proposed by the attorney for any party.~~

11 ~~Notice of the motion shall be served on all parties. Objections or additions to matters~~  
12 ~~set forth in the motion shall be served not later than 10 days after service of the motion.~~

13 ~~(B) Order on Discovery Conference. Following the any discovery conference~~  
14 ~~with the court, the court shall enter an order tentatively identifying the~~  
15 ~~issues for discovery purposes; establishing a plan and schedule for~~  
16 ~~discovery; setting limitations on discovery, if any; and determining such~~  
17 ~~other matters, including the allocation of expenses, as are necessary for the~~  
18 ~~proper management of discovery in the action. An order may be altered or~~  
19 ~~amended whenever justice so requires.~~

20 ~~(C) Pretrial Conference. Subject to a properly moving party's right to a~~  
21 ~~prompt hearing, the court may combine the discovery conference with a rule 16~~  
22 ~~pretrial conference.~~

23 ~~(g-h g) Signing Discovery Requests, Responses, and Objections.~~

24 ~~—Every initial disclosure, request for discovery, or response or objection thereto made~~  
25 ~~by a represented party party represented by an attorney shall be signed by at least one attorney of~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 record in the attorney's ~~own individual name, and state the signer's address whose address shall~~  
2 ~~be stated.~~ A non-represented party ~~who is not represented by an attorney~~ shall sign the initial  
3 disclosure, request, response, or objection, ~~and state the signer's party's address. These~~  
4 ~~Objections shall be in response to the specific request objected to. General objections shall not~~  
5 ~~be made. No objection based on privilege shall be made without identifying with specificity all~~  
6 ~~the matters the objecting party contends are subject to the privilege including the type of item,~~  
7 ~~the number of pages, and unless otherwise protected the author and recipient or if protected,~~  
8 ~~other information sufficiently identifying the item without disclosing protected content.~~  
9 ~~Documents or items an objecting party asserts a privilege to must be identified individually. The~~  
10 ~~signatures of the attorney or party constitute~~ a certification ~~that~~ the attorney or party has read  
11 the initial disclosure, request, response, or objection, and that to the best of their knowledge,  
12 information, and belief formed after a reasonable inquiry, it is:

13  
14 (1) Consistent with these rules and warranted by existing law or a good faith argument  
15 for the extension, modification, or reversal of existing law;

16  
17 (2) Not interposed for any improper purpose, such as to harass or to cause unnecessary  
18 delay or needless increase in the cost of litigation; and

19 (3) Not unreasonable or unduly burdensome or expensive, given the needs of the case,  
20 the discovery already had in the case, the amount in controversy, and the importance of the  
21 issues at stake in the litigation. If ~~a~~ an initial disclosure a request, response, or objection is not  
22 signed, it shall be stricken unless it is signed promptly after the omission is called to the attention  
23 of the party making the initial disclosure request, response, or objection and a party shall not be  
24 obligated to take any action with respect to it until it is signed.  
25

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY**

1 If a certification is made in violation of the rule, the court, upon motion or upon its own  
2 initiative, shall impose upon the person who made the certification, the party on whose behalf the  
3 ~~initial disclosure~~ request, response, or objection is made, or both, an appropriate sanction, which  
4 may include an order to pay the amount of the reasonable expenses incurred because of the  
5 violation, including reasonable attorney fees.

6 [renumbered (i) – (j) unchanged.]  
7

8  
9  
10 **NOTE: Privilege log language was taken essentially verbatim from Rental Housing Ass'n of**  
11 **Puget Sound v. City of Des Moines, 165 Wn.2d 525, 538 (2009).**

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**JOINT DISCOVERY PLAN AND STATUS REPORT CR 26(f)**

**2. ~~Amendments to Pleadings.~~**

~~At this time, the parties do not plan on amending the pleadings.~~

~~At this time, either or both parties plan to seek leave of court to amend their pleading. If this box is checked, describe any potential amendments.~~

**3. ~~Amendments to the Case Schedule, If Any.~~**

~~At this time, the parties do not plan to seek leave of court to amend the initial case schedule.~~

~~At this time, one or more of the parties plan to seek leave of court to amend the initial case schedule. If this box is checked, describe any such amendments.~~

**4. ~~Possibilities for Promptly Resolving the Case.~~**

~~The parties  do  do not agree that there are possibilities for promptly resolving the case. If the parties do agree, describe any such possibilities and the method and timing contemplated by the parties to determine whether prompt resolution is possible.~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**JOINT DISCOVERY PLAN AND STATUS REPORT CR 26(f)**

**5. ~~Scheduling of Early Mediation.~~**

~~The parties [ ] do [ ] do not agree that early mediation in accordance with case schedule or court order is appropriate in this case. If the parties do not agree, explain why describe when the parties believe mediation should be scheduled and any attempts the parties have made to schedule mediation.~~

**6. ~~Admissions and Stipulations About Facts.~~**

~~The parties [ ] do [ ] do not agree that there are facts which that are either admitted or which can be addressed in a stipulation. If the parties do agree, list any such facts.~~

**7. ~~Agreements as to What Discovery May Be Conducted, and In What Order, and Any Limitations on Discovery.~~**

~~The parties [ ] have [ ] have not agreed on a discovery plan as to the scope of discovery, the order in which discovery will be conducted, and any limitations on discovery. If the parties do agree, describe the agreed discovery plan. If the parties do not agree, describe the points on which the~~



**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**JOINT DISCOVERY PLAN AND STATUS REPORT CR 26(f)**

1 ~~parties agree and the points on which the parties disagree and when the parties intend to present~~  
2 ~~this issue to the Court for resolution.~~

3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 **~~8. Preservation and Production of Discoverable Information, Including Documents~~**  
8 **~~and Electronically Stored Information.~~**

9 Describe the parties' agreement, if any, as to preservation and production of discoverable  
10 information. If the parties do not agree, describe the scope of the disagreement to be resolved by  
11 the Court and when the parties intend to present this issue to the Court for resolution.

12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 **~~9. Agreements for Asserting Privilege Regarding Materials to Be Produced.~~**

18  ~~The parties have agreed on a procedure for asserting privilege regarding materials to be~~  
19 ~~produced in this case. If this box is checked, describe the agreed procedure.~~

20  ~~The parties have not agreed on a procedure for asserting privilege regarding materials to be~~  
21 ~~produced in this case. If box is checked, describe the parties' disagreement and when the parties~~  
22 ~~intend to present this issue to the Court for resolution.~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**JOINT DISCOVERY PLAN AND STATUS REPORT CR 26(f)**

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~~**10. — Agreements for Protective Orders Regarding Materials to Be Produced.**~~

~~The parties agree that a protective order should be entered regarding certain information and documents to be produced. If this box is checked, describe when the parties intend to present a proposed protective order to the Court.~~

~~The parties do not agree that a protective order should be entered in this case. If this box is checked, describe the parties' disagreement and when the parties intend to present this issue to the Court for resolution.~~

~~**11. — Other.**~~

~~Describe any proposals by one or more parties that would facilitate the just, speedy, and inexpensive disposition of this action. For each such proposal, indicate if whether the parties agree.~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**JOINT DISCOVERY PLAN AND STATUS REPORT CR 26(f)**

1 ~~The undersigned certify that the parties reasonably cooperated to reach agreement on the matters~~  
2 ~~set forth in this Joint Discovery Plan and Status Report.~~

3  
4 ~~Date:~~ \_\_\_\_\_

5  
6 ~~For the Plaintiff:~~

7 ~~Signature:~~ \_\_\_\_\_

8 ~~Printed Name:~~ \_\_\_\_\_

9 ~~Title (and WSBA number if applicable):~~ \_\_\_\_\_

10  
11 ~~For the Defendant:~~

12 ~~Signature:~~ \_\_\_\_\_

13 ~~Printed Name:~~ \_\_\_\_\_

14  
15 ~~Title (and WSBA number if applicable):~~ \_\_\_\_\_

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 37 – FAILURE TO MAKE DISCOVERY SANCTIONS**

1 (a) Motion for Order Compelling Discovery. A party, upon reasonable notice to other  
2 parties and all persons affected thereby, and upon a showing of compliance with rule 26(j), may  
3 apply to the court in the county where the deposition was taken, or in the county where the action  
4 is pending, for an order compelling discovery as follows:

5 (1) Appropriate Court. An application for an order to a party may be made to the court in  
6 which the action is pending, or on matters relating to a deposition, to the court in the county  
7 where the deposition is being taken. An application for an order to a deponent who is not a party  
8 shall be made to the court in the county where the deposition is being taken.

9 (2) Motion. If a deponent fails to answer a question propounded or submitted under rules  
10 30 or 31, or a corporation or other entity fails to make a designation under rule 30(b)(6) or 31(a),  
11 or a party fails to answer an interrogatory submitted under rule 33, or if a party, in response to a  
12 request for inspection submitted under rule 34, fails to respond that inspection will be permitted  
13 as requested or fails to permit inspection as requested, any party may move for an order  
14 compelling an answer or a designation, or an order compelling inspection in accordance with the  
15 request. When taking a deposition on oral examination, the proponent of the question may  
16 complete or adjourn the examination before the proponent applies for an order.

17 If the court denies the motion in whole or in part, it may make such protective order as it  
18 would have been empowered to make on a motion made pursuant to rule 26(d).

19 [(a)(3) – (a)(4) Unchanged]

20 (d) Failure of Party To ~~Disclose~~, Attend at Own Deposition, ~~or o-oree or~~ Serve Answers  
21 to Interrogatories, or Respond to Request for Production or Inspection. If a party or an officer,  
22 director, or managing agent of a party or a person designated under rule 30(b)(6) or 31(a) to  
23 testify on behalf of a party fails;

24 ~~(1) To make initial disclosures;~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 37 – FAILURE TO MAKE DISCOVERY SANCTIONS**

1           ~~(21)~~ (1) ~~T~~o appear before the officer who is to take his or her deposition, after being  
2 served with a proper notice; ~~or~~

3           ~~(32)~~ (2) ~~T~~o serve answers or objections to interrogatories submitted under rule 33, after  
4 proper service of the interrogatories; or

5           ~~(43)~~ (3) ~~T~~o serve a written response to a request for production of documents or  
6 inspection submitted under rule 34, after proper service of the request, the court in which the  
7 action is pending on motion may make such orders in regard to the failure as are just, and among  
8 others it may take any action authorized under sections (A), (B), and (C) of subsection (b)(2) of  
9 this rule. In lieu of any order or in addition thereto, the court shall require the party failing to act  
10 or the attorney advising the party or both to pay the reasonable expenses, including attorney fees,  
11 caused by the failure, unless the court finds that the failure was substantially justified or that  
12 other circumstances make an award of expenses unjust.

13           The failure to act described in this subsection may not be excused on the ground that the  
14 discovery sought is objectionable, unless the party failing to act has applied for a protective order  
15 ~~as provided by~~ under rule 26(~~de~~). For purposes of this section, an evasive or misleading answer  
16 is ~~to be~~ treated as a failure to answer.

17           ~~(e) Failure to Reasonably Cooperate. If a party or an attorney fails to reasonably~~  
18 ~~cooperate regarding any discovery matter as rule 1 or 26 requires, the court may, after~~  
19 ~~opportunity for hearing, require the party or attorney to pay the other party's reasonable~~  
20 ~~expenses, including attorney fees, caused by the failure.~~

**SUGGESTED AMENDMENT  
SUPERIOR COURT CIVIL RULES (CR)**

**NEW RULE: CR 53.5**

~~(a) Scope. This rule applies when a case schedule or court order requires mediation.~~

~~(b) Qualified Mediators.~~

~~(1) A judicial officer shall be considered a qualified mediator who may serve as a mediator by agreement.~~

~~(2) The court shall maintain a list of other qualified mediators and has discretion to modify the list. A qualified mediator shall demonstrate completion of mediation training or experience mediating at least five matters as a mediator.~~

~~(3) The list of qualified mediators must include the following for each mediator:~~

~~(A) Name;~~

~~(B) Physical and electronic mail addresses;~~

~~(C) Telephone number;~~

~~(D) Fee schedule;~~

~~(E) Whether the mediator is qualified by training, experience, or both; and~~

~~(F) Preferred legal subject matters, if any.~~

~~(4) Each court shall establish a recommended fee schedule for assigned mediators and update it annually.~~

~~(5) A person on the list of qualified mediators agrees to follow the procedures of this rule if appointed and to accept appointment to one mediation each calendar year on a pro bono basis. Refusal to accept a pro bono appointment may result in removal from the list.~~

~~(c) Selection of Mediator.~~

~~(1) Joint Selection of Mediator. Parties may by agreement select any person as mediator, even one not on the court's list of qualified mediators. If the selected mediator agrees~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**NEW RULE: CR 53.5**

~~to serve, the plaintiff shall file a notice of joint selection of mediator that includes the name and contact information of the mediator, and serve a copy upon the mediator.~~

~~(2) Assignment of Mediator. If the plaintiff fails to file the notice of joint selection of mediator by a deadline provided by a case schedule or court order, the court shall promptly assign a mediator from the approved list and notify the mediator and the parties of the assignment. If the mediator is unable to serve, the mediator shall notify the court within five days of assignment and the court shall appoint a new mediator.~~

~~(d) Mediation Procedure, Attendance.~~

~~(1) Mediation Procedure. The mediator shall confer with the parties to learn their needs, preferences, and recommendations. Based on the circumstances and input from the parties, the mediator will establish mediation procedures, including its form, length, and content.~~

~~(2) Attendance. All persons necessary to settle the matter and who have the necessary settlement authority should attend. The mediator may determine issues of attendance after consulting the parties, including whether any individual may attend by other than personal attendance.~~

~~(e) Notice of Compliance. No later than five days after commencement of mediation, the plaintiff shall file with the~~

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**NEW RULE: CR 53.5**

~~court a notice of compliance with this rule indicating that the parties held or commenced a mediation. The parties may continue mediation after an initial session and need not represent that mediation efforts are completed. The notice of compliance shall contain the following or substantially similar form:~~

~~Plaintiff hereby notifies the Court that on (Date/Dates), all parties met for mediation in compliance with CR 53.5.~~

~~(f) Mediator Compensation and Pro Bono Mediator.~~

~~(i) The parties shall pay the mediator's reasonable fee unless a court order provides otherwise. Unless otherwise ordered by the court or agreed by the parties, each party is responsible for their proportional share of the reasonable mediation fee. Upon motion of any party, the court may resolve any disputes, including the reasonableness of the mediation fee.~~

~~(ii) A party who believes that any party is unable to afford mediation may request relief for that party from responsibility for the mediator's fee. The court may provide relief such as apportioning the fee among the remaining parties, requiring payment on a sliding scale, assigning a pro bono mediator, or any combination thereof. If the court approves the request for a pro bono mediator, the court shall promptly assign a mediator on a pro bono basis.~~

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**NEW RULE: CR 53.5**

1 ~~(g) Extension for Specific Objectives. After the initial~~  
2 ~~discovery conference, any party may seek to extend the mediation~~  
3 ~~deadline for a maximum period of 60 days if, after the initial~~  
4 ~~discovery conference, the party believes that specified~~  
5 ~~discovery or specified information exchange is necessary but is~~  
6 ~~unlikely to be completed within the time limits prescribed in a~~  
7 ~~case schedule or court order. This extension is without~~  
8 ~~prejudice to any schedule modification otherwise available.~~

9  
10 ~~(h) Sanctions for Failure to Comply. Upon motion or on its own~~  
11 ~~initiative, the court may impose an appropriate sanction on any~~  
12 ~~party or attorney failing to comply with this rule. For~~  
13 ~~purposes of this rule, a party may submit evidence to~~  
14 ~~substantiate a claim for sanctions, but may not reveal~~  
15 ~~substantive communications concerning any mediation. The court~~  
16 ~~will not entertain any motion under this subsection unless the~~  
17 ~~parties have first conferred regarding the motion. The moving~~  
18 ~~party shall arrange for a mutually convenient conference in~~  
19 ~~person or by telephone. Any motion seeking sanctions under this~~  
20 ~~subsection shall include the moving party's certification that~~  
21 ~~these conference requirements have been met or that the moving~~  
22 ~~party has attempted in good faith to meet them. The court may~~

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**NEW RULE: CR 53.5**

1 ~~also impose sanctions if it finds that any party or attorney~~  
2 ~~willfully refused or failed to confer in good faith.~~

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**SUGGESTED AMENDMENT**  
**CIVIL RULES FOR COURTS OF LIMITED JURISDICTION**  
**(CRLJ)**

**CRLJ 1 – SCOPE AND PURPOSE OF RULES**

1           These rules govern the procedure in all trial courts of limited jurisdiction in all suits of a  
2 civil nature, with the exceptions stated in rule 81. ~~All parties and attorneys shall reasonably~~  
3 ~~cooperate with each other and the court in all matters. They~~ These rules shall be construed and  
4 administered ~~consistently with this principle to~~ secure the just, speedy, and inexpensive  
5 determination of every action.  
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**SUGGESTED AMENDMENT  
CIVIL RULES FOR COURTS OF LIMITED JURISDICTION  
(CRLJ)**

**CRLJ 11 – SIGNING AND DRAFTING OF PLEADINGS, MOTIONS, AND LEGAL  
MEMORANDA: SANCTIONS**

1 (a) – (b) [Unchanged]

2 ~~(c) Upon motion or on its own initiative, the court may impose an appropriate sanction on~~  
3 ~~any party or attorney who violates the reasonable cooperation mandate in rule 1. Sanctions may~~  
4 ~~include an order to pay another party’s reasonable expenses due to the violation, including~~  
5 ~~reasonable attorney fees. The court will not entertain any motion under this subsection unless the~~  
6 ~~parties have first conferred. The moving party must arrange a mutually convenient in person or~~  
7 ~~telephonic conference. Any motion seeking sanctions under this subsection must include the~~  
8 ~~moving party’s certification that these conference requirements were met or that the moving~~  
9 ~~party attempted in good faith to meet them. The court may also impose sanctions if it finds that~~  
10 ~~any party or attorney willfully failed or refused to confer in good faith.~~

11 ~~(c) The court, after finding a party or attorney violated CR 11 may consider whether the~~  
12 ~~party or attorney failed to reasonably cooperate as set forth in CR 1 and may include in any~~  
13 ~~sanction order, an order to pay to the other party or parties the amount of the reasonable expenses~~  
14 ~~incurred because of the lack of cooperation, including a reasonable attorney fee. The court will~~  
15 ~~not entertain any motion for a sanction based on a lack of cooperation unless the moving party~~  
16 ~~certifies it conferred with the adverse party regarding the lack of cooperation and the court finds~~  
17 ~~the adverse party’s lack of cooperation was without a good faith basis in law or fact.~~

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**SUGGESTED AMENDMENT**  
**CIVIL RULES FOR COURTS OF LIMITED JURISDICTION**  
**(CRLJ)**

**CRLJ 26 - DISCOVERY**

1 ~~Consistent with rule 1, parties and attorneys shall reasonably cooperate with each other in using~~  
2 ~~discovery methods; exchanging discoverable information; scheduling depositions, inspections,~~  
3 ~~and examinations; and reducing the costs of discovery.~~ Discovery in courts of limited jurisdiction

4 shall be permitted as follows:

5 (a) – (g) [unchanged.]  
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# **ATTACHMENT 4**

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 16 – PRETRIAL PROCEDURE AND FORMULATING ISSUES**

1 ~~(a) **Hearing Matters Considered.** By order, or on the motion of any party, the court may~~  
2 ~~in its discretion direct the attorneys for the parties to appear before it for a conference to~~  
3 ~~consider:~~

- 4 ~~(1) The simplification of the issues;~~  
5 ~~(2) The necessity or desirability of amendments to the pleadings;~~  
6 ~~(3) The possibility of obtaining admissions of fact and of documents which will avoid~~  
7 ~~unnecessary proof;~~  
8 ~~(4) The limitation of the number of expert witnesses;~~  
9 ~~(5) Such other matters as may aid in the disposition of the action.~~

10 ~~(a) **Pretrial Report.** All parties shall participate in completing a joint pretrial report filed~~  
11 ~~no later than the date provided in the case schedule or court order. The pretrial report shall~~  
12 ~~contain the following:~~

- 13 ~~(1) A brief nonargumentative summary of the case;~~  
14 ~~(2) The agreed material facts;~~  
15 ~~(3) The material issues in dispute;~~  
16 ~~(4) The names of all lay and expert witnesses, excluding rebuttal witnesses;~~  
17 ~~(5) An exhibit index (excluding rebuttal or impeachment exhibits);~~  
18 ~~(6) The estimated length of trial and suggestions for shortening the trial; and~~  
19 ~~(7) A statement whether additional alternative dispute resolution would be useful before~~  
20 ~~trial.~~

21 ~~(b) **Pretrial Conference.** Each attorney with principal responsibility for trying the case,~~  
22 ~~and each unrepresented party, shall attend any scheduled pretrial conference. At a pretrial~~  
23 ~~conference, the court may consider and take appropriate action on the following matters:~~

- 24 ~~(1) Formulating and simplifying the issues and eliminating claims or defenses;~~

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**CR 16 – PRETRIAL PROCEDURE AND FORMULATING ISSUES**

1 (2) Obtaining admissions and stipulations about facts and documents to avoid  
2 unnecessary proof, and addressing evidentiary issues;

3 (3) Adopting special procedures for managing complex issues, multiple parties, difficult  
4 legal questions, or unusual proof problems;

5 (4) Establishing reasonable time limits for presenting evidence;

6 (5) Establishing deadlines for trial briefs, motions in limine, deposition designations,  
7 proposed jury instructions, and any other pretrial motions, briefs, or documents;

8 (6) Resolving any pretrial or trial scheduling issues; and

9 (7) Facilitating in other ways the just, speedy, and inexpensive disposition of the action.

10 ~~(b)~~ (c) Pretrial Order. The court shall enter an order reciting the following:

11 (1) the action taken at the conference;

12 (2) the amendments allowed to the pleadings; and

13 (3) the parties' agreements on any matters considered.

14 The pretrial order limits the issues for trial to those not disposed of by admissions or  
15 agreements of counsel and controls the subsequent course of the action, unless modified at trial  
16 to prevent manifest injustice.



**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 30 – DEPOSITION UPON ORAL EXAMINATION**

1 [(a) – (c) unchanged.]

2 (d) Motion To Terminate or Limit Examination. At any time during the taking of the  
3 deposition, on motion of a party or of the deponent and upon a showing that the examination is  
4 being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress  
5 the deponent or party, the court in which the action is pending or the court in the county where  
6 the deposition is being taken may order the officer conducting the examination to cease forthwith  
7 from taking the deposition, or may limit the scope and manner of the taking of the deposition as  
8 provided in rule 26(~~de~~). If the order made terminates the examination, it shall be resumed  
9 thereafter only upon the order of the court in which the action is pending. Upon demand of the  
10 objecting party or deponent, the taking of the deposition shall be suspended for the time  
11 necessary to make a motion for an order. The provisions of rule 37(a)(4) apply to the award of  
12 expenses incurred in relation to the motion.

13 [(e) – (h) unchanged.]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 32 – USE OF DEPOSITIONS IN COURT PROCEEDINGS**

1           (a) Use of Depositions. At the trial or upon the hearing of a motion or an interlocutory  
2 proceeding, any part or all of a deposition, so far as admissible under the Rules of Evidence  
3 applied as though the witness were then present and testifying, may be used against any party  
4 who was present or represented at the taking of the deposition or who had reasonable notice  
5 thereof, in accordance with any of the following provisions:

6 [(a)(1) – (a)(4) unchanged.]

7           (5)     The deposition of an expert witness may be used as follows:

8                   (A)     The discovery deposition of an opposing party’s rule 26(c**b**)(5) expert  
9 witness, who resides outside the state of Washington, may be used if reasonable notice before the  
10 trial date is provided to all parties and any party against whom the deposition is intended to be  
11 used is given a reasonable opportunity to depose the expert again.

12                   (B)     The deposition of a health care professional, even though available to testify  
13 at trial, taken with the expressly stated purpose of preserving the deponents testimony for trial,  
14 may be used if, before the taking of the deposition, there has been compliance with discovery  
15 requests made pursuant to rules 26(c**b**)(5)(A)(i), 33, 34, and 35 (as applicable) and if the  
16 opposing party is afforded an adequate opportunity to prepare, by discovery deposition of the  
17 deponent or other means, for cross examination of the deponent.

18 Substitution of parties pursuant to rule 25 does not affect the right to use depositions previously  
19 taken; and, when an action has been brought in any court of the United States or of any state and  
20 another action involving the same issues and subject matter is afterward brought between the  
21 same parties or their representatives or successors in interest, all depositions lawfully taken and  
22 duly filed in the former action may be used in the latter as if originally taken therefor. A  
23 deposition previously taken may also be used as permitted by the Rules of Evidence.

24 [(b) – (d) unchanged.]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 33 – INTERROGATORIES TO PARTIES**

1 [(a) unchanged.]

2 (b) Scope; Use at Trial. Interrogatories may relate to any matters which can be inquired  
3 into under rule 26(~~cb~~), and the answers may be used to the extent permitted by the Rules of  
4 Evidence.

5 An interrogatory otherwise proper is not necessarily objectionable merely because an  
6 answer to the interrogatory involves an opinion or contention that relates to fact or the  
7 application of law to fact, but the court may order that such an interrogatory need not be  
8 answered until after designated discovery has been completed or until a pretrial conference or  
9 other later time.

10 An interrogatory otherwise proper is not objectionable merely because the propounding  
11 party may have other access to the requested information or has the burden of proof on the  
12 subject matter of the interrogatory at trial.

13 [(c) unchanged.]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**

**CR 34 – PRODUCING OF DOCUMENTS, ELECTRONICALLY STORED  
INFORMATION, AND THINGS OR ENTRY ONTO LAND FOR INSPECTION AND  
OTHER PURPOSES**

1  
2 (a) Scope. Any party may serve on any other party a request within the scope of Rule  
3 26(~~cb~~):

4 (1) to produce and permit the requesting party or the party's representative, to inspect,  
5 copy, test, photograph, record, measure, or sample the following items in the responding party's  
6 possession, custody, or control: any designated documents, electronically stored information, or  
7 things including writings, drawings, graphs, charts, photographs, sound recordings, images, and  
8 other data or data compilations stored in any medium from which information can be obtained,  
9 either directly or, if necessary, after translation or conversion by the responding party into a  
10 reasonably usable form, or to inspect and copy, test, or sample any things which constitute or  
11 contain matters within the scope of rule 26(~~cb~~) and which are in the possession, custody or  
12 control of the responding party; or

13 (2) to permit entry onto designated land or other property possessed or controlled by the  
14 responding party, so that the requesting party may inspect, measure, survey, photograph, test, or  
15 sample the property or any designated object, process or operation on it.

16 [(b) – (c) unchanged.]  
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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 36 – REQUEST FOR ADMISSION**

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(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 26(cb) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request.

[the remainder of (a) unchanged]

[(b) unchanged.]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 43 – TAKING OF TESTIMONY**

1 [(a) – (e) unchanged]

2 (f) Adverse Party as Witness.

3 (1) Party or Managing Agent as Adverse Witness. A party, or anyone who at the time of  
4 the notice is an officer, director, or other managing agent (herein collectively referred to as  
5 “managing agent”) of a public or private corporation, partnership or association which is a party  
6 to an action or proceeding may be examined at the instance of any adverse party. Attendance of  
7 such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the  
8 manner prescribed in rule 30(b)(1) to opposing counsel of record. Notices for the attendance of a  
9 party or of a managing agent at the trial shall be given not less than 10 days before trial  
10 (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown  
11 in the manner prescribed in rule 26(~~de~~), the court may make orders for the protection of the party  
12 or managing agent to be examined.

13 [(f)(2) – (f)(3) unchanged]

14 [(g) – (k) unchanged.]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 53.3 – APPOINTMENT OF MASTERS IN DISCOVERY MATTERS**

1 [(a) – (c) unchanged]

2 (d) Powers. The order of reference to the master may specify the duties of the master. It  
3 may direct that the master preside at depositions and make rulings on issues arising at the  
4 depositions. It may direct the master to hear and report to the court on unresolved discovery  
5 disputes and to make recommendations as to the resolution of such disputes, as to the imposition  
6 of terms or sanctions to be assessed against any party, and as to which party or parties shall bear  
7 the costs of the master. If directed by the court, the master shall prepare a report upon the matters  
8 submitted to the master by the order of reference. A party may request that the report be sealed  
9 pursuant to rule 26(~~de~~). The report with the rulings and recommendations of the master shall be  
10 reviewed by the court and may be adopted or revised as the court deems just.

11 [(g) – (k) unchanged.]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL RULES (CR)**  
**CR 77 – SUPERIOR COURTS AND JUDICIAL OFFICERS**

1 [(a)-(h) unchanged.]

2 (i) ~~Sessions Where More than One Judge Sits—Effect of Decrees, Orders, etc.~~  
3 ~~[Reserved. See RCW 2.08.160.]~~ Judicial Assignment. The court should assign a judicial officer  
4 to each case upon filing. The assigned judicial officer shall conduct all proceedings in the case  
5 unless the court reassigns the case to a different judicial officer on a temporary or permanent  
6 basis. In counties where local conditions make routine judicial assignment impracticable, the  
7 court may assign any case to a specific judicial officer on a party’s motion or on its own  
8 initiative.

9 [(j)-(n) unchanged.]



**TO:** WSBA Board of Governors  
**FROM:** Asia Wright, MCLE Board Chair  
Adelaine Shay, WSBA MCLE Manager  
**DATE:** September 3, 2020  
**RE:** Suggested APR 11 Amendment – FOR REVIEW & ACTION

**Discussion/Action:** The MCLE Board requests the WSBA Board of Governors to review and support the suggested amendment to Admission and Practice Rule (APR) 11 regarding the MCLE ethics requirements.

### BACKGROUND

Pursuant to Washington Supreme Court Admission and Practice Rule (APR) 11(d)(2)(i), Rules and Regulations, “The MCLE Board shall review and suggest amendments or make regulations to APR 11 as necessary to fulfill the purpose of MCLE ... . Suggested amendments are subject to review by the Board of Governors and approval by the Supreme Court.” The purpose of MCLE is “to enhance lawyers’, LLLTs’, and LPOs’ legal services to their clients and protect the public by assisting lawyers, LLTs, and LPOs in maintaining and developing their competence . . . ” (APR 11(a)). Therefore, the MCLE Board is continuing its work to address systemic inequities, by suggesting a single, narrow amendment of the APR 11 ethics and professional responsibility requirement focused on equity, inclusion, and mitigation of bias. The need for this requirement is highlighted by increased demand for the legal profession to refresh its commitment to address systemic inequities, as recently noted by statements made by the WSBA President and the Washington Supreme Court. The MCLE Board believes that this suggested amendment is a valuable step toward realizing the necessary change called for by our profession’s leaders.

The MCLE Board previously submitted a suggested amendment of the ethics requirement to the Washington Supreme Court in 2019 that would have required an ethics credit in three specific topics. The Supreme Court rejected that suggested amendment. This year, the MCLE Board began seeking a narrower amendment to the ethics requirement. The MCLE Board created a MCLE Board Rules Subcommittee, tasked with drafting a suggested amendment focused solely on the topic of diversity. This suggested amendment more closely aligns with the original proposal heard by the MCLE Board in October 2018, presented by the WSBA Diversity Committee and Washington Women Lawyers, with the support of eight minority bar associations: the Asian Bar Association of Washington, the Cardozo Society of Washington State, Filipino Lawyers of Washington, the Pierce County Minority Bar Association, the Loren Miller Bar Association, the Latina/o Bar Association of Washington, the South Asian Bar Association of Washington, and QLaw. That proposal was to require that at least one of the six ethics credits licensed legal professionals are required to earn each reporting period be on the topic of “equity, inclusion and the mitigation of bias in the legal profession.”



Based on an initial draft from the subcommittee, the MCLE Board sought feedback from the WSBA Diversity Committee, the Washington Women Lawyers and other stakeholders including Court-appointed boards, WSBA committees, local and minority bar associations, and CLE sponsors. Based on stakeholder feedback, the MCLE Board again refined the suggested amendment, and posted it for public comment. The MCLE Board's suggested amendment is:

**APR 11(c)(1)(ii)**

(ii) at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2)~~2~~, with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

**APR 11(f)(2)**

(2) *Ethics and professional responsibility*, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including ~~diversity and antibias with respect to the practice of law or the legal system,~~ equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

As of August 25, 2020, the MCLE Board had received 937 written comments, and four in-person comments during a public comment session held at the MCLE Board meeting on August 7, 2020. Out of the written comments, respondents were near equally split as 'in favor' and 'not in favor', with a slight lean towards 'in favor', of the suggested amendment. Of these 937 comments, 45 identified as members of the public; 41 of the 45 responded as 'in favor'. Last year, the compiled feedback for the previous suggested amendment was a large majority opposed. See the attached compiled feedback regarding the suggested amendment.

The MCLE Board reviewed and considered all written and oral feedback at its August 7, 2020 meeting. After discussing the feedback and hearing public comment, the MCLE Board voted unanimously to continue to move forward with the suggested amendment by sending it to the Board of Governors for review. The MCLE Board is hopeful that the Board of Governors will support the MCLE Board's suggested amendment. After review by the Board of Governors the MCLE Board will decide whether to suggest the rule amendment to the Washington Supreme Court. Pursuant to General Rule 9(i)(2), a suggested rule must be received by the Washington Supreme court by October 15, 2020.

**FACTORS IN SUPPORT OF THE SUGGESTED AMENDMENT**

The MCLE Board reviewed and discussed the written and oral feedback received about the suggested amendment. In response to the opposition, the MCLE Board subcommittee now presents the following as important factors in support of the amendment:

- The role of the MCLE Board is to develop, propose, and support continuing legal education that will not only educate Washington licensed legal professionals on the state of the law on various subjects and reduce the risk of potential liability, but also to ensure they have the skills and knowledge-base to effectively serve their clients, the legal system, and society as a whole. For this reason the Board supports the entire suggested amendment.

- APR 11 states that the purpose of MCLE is “to enhance lawyers’, LLLTs’, and LPOs’ legal services to their clients and protect the public by assisting lawyers’, LLLTs’, and LPOs’ in maintaining and developing their competence as defined in RPC 1.1 or equivalent rule for LLLTs and LPOs, fitness to practice as defined in APR 20, and character as defined in APR 20.”
  - **APR 20:**
    - (c) Good Moral Character.  
Good moral character is a record of conduct manifesting the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibilities, adherence to the law, and a respect for the rights of other persons and the judicial process.
    - (d) Fitness to Practice Law.  
Fitness to practice law is a record of conduct that establishes that the applicant meets the essential eligibility requirements for the practice of law.
- **Equity, inclusion, and the mitigation of both implicit and explicit bias are core areas in which modern licensed legal professionals need to be fluent.** The profession has not adequately focused on this area, which has created significant problems.
- In particular, the Washington State Bar has an important role to play in addressing systemic inequities in our society and in our profession. The MCLE Board recognizes that awareness of issues regarding diversity, inclusion and mitigation of bias requires ongoing training and education, which ultimately serves to better the legal profession and the legal system as a whole.

## Equity and Inclusion

- **APR 11.** At every MCLE Board meeting, the members of the board each hold a copy of APR 11, because it is the bedrock and the guiding principle for every board decision. APR 11 specifically states in section (d)(2)(i) that the MCLE Board shall review and suggest amendments or make regulations to APR 11 as necessary to fulfill the purpose of MCLE and for the timely and efficient administration of these rules and for clarification of education requirements, approved activities, and approved course subjects. This mandate demonstrates why the suggested amendment is necessary.
- **Changing demographics.** [Objective data demonstrates that the population of Washington State is rapidly becoming more racially diverse.](#) Citizens, by way of changing systems throughout the state, are more willing and able to identify as being different from one another: disclosing both visible and invisible disabilities, discussing gender identity and sexual orientation, displaying various religious practices, and claiming personal origin stories – to name a few.
- **Adjustments in practice are required.** Every licensed legal professional over the course of their career, regardless of the area of law they practice, will encounter someone who is different than themselves. Given the demographic changes discussed above, the likelihood and frequency of these encounters is increasing. As a profession, we have the ethical responsibility to ensure our communications with our clients and all professionals in the legal community are respectful. While we may believe our legal education and current training requirements produce that result, we cannot ignore the many reports of disparate and discriminatory practices we hear from within our profession. Knowing that a significant segment of our state, whether colleagues or clients, face unfair treatment in the legal community, perhaps by legal professionals, mandate purposeful action. Mandatory training in this area is both proper and necessary.

- **Support the work of the Diversity Committee.** The original report and recommendation of the WSBA Diversity Committee and Washington Women Lawyers (with the support of multiple minority bar associations) demonstrates the [need for education](#) within the profession across all categories of Washington lawyers (private practitioners, government lawyers, professors and instructors, judges, regulators, in house counsel, etc.), to raise the awareness and sensitivity of Washington lawyers to diversity issues, and particularly with respect to equity, inclusion, and both implicit and explicit biases. Our role as lawyers and licensed legal professionals should be to work to eliminate our own biases, and to have a positive effect on both the profession and Washington generally. Intuitively, this is an idea whose time has more than come.
  - At the June 26-27<sup>th</sup>, 2020 Board of Governors meeting, the WSBA Diversity Committee asked the Board of Governors to “Fully support efforts to require licensed legal professionals to complete at least one ethics credit in the topic of equity, inclusion and the mitigation of bias per each three year MCLE reporting period.”
- **Promoting equity and inclusion drives better business outcomes.** Having individuals that think differently, by virtue of their distinct backgrounds and experiences, encourages creative thinking and innovation. This is particularly important amongst decision-makers. Conversely, failing to include diverse perspectives can result in a failure to take useful risks and ultimately lead to stagnation. The business sector as a whole has recognized this reality, with many major employers in this state and elsewhere investing in diversity even when not required by law. The legal profession needs to catch up in this regard.
- **Acknowledging issues of equity and inclusion is not political.** It is an undeniable fact that certain communities – such as people of color, those with disabilities, and those with non-majority religions, to name just a few – do not have and have not had the same opportunities as those in the majority. Acknowledging this historical and present reality is not a political issue. Members of the MCLE Board talked to citizens of Washington state, who are not licensed to practice law, about this proposal and heard consistently from people who have engaged in the legal community that they feel this proposal is necessary to ensure appropriate treatment and consideration of the various issues and concerns the general public faces, no matter who is in office or running local, state, and national government. In fact, the regulatory objectives outlined in General Rule 12.1 specifically address the topic of diversity and inclusion.
  - **GR 12.1:**  
Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court’s objectives include:  
...  
(j) diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

In addition, the authorized activities of the Washington State Bar Association found in General Rule 12.2(a)(6) further emphasizes this objective:

- **GR 12.2(a):**
  - (a) **Purposes: In General.** In general, the Washington State Bar Association strives to:
    - (6) Promote diversity and equality in the courts and the legal profession.
- **Promoting equity and inclusion is appropriate for the Bar.** Another undeniable fact is that practicing law inherently involves “legislating morality.” Lawyers commonly encounter moral imperatives codified in the laws that attorneys litigate and enforce. A particularly relevant example can be found in Washington’s Law Against Discrimination, which attempts to correct unequal access to opportunity, but many others exist. It is therefore

both appropriate and beneficial for the Washington Supreme Court to mandate training to help licensed legal professionals gain awareness and understanding of these issues. While it is true that training does not guarantee equitable and inclusive outcomes, training does result in an increased understanding of various topics, especially in a legal context where rules and regulations change constantly. For example, discussion around visible/invisible disabilities allows us as legal professionals to better identify legal concerns facing our communities. If we choose to remain ignorant while the rest of society engages in this conversation, we risk providing inadequate counsel to our clients as well as the community at large. Given our position in society as rule makers and legal deciders, we cannot afford to sit back and react only when a lawsuit or other grievance takes place.

### **Mandatory Requirement**

- If we recognize the importance of equity, inclusion, and the mitigation of bias, we must also recognize the necessity to require education in these topics.
- There are many available and accessible CLEs covered by the suggested amendment. Many national CLE sponsor organizations have started to offer more courses that cover this topic, in response to the adoption of similar education requirements in other jurisdictions. There are currently hundreds of both live and recorded CLE courses from around the world that cover equity, inclusion, and the mitigation of bias; nearly 200 such courses have been approved for credit in Washington in the past year alone. The WSBA Board of Governors made a commitment, at their September 2019 Board meeting, to provide free ethics CLEs to be made accessible both in-person and on-demand each year in these three topics: equity, inclusion, and the mitigation of both implicit and explicit bias; mental health and addiction; and the use of technology as it pertains to professional responsibility including how to maintain security. This eliminates any access barriers, as the suggested amendment topic will be provided at no cost. The first of these free CLEs, ‘Ethics Booster’ took place on July 21, 2020. This CLE covered the topics of mental health, addiction and stress, and digital security. It was attended by 2,379 licensed legal professionals.<sup>1</sup>
- The suggested requirement is neither burdensome nor onerous. Only one (1) total credit is being specified over a three year period.
- The total number of required credits that a licensed legal professional must complete is not changing.
- **The licensed legal professionals who need the training may not realize it or choose to get it.** There is a natural tendency to choose CLEs that seem directly relevant to one’s practice or that sound interesting. However, a person who lacks understanding of a topic covered by the suggested amendment is more likely to discount the value of the topic, and therefore choose not to participate in a given CLE.
- Commercial CLE providers will continue to expand and improve their content in these categories. Thus, finding CLEs in these areas will become even easier than it is now if the suggested amendment is passed.
  - As an example, attendance at the California Lawyers’ Association annual IP Institute (if one attends all sessions), more than fulfills California MCLE requirements. For years, the Institute has included presentations on mental health and substance abuse, and has added presentations on elimination of bias. Though those sessions would not seem directly relevant to the other, cutting edge IP presentations, they are widely attended as a way to fulfill the requirements, and they are often the most high quality presentations in two full days of CLE panels and presentations. If they were not required, many who attend the Institute would never take those courses, even with a general ethics requirement.

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<sup>1</sup> Numbers provided courtesy of WSBA CLE. Of the 2,379 attendees: 2,324 were lawyers, 51 were LPOs, and 4 were LLLTs.

- **Washington's opportunity.** Washington has an opportunity to lead by example by adopting a requirement for this topic to become mandatory. Again, our proposal would not increase the total number of hours devoted to ethics. It would simply require that one hour be devoted to the topic of equity, inclusion, and the mitigation of bias every three years. Education in equity and inclusion is already required in multiple states (eight in total), with more states following their lead. For the sake of recognizing the importance of these categories of education, and for the sake of Washington being a leader in its approach to MCLE, this is the right time to adopt this suggested amendment.

Attachments:

- MCLE Board Preliminary Recommendation and Report
- Written Feedback Regarding the Suggested Amendment

# ATTACHMENTS

**From:** Mandatory Continuing Legal Education Board  
**Date:** July 20, 2020  
**RE: REPORT AND RECOMMENDATION OF THE MCLE BOARD**

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### **Mandatory Continuing Legal Education Board**

The Mandatory Continuing Legal Education Board (“MCLE Board”) of the MCLE Board consists of seven members : Asia Wright (MCLE Board Chair), Ayanna Eagan (MCLE Board Vice Chair), Melissa Skelton, Merri Hartse, Robert Malae, Christopher Bueter, and Todd Alberstone.

### **Suggested Amendment**

The MCLE Board recommends an amendment to Admission and Practice Rule (APR) 11 that would require each licensed legal professional to complete at least one (1) credit hour of equity, inclusion and the mitigation of bias as Continuing Legal Education per each three year MCLE reporting period. The MCLE Board’s suggested amendment would not increase the total number of ethics hours required, nor prevent legal professionals from earning additional ethics credits on other topics, which would also count toward the 45 total required credits.

The MCLE Board is recommending the following suggested amendment to APR 11:

**APR 11(c)(1)(ii)** at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

**APR 11(f)(2)** Ethics and professional responsibility, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including ~~diversity and anti-bias with respect to the practice of law or the legal system,~~ equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

### **Background**

At the MCLE Board’s meeting of October 5, 2018, the WSBA Diversity Committee and the Washington Women’s Lawyers presented to the MCLE Board a suggested amendment to Rule 11 of the Washington Supreme Court’s Admission and Practice Rules (APR 11). The suggested amendment was developed by a collaboration between Washington Women Lawyers and the WSBA Diversity Committee; and was endorsed by the Asian Bar Association, the Cardozo Society of Washington State, the Filipino Lawyers of Washington, the Pierce County Minority Bar Association, Loren Miller Bar Association, Latina/o Bar Association of Washington, the South Asian Bar Association of Washington, and QLAW (the LGBT Bar Association of Washington). The suggested amendment would have required that at least one of the six





required ethics credits be on the topic of equity, inclusion and the mitigation of bias in the legal profession.

Following the presentation, the MCLE Board formed a subcommittee to study the suggested amendment and make a recommendation to the MCLE Board. The subcommittee provided a report and recommendation at the January 2019 MCLE Board meeting. The subcommittee recommended that the MCLE Board propose an amendment that included not only a required credit for equity, inclusion, and anti-bias; but also one credit for mental health and addiction, and one credit technology education focusing on digital security for a total of three of the six required credits.

The MCLE Board presented the above-suggested amendments to the Washington State Bar Association's Board of Governors on September 27, 2019, who voted against the amendments. The governors directed that in lieu of the MCLE suggested amendment, WSBA will offer three free one-hour CLEs each year, one on each of the three topics. At the October 4, 2019 MCLE Board meeting, the MCLE Board moved to send the suggested APR 11 amendment to the Washington Supreme Court. On December 4, 2019, the Washington State Supreme Court rejected the proposed amendments without comment.

This year the MCLE Board plans to continue their work to address systemic inequities, by suggesting a single, narrow amendment of the APR 11 Continuing Legal Education Ethics requirement to the Washington State Supreme Court -- a requirement focused on equity, inclusion and mitigation of bias. The need for this requirement is highlighted by increased demand for the legal profession to refresh its commitment to address systemic inequities and increase awareness of both conscious and unconscious biases. The MCLE Board believes that this suggested amendment is a valuable step in the right direction.

The MCLE Board originally considered submitting this suggested amendment to the Washington Supreme Court in the fall of 2021. However, given the recent recognition of the continued injustices that Black and other minority communities and individuals are subject to, and urgent calls for positive changes to many institutions, the MCLE Board - at a special meeting held on July 16th - decided to expedite the suggested amendment to October 2020. The MCLE Board will continue to solicit feedback on the suggested amendment, and will hear public comment and review any initial written feedback at their meeting scheduled on August 7<sup>th</sup>. The MCLE Board will collect further written feedback by August 22<sup>nd</sup>. After considering the feedback the MCLE Board intends to present the suggested amendment to the WSBA Board of Governors during their meeting in September 2020. The MCLE Board is hopeful that, with broader support and endorsements from community partners, the WSBA Board of Governors and the Court may be amenable to adopting this important suggested amendment.

## **Factors & Information**

### Need for Equity, Inclusion and Mitigation of Bias in the Legal Profession



Licensed legal professionals in the state of Washington are required to continue their legal education throughout their careers in order to remain eligible to practice law<sup>1</sup>. As created and appointed by the Washington Supreme Court, and administered by the WSBA, the Mandatory Continuing Legal Education (MCLE) Board plays a critical regulatory role in determining compliance with the minimum education requirements, as set out in Admission and Practice Rule (APR) 11. Part of this role is to develop, propose, and support continuing legal education that will not only educate Washington licensed legal professionals on the state of the law in various subjects but also improve inter-cultural communication, improve equitable outcomes, and reduce the risk of potential liability. Further, the MCLE Board has a duty to ensure that Washington licensed legal professionals have the skills and knowledge base to effectively serve their clients, the legal system, and society as a whole.

This suggested amendment will better equip legal professionals with tools of cultural competency and understanding in working with the diverse public we serve. When legal professionals cannot recognize and identify implicit bias, they cannot work individually and collectively to disrupt the inequitable and unconscionable influence of bias on clients and the general public.

#### Aligns with WSBA Diversity Plan

Since its adoption seven years ago, the WSBA's Diversity Plan continues to make progress on some levels, but WSBA can do better by ensuring members are educated and able to contribute to equity, inclusion, and to mitigate bias. This amendment will help its members better understand the lived experiences of individuals and entire communities who are currently both underrepresented and underserved by the legal community. As part of organizational self-reflection and to better align with our values and our guiding principles of equity and inclusion, the MCLE Board suggests the above amendment.

#### Access to Free CLEs in the required topics

The WSBA Board of Governors made a commitment, at their September 2019 Board meeting, to provide free ethics CLEs to be made accessible both in-person and on-demand each year in these three topics: equity, inclusion, and the mitigation of both implicit and explicit bias; mental health and addiction; and the use of technology as it pertains to professional responsibility including how to maintain security. This eliminates any access barriers, as the suggested amendment topic will be provided at no cost.

#### Contributes to Better Business Outcomes

Promoting equity and inclusion drives better business outcomes. Innovation and creative thinking are enhanced by recognizing and considering the diverse experiences and backgrounds of others. This is

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<sup>1</sup> In the state of Washington, individual members of the WSBA as legal professionals serve the public as a privilege, not a right. As members of the legal community, legal practitioners know that they are an integral part of the wider community and serve at the discretion of the Washington State Supreme Court.



particularly important amongst decision-makers. Conversely, failing to include diverse perspectives can result in a failure to take useful action despite some acceptable risks and ultimately lead to stagnation. The business sector as a whole has recognized this reality, with many major employers in this state and elsewhere investing in diversity even when not required by law. The legal profession needs to catch up in this regard. Addressing issues of equity and inclusion is not a political move, but a practical one.

Other Jurisdictions

A review of the MCLE requirement in other U.S. jurisdictions found that at least six (6) states have adopted a diversity, inclusion and elimination of bias requirement, with California as the first state to do so in 2008. In 2014, California amended their requirement to include elimination of bias outside of the legal profession. Following this, Minnesota adopted a diversity and anti-bias requirement in 2016, New York in 2018, both Illinois and Missouri in 2019, and Vermont most recently implementing the requirement in 2020. Similarly, two states have implemented a requirement that encompasses diversity and anti-bias: Oregon requires one credit of ‘Access to Justice’, and Maine requires one credit of ‘Harassment/Discrimination’. In the summer of 2020, the New Jersey State Bar Association sent a letter to the New Jersey Supreme Court suggesting an amendment to the MCLE rule to require at least two credits in diversity, inclusion, and the elimination of bias.

ABA Model Rule for Minimum Continuing Legal Education (2017)

The ABA recently amended its Model Rule for MCLE in 2017. Section 3(A) of the ABA Model Rule recommends that jurisdictions require one credit per year in the area of ethics and professionalism (which would be three credits for a three-year reporting period in Washington). In addition, the ABA Model Rule recommends one credit every three years specifically in the area of diversity and inclusion. Washington already requires six credits in ethics and professional responsibility, one more than the total recommended by the ABA, and allows for topics covering diversity and inclusion to meet the ethics requirement; however, Washington does not *require* that any of the six credits be in the area of diversity and inclusion. All six ethics credits may currently be completed without instruction in the area of diversity, inclusion, and the mitigation of bias.

<b>Timeline for expedited suggested amendment:</b>		
July 20 <sup>th</sup>		Open Comment Period
July & August		Gather feedback on the suggested amendment
August 7 <sup>th</sup>	Regularly schedule MCLE Board meeting	Discuss comments received to date, and begin materials to the BOG.
August 22 <sup>nd</sup>		Close Comment Period & Finalize BOG materials
Week of August 22 <sup>nd</sup> (TBD)	Tentative Subcommittee meeting	Subcommittee meeting only if substantial change in comments that were presented at earlier August meeting.



REPORT AND RECOMMENDATION OF THE MCLE BOARD

July 20, 2020

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Sept 2 <sup>nd</sup>	BOG materials due	
Sept 17-18	BOG Meeting	Present to WSBA BOG and ask for Support
Week of Sept 22 <sup>nd</sup> (TBD)	Special MCLE Meeting	Discuss feedback from BOG and decide whether to move forward with suggested amendment
October 15, 2020	Suggested Amendment Deadline	Send Recommendation to Court

**Attachments**

1. WSBA Diversity and Inclusion Plan (2013)
2. Additional Statistical Support for MCLE Requirement on Equity, Inclusion and Mitigation of Bias
3. ABA Model Rule for Minimum Continuing Legal Education (2017)





WSBA

## Diversity and Inclusion Plan

Approved by the Board of Governors May 2013



## Washington State Bar Association Diversity & Inclusion Plan

### Mission Statement

The Washington State Bar Association's mission is to serve the public and the members of the Bar, ensure the integrity of the legal profession, and to champion justice.

### Commitment to Diversity

The Washington State Bar Association is committed to advancing diversity and inclusion within the legal profession. Toward that end, WSBA is committed to understanding and responding to the professional environment which exists for all lawyers in Washington. Inclusion is best understood as an environment which encourages and incorporates different perspectives, ideas and experiences. The profession is changing. The business interests of attorneys, employers and clients call for more diverse legal representation across the state. WSBA recognizes the need to enhance opportunity in the legal profession and the public's experience with lawyers by demonstrating to its members and the public at large a genuine commitment to supporting and advancing diversity and inclusion.

This plan reflects the unique roles for which WSBA is positioned, as a unified bar, to create and help nurture the conditions that will encourage diverse lawyers to enter, remain, thrive and ultimately lead the profession and inspire others to follow in their footsteps. The plan rests on a fundamental assumption that WSBA's commitment to its own culture of inclusion and cultural competence provides the best foundation for meaningful progress. We refer to this as "Inside – Out" diversity. It is our hope that stakeholders and partners will answer the call to involvement as we work from the inside out to distinguish the Washington State legal profession as an inclusive community.

### Background

In 2003 the Washington State Bar Association formally established diversity as one of its nine strategic goals. In 2006 the Board of Governors formed its own Diversity Committee to help improve diversity within the elected leadership. In 2007 WSBA adopted five guiding principles, one of which is advancing and promoting "Diversity, equality, and cultural understanding throughout the legal community." Consistent with this guiding principle, WSBA next adopted two focus areas: working to understand the lay of the land of the legal community and providing tools to members and employers in order to enhance the retention of minority lawyers in the community.

The guiding principle of promoting **diversity, equality, and cultural understanding throughout the legal community** was supported by the 2011- 2013 Strategic Goal: **Conduct a detailed study of the composition of the legal profession and retention rates within the profession in the state of Washington.** In 2011 WSBA launched this groundbreaking study. The purpose was to

create a statistically reliable study of the membership's demographics and trends. Study results were released in March 2012 and presented at the April 2012 Board of Governors meeting.

### **Purpose of the Plan**

With the baseline study completed, the Diversity & Inclusion Plan is intended to outline WSBA's next steps and long term priorities.

Staff, member and leadership participation are particularly important to the effective coordination and delivery of systems, services and programs. The Plan's objectives all work towards the goals of retaining diverse attorneys, increasing their participation within the profession and creating opportunities for leadership within the Association.

### **Plan Objectives**

#### **1. MEMBERSHIP DEMOGRAPHICS**

- a. Improve diverse representation across WSBA entities, especially with respect to faculty and leadership**
  - i. Provide tools, systems, and evaluation for intentional recruitment of diverse faculty and leadership in collaboration with Minority Bar Associations (MBAs)
- b. Measure demographics/ diversity indicators longitudinally**
  - i. Conduct bi-annual follow-up surveys and full study every 10 years
  - ii. Administer more frequent surveys and evaluations to gather timely information on trends and opportunities
- c. Be the resource for others who care about the demographic trends of Washington's legal community**
  - i. Publish, present and share demographic news, trends and information
  - ii. Host events, discussions and online chats about the data and its implications
  - iii. Help develop a more complete picture of the future of the profession by partnering with the Initiative for Diversity, the ABA, and law schools to measure complementary data and methods to address inequities

#### **2. EDUCATION AND TRAINING**

- a. Ensure everyone who represents WSBA is knowledgeable about membership demographics and trends**
  - i. Present updated information and resources to leadership, staff and entities regularly
  - ii. Conduct annual review and analysis of board, staff and leadership demographics
  - iii. Articulate case to members about the business case for diversity and improve overall understanding of why this effort matters
  - iv. Develop tools and shared language for WSBA representatives to educate members why diversity matters to everyone

- v. Deliver consistent, ongoing training on cultural competence and inclusion
- vi. Develop and adopt a shared dictionary of terms and meanings
- b. Leverage and target WSBA programming to remove barriers/ improve conditions identified in the study**
  - i. Target outreach, educational tracks and special offerings within existing WSBA programs (including Continuing Legal Education, New Lawyer Education, Law Office Management Assistance Program, Lawyer Assistance, Public Service, and the Law Clerk Program) to members *in all diversity groups* focusing on:
    - a. Strengthening mentorship opportunities
    - b. Accelerating outreach to members statewide
    - c. Expanding support for new and solo practitioners

### **3. COLLABORATION AND PARTNERHSIP**

- a. Provide the forum for dialogue, focusing on the conditions for lawyers to enter, stay, thrive and lead the profession**
  - i. Accelerate communications and education to address inequities relating to diverse populations, specifically via:
    - a. Town Hall Series with law schools and employers
    - b. Online chats to stimulate dialogue
    - c. Guest posts and articles that raise new voices
- b. Provide WSBA representation and information in support of community projects, task forces and initiatives that intersect with WSBA's commitment to diversity**
  - i. Awards and spotlights on innovation and success – using WSBA's reach for maximum exposure for good ideas
  - ii. Increase outreach and facilitation, specifically via:
    - a. Networking events to open access to bar leaders
    - b. Receptions and events to connect with stakeholders
    - c. Clarified support for MBAs
    - d. Facilitating and hosting a peer network of mentor programs

### **Accountability & Reporting**

A report describing the progress of advancing WSBA's diversity and inclusion efforts will be presented at each Board of Governors meeting. The Diversity Chair and staff will present highlights of activities and ongoing advancement toward these objectives. WSBA will host an annual diversity convocation whereby each section and entity will report on the status of its efforts towards objectives 1 – 3 and to talk about what's working and what support is needed. Finally, staff will present an annual report at each September BOG meeting on the overall status of the Diversity & Inclusion Plan. The annual report will be published and distributed widely.



## Adelaine Shay

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**From:** KARRIN KLOTZ <karrink@aol.com>  
**Sent:** Tuesday, October 9, 2018 3:09 PM  
**To:** MCLE  
**Cc:** Dana Barnett  
**Subject:** Additional Statistical support for MCLE requirement on "Equity, Inclusion & Mitigation of Bias"

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I contacted Retired Justice Faith Ireland about the issue of support for our proposal for a required MCLE on "Equity, Inclusion & Mitigation of Bias" and she sent me the below link for your follow-up purposes:

<http://projectimplicit.org/demopapers.html>  
<http://www.pewsocialtrends.org/2015/08/19/exploring-racial-bias-among-biracial-and-single-race-adults-the-iat/>  
<http://kirwaninstitute.osu.edu/wp-content/uploads/2017/11/2017-SOTS-final-draft-02.pdf>

ABA Model Rule for Minimum Continuing Legal Education  
(2017)

**AMERICAN BAR ASSOCIATION**  
**ADOPTED BY THE HOUSE OF DELEGATES**  
**FEBRUARY 6, 2017**

**RESOLUTION**

RESOLVED, That the American Bar Association adopts the Model Rule for Minimum Continuing Legal Education (MCLE) and Comments dated February 2017, to replace the Model Rule for MCLE and Comments adopted by the American Bar Association in 1988 and subsequently amended.

**American Bar Association**  
**Model Rule for Minimum Continuing Legal Education**  
**February 2017**

**Purpose**

To maintain public confidence in the legal profession and the rule of law, and to promote the fair administration of justice, it is essential that lawyers be competent regarding the law, legal and practice-oriented skills, the standards and ethical obligations of the legal profession, and the management of their practices. In furtherance of this purpose, the ABA recommends this Model Rule for Minimum Continuing Legal Education (MCLE) and Comments, which replaces the prior Model Rule for MCLE and Comments adopted by the American Bar Association in 1988 and subsequently amended.

**Contents****Section 1. Definitions.****Section 2. MCLE Commission.****Section 3. MCLE Requirements and Exemptions.****Section 4. MCLE-Qualifying Program Standards.****Section 5. Accreditation.****Section 6. Other MCLE-Qualifying Activities.****Section 1. Definitions.**

**(A)** “Continuing Legal Education Program” or “CLE Program” or “CLE Programming” means a legal education program taught by one or more faculty members that has significant intellectual or practical content designed to increase or maintain the lawyer’s professional competence and skills as a lawyer.

**(B)** “Credit” or “Credit Hour” means the unit of measurement used for meeting MCLE requirements. For Credits earned through attendance at a CLE Program, a Credit Hour requires sixty minutes of programming. Jurisdictions may also choose to award a fraction of a credit for shorter programs.

**(C)** “Diversity and Inclusion Programming” means CLE Programming that addresses diversity and inclusion in the legal system of all persons regardless of race, ethnicity, religion, national origin, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias.

**(D)** “Ethics and Professionalism Programming” means CLE programming that addresses standards set by the Jurisdiction’s Rules of Professional Conduct with which a lawyer must comply to remain authorized to practice law, as well as the tenets of the legal profession by which a lawyer

demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and unrepresented parties.

**(E)** “In-House CLE Programming” means programming provided to a select private audience by a private law firm, a corporation, or financial institution, or by a federal, state, or local governmental agency, for lawyers who are members, clients, or employees of any of those organizations.

**(F)** “Interdisciplinary Programming” means programming that crosses academic lines that supports competence in the practice of law.

**(G)** “Jurisdiction” means United States jurisdictions including the fifty states, the District of Columbia, territories, and Indian tribes.

**(H)** “Law Practice Programming” means programming specifically designed for lawyers on topics that deal with means and methods for enhancing the quality and efficiency of a lawyer’s service to the lawyer’s clients.

**(I)** “MCLE” or “Minimum Continuing Legal Education” means the ongoing training and education that a Jurisdiction requires in order for lawyers to maintain their license to practice.

**(J)** “Mental Health and Substance Use Disorders Programming” means CLE Programming that addresses the prevention, detection, and/or treatment of mental health disorders and/or substance use disorders, which can affect a lawyer’s ability to perform competent legal services.

**(K)** “Moderated Programming” means programming delivered via a format that provides attendees an opportunity to interact in real time with program faculty members or a qualified commentator who are available to offer comments and answer oral or written questions before, during, or after the program. Current delivery methods considered Moderated Programming include, but are not limited to:

- (1) “In-Person” – a live CLE Program presented in a classroom setting devoted to the program, with attendees in the same room as the faculty members.
- (2) “Satellite/Groupcast” – a live CLE Program broadcast via technology to remote locations (i.e., a classroom setting or a central viewing or listening location). Attendees participate in the program in a group setting.
- (3) “Teleseminar” – a live CLE program broadcast via telephone to remote locations (i.e., a classroom setting or a central listening location) or to individual attendee telephone lines. Attendees may participate in the program in a group setting or individually.
- (4) “Video Replay” – a recorded CLE Program presented in a classroom setting devoted to the program, with attendees in the same room as a qualified commentator. Attendees participate in the program in a group setting.

- (5) “Webcast/Webinar” – a live CLE Program broadcast via the internet to remote locations (*i.e.*, a classroom setting or a central viewing or listening location) or to individual attendees. Attendees may participate in the program in a group setting or individually.
- (6) “Webcast/Webinar Replay” - a recorded CLE program broadcast via the internet to remote locations (*i.e.*, a classroom setting or a central viewing or listening location) or to individual attendees. A qualified commentator is available to offer comments or answer questions. Attendees may participate in the program in a group setting or individually.

**(L)** “New Lawyer Programming” means programming designed for newly licensed lawyers that focuses on basic skills and substantive law that is particularly relevant to lawyers as they transition from law school to the practice of law.

**(M)** “Non-Moderated Programming with Interactivity as a Key Component” means programming delivered via a recorded format that provides attendees a significant level of interaction with the program, faculty, or other attendees. Types of qualifying interactivity for non-moderated formats include, but are not limited to, the ability of participants to: submit questions to faculty members or a qualified commentator; participate in discussion groups or bulletin boards related to the program; or use quizzes, tests, or other learning assessment tools. Current delivery methods considered Non-Moderated Programming with Interactivity as Key Component include, but are not limited to:

- (1) “Recorded On Demand Online” – a recorded CLE Program delivered through the internet to an individual attendee’s computer or other electronic device with interactivity built into the program recording or delivery method.
- (2) “Video or Audio File” – a recorded CLE Program delivered through a downloaded electronic file in mp3, mp4, wav, avi, or other formats with interactivity built into the program recording or delivery method.
- (3) “Video or Audio Tape” – a recorded CLE Program delivered via a hard copy on tape, DVD, DVR, or other formats with interactivity built into the program recording or delivery method.

**(N)** “Self-Study” includes activities that are helpful to a lawyer’s continuing education, but do not meet the definition of CLE Programming that qualifies for MCLE Credit. Self-Study includes, but is not limited to:

- (1) “Informal Learning” - acquiring knowledge through interaction with other lawyers, such as discussing the law and legal developments
- (2) “Non-Moderated Programming Without Interactivity” - viewing recorded CLE Programs that do not have interactivity built into the program recording or delivery method
- (3) “Text” - reading or studying content (periodicals, newsletters, blogs, journals, casebooks, textbooks, statutes, etc.)

**(O)** “Sponsor” means the producer of the CLE Program responsible for adherence to the standards of program content determined by the MCLE rules and regulations of the Jurisdiction. A Sponsor may be an organization, bar association, CLE provider, law firm, corporate or government legal department, or presenter.

**(P)** “Technology Programming” means programming designed for lawyers that provides education on safe and effective ways to use technology in one’s law practice, such as to communicate, conduct research, ensure cybersecurity, and manage a law office and legal matters. Such programming assists lawyers in satisfying Rule 1.1 of the ABA Model Rules of Professional Conduct in terms of its technology component, as noted in Comment 8 to the Rule (“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology[.]”).

## **Section 2. MCLE Commission.**

The Jurisdiction’s Supreme Court shall establish an MCLE Commission to develop MCLE regulations and oversee the administration of MCLE.

### **Comments:**

1. Section 2 assumes that the Jurisdiction’s highest court is its Supreme Court and that the Supreme Court is the entity empowered to create an MCLE Commission. The titles of the applicable entities may vary by Jurisdiction.
2. Supreme Courts are encouraged to consider the following when establishing an MCLE Commission: composition of the Commission; terms of service; where and how often the Commission must meet; election of officers; expenses; confidentiality; and staffing.
3. It is anticipated that MCLE Commissions will develop Jurisdiction-specific regulations (or rules) to effectuate the provisions outlined in this Model Rule, such as regulations concerning when and how lawyers must file MCLE reports, penalties for failing to comply, and appeals. Further, it is anticipated that MCLE Commissions will develop regulations concerning the accreditation process for MCLE that is provided by local, state, and national Sponsors. This Model Rule also addresses recommended accreditation standards in Sections 4 and 5.

**Section 3. MCLE Requirements and Exemptions.****(A) Requirements.**

- (1) All lawyers with an active license to practice law in this Jurisdiction shall be required to earn an average of fifteen MCLE credit hours per year during the reporting period established in this Jurisdiction.
- (2) As part of the required Credit Hours referenced in Section 3(A)(1), lawyers must earn Credit Hours in each of the following areas:
  - (a) Ethics and Professionalism Programming (an average of at least one Credit Hour per year);
  - (b) Mental Health and Substance Use Disorders Programming (at least one Credit Hour every three years); and
  - (c) Diversity and Inclusion Programming (at least one Credit Hour every three years).
- (3) A jurisdiction may establish regulations allowing the MCLE requirements to be satisfied, in whole or in part, by the carryover of Credit Hours from the immediate prior reporting period.

**(B) Exemptions.** The following lawyers may seek an exemption from this MCLE Requirement:

- (1) Lawyers with an inactive license to practice law in this Jurisdiction, including those on retired status.
- (2) Nonresident lawyers from other Jurisdictions who are temporarily admitted to practice law in this Jurisdiction under *pro hac vice* rules.
- (3) A lawyer with an active license to practice law in this Jurisdiction who maintains a principal office for the practice of law in another Jurisdiction which requires MCLE and who can demonstrate compliance with the MCLE requirements of that Jurisdiction.
- (4) Lawyers who qualify for full or partial exemptions allowed by regulation, such as exemptions for those on active military duty, those who are full-time academics who do not engage in the practice of law, those experiencing medical issues, and those serving as judges (whose continuing education is addressed by other rules).



**Comments:**

1. While many Jurisdictions have chosen to require twelve Credit Hours per year, and a minority of Jurisdictions require fewer than twelve Credit Hours per year, Section 3(A)(1) recommends an average of fifteen Credit Hours of CLE annually, meaning lawyers must earn fifteen Credit Hours per reporting period in Jurisdictions that require annual reporting, thirty Credit Hours per reporting period in Jurisdictions that require reporting every two years, and forty-five Credit Hours per reporting period in Jurisdictions that require reporting every three years. In addition, this Model Rule recommends sixty minutes of CLE Programming per Credit Hour, which is the standard in the majority of Jurisdictions, although a minority of Jurisdictions have chosen to require only fifty minutes of CLE Programming per Credit Hour.

2. Section 3(A)(1) does not take a position on whether lawyers should report annually, every two years, or every three years, all of which are options various Jurisdictions have chosen to implement, in part based on their own Jurisdiction's administrative needs. Allowing a lawyer to take credits over a two-year or three-year period provides increased flexibility for the lawyer in choosing when and which credits to earn, but it may also lead to procrastination and may provide less incentive for a lawyer to regularly take CLE that updates his or her professional competence.

3. Section 3(A)(2) recognizes that Jurisdictions may choose to identify specific MCLE credits that each lawyer must earn, such as those addressing particular subject areas. This Model Rule recommends that every lawyer be required to take the specific credits outlined in Section 3(A)(2)(a), (b), and (c). While requiring specific credits may increase administrative burdens on accrediting agencies, CLE Sponsors, and individual lawyers, and also requires proactive efforts to ensure the availability of programs, it is believed that those burdens are outweighed by the benefit of having all lawyers regularly receive education in those specific areas.

4. Many Jurisdictions currently allow CLE Programs on topics outlined in Section 3(A)(2)(b) and (c) (relating to Mental Health and Substance Use Disorders Programming, and Diversity and Inclusion Programming) to count toward the general CLE requirement or the Ethics and Professionalism Programming requirement, rather than specifically requiring attendance at those specialty programs. This Model Rule recommends stand-alone requirements for those specialty programs, in order to ensure that all lawyers receive minimal training in those areas. With respect to Mental Health and Substance Use Disorders Programming in particular, research indicates that lawyers may hesitate to attend such programs due to potential stigma; requiring all lawyers to attend such a program may greatly reduce that concern. Nonetheless, this Model Rule recognizes that Jurisdictions may choose not to impose a stand-alone requirement and, instead, accredit those specialty programs towards the Ethics and Professionalism Programming requirement. All Jurisdictions are encouraged to promote the development of those specialty programs in order to reach as many lawyers as possible. Nearly every Jurisdiction has a lawyers assistance program that can offer, or assist in offering, Mental Health and Substance Use Disorders Programming. In addition, numerous bar associations, including the American Bar Association, have diversity committees that can offer, or assist in offering, Diversity and Inclusion Programming.

5. Section 3(A)(3) endorses regulations that allow lawyers to carry over MCLE credits earned in excess of the current reporting period's requirement from one reporting period to the next, which encourages lawyers to take extra MCLE credits at a time that meets their professional and learning needs without losing credit for the MCLE activity. It is anticipated that each Jurisdiction will draft carryover credit regulations that best meet the Jurisdiction's needs, taking into account factors such as the length of the reporting period, the availability of CLE Programs in the Jurisdiction, administrative considerations, and other factors.

6. Section 3(B) recognizes that Jurisdictions may choose to exempt certain lawyers from MCLE requirements. It is anticipated that regulations addressing such exemptions will identify those who are automatically exempt, those who may seek an exemption based on their particular circumstances, and the process for claiming an exemption.

7. Section 3(B)(3) provides a mechanism for lawyers licensed in more than one Jurisdiction to be exempt from MCLE requirements if the lawyer satisfies the MCLE requirements of the Jurisdiction where his or her principal office is located. A Jurisdiction may consider limiting this exemption to lawyers with principal offices in certain Jurisdictions if the Jurisdiction is concerned that the MCLE rules of other Jurisdictions vary too greatly from its own rules. A Jurisdiction may also consider limiting this exemption to require that the lawyer attend particular CLE Programs, such as a Jurisdiction-specific professionalism program, or other specific programs not required in the Jurisdiction where the lawyer's principal office is located.

#### **Section 4. MCLE-Qualifying Program Standards.**

To be approved for credit, Continuing Legal Education Programs must meet the following standards:

**(A)** The program must have significant intellectual or practical content and be designed for a lawyer audience. Its primary objective must be to increase the attendee's professional competence and skills as a lawyer, and to improve the quality of legal services rendered to the public.

**(B)** The program must pertain to a recognized legal subject or other subject matter which integrally relates to the practice of law, professionalism, diversity and inclusion issues, mental health and substance use disorders issues, civility, or the ethical obligations of lawyers. CLE Programs that address any of the following will qualify for MCLE credit, provided the program satisfies the other accreditation requirements outlined herein:

- (1) Substantive law programming
- (2) Legal and practice-oriented skills programming

- (3) Specialty programming (*see* Section 3(A)(2))
- (4) New Lawyer Programming (*see* Section 1(L))
- (5) Law Practice Programming (*see* Section 1(H))
- (6) Technology Programming (*see* Section 1(P))
- (7) Interdisciplinary Programming (*see* Section 1(F))
- [(8) Attorney Well-Being Programming]

**(C)** The program must be delivered as Moderated Programming, or Non-Moderated Programming with Interactivity as a Key Component. The Sponsor must have a system which allows certification of attendance to be controlled by the Sponsor and which permits the Sponsor to verify the date and time of attendance.

**(D)** Thorough, high-quality instructional written materials which appropriately cover the subject matter must be distributed to all attendees in paper or electronic format during or prior to the program.

**(E)** Each program shall be presented by a faculty member or members qualified by academic or practical experience to teach the topics covered, whether they are lawyers or have other subject matter expertise.

**Comments:**

1. This Model Rule recommends approval of CLE programs designed for lawyers on the topics outlined in Section 4(B). This Model Rule supports allowing a lawyer to make educated choices about which programs will best meet the lawyer’s educational needs, recognizing that the lawyer’s needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned through the programs identified in Section 4(B).

2. Section 4(B)(4) supports accrediting CLE Programs specifically designed for new lawyers. Many Jurisdictions require new lawyers to take one or more specific programs that focus on basic skills and substantive law particularly relevant to new lawyers, either prior to or immediately after bar admission. Other Jurisdictions simply accredit such programs as general CLE. The catalyst for some Jurisdictions to begin offering such programs was a 1992 ABA task force report entitled: “Task Force on Law Schools and the Profession: Narrowing the Gap” (commonly known as the “MacCrate Report”), which offered numerous recommendations for preparing law students and new graduates to practice law. This Model Rule supports the creation of programs designed for new lawyers, but does not specifically require such programs, because many Jurisdiction-specific

factors may influence a Jurisdiction’s decision on this issue, such as the number of lawyers in the Jurisdiction, the availability of existing CLE programs, whether there are specific Sponsors available to teach such programs, similar educational programs required before licensure, and other factors.

3. Law Practice Programming, Section 4(B)(5), is programming specifically designed for lawyers on topics that deal with means and methods for enhancing the quality and efficiency of a lawyer’s service to the lawyer’s clients. Providing education on the operation and management of one’s legal practice can help lawyers avoid mistakes that harm clients and cause law practices to fail. In some cases, Law Practice Programming may qualify as Ethics and Professionalism Programming.

4. Technology Programming, Section 4(B)(6), provides education on safe and effective ways to use technology in one’s law practice, such as to communicate, conduct research, ensure cybersecurity, and manage a law office and legal matters, thereby assisting lawyers in satisfying Rule 1.1 of the ABA Model Rules of Professional Conduct in terms of its technology component, as noted in Comment 8 to the Rule (“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology[.]”). In some cases, Technology Programming may qualify as Ethics and Professionalism Programming.

5. Interdisciplinary Programming, Section 4(B)(7), provides a lawyer the opportunity to gain knowledge about a subject pertinent to his or her law practice, such as the treatment of particular physical injuries, child development, and forensic accounting.

6. In recent years, some Jurisdictions have begun accrediting programming that addresses attorney wellness or well-being topics. Some of those programs qualify for accreditation under this Model Rule’s definitions of Mental Health and Substance Use Disorders Programming and Ethics and Professionalism Programming. In the future, this Model Rule may be amended to include additional programming that falls within a broader definition of Attorney Well-Being Programming. For that reason, Section (4)(B)(8) appears in brackets and Attorney Well-Being Programming is not defined in this Model Rule.

7. If a lawyer seeks MCLE credit for attending a program that has not been specifically designed for lawyers, including but not limited to programs on the topics identified in Section 4(B), Jurisdictions may choose to consider creating regulations that would require the lawyer to explain how the program is beneficial to the lawyer’s practice. The regulations could also address how to calculate Credit Hours for programs that were not designed for lawyers.

8. In-Person Moderated Programming, *see* Section 4(C) and Section 1(K)(1), requires lawyers to leave their offices and learn alongside other lawyers, which can enhance the education of all and promote collegiality. Other forms of Moderated Programming and Non-Moderated Programming

with Interactivity as a Key Component, such as Section 4(C), Section 1(K) and (M), and Section 4(A)(2), allow lawyers to attend programs from any location and, in some cases, at the time of their choice. This flexibility allows lawyers to select programs most relevant to their practice, including specialized programs and programs with a national scope. Some Jurisdictions have expressed concern with approving programming that does not occur In-Person on grounds that the lawyer is less engaged. Thus, some Jurisdictions have declined to accredit or have limited the number of credits that can be earned through these other forms of programming. This Model Rule supports allowing a lawyer to make educated choices about whether attending Moderated Programming (In-Person or other) or Non-Moderated Programming with Interactivity as a Key Component will best meet the lawyer's educational needs, recognizing that the lawyer's needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned through Moderated Programming or Non-Moderated Programming with Interactivity as a Key Component. If a Jurisdiction believes that Moderated Programming, specifically In-Person Programming, is crucial to a lawyer's education, then it is recommended that the Jurisdiction establish a minimum number of credits that must be earned through this type of programming, rather than place a cap on the number of credits that can be earned through other types of programming. A key factor in deciding whether to require In-Person Programming is the availability of programs throughout a particular Jurisdiction, which may be affected by geography, the number of CLE Sponsors, and other Jurisdiction-specific factors.

9. Currently, all Jurisdictions calculate credits exclusively based on the number of minutes a presentation lasts. Several Jurisdictions have explored offering MCLE credit for self-guided educational programs, such as those offered using a computer simulation that is completed at the lawyer's individual pace. Jurisdictions may wish to consider offering MCLE credit for such programs, especially as technology continues to advance.

10. Self-Study does not qualify for MCLE Credit. Jurisdictions have used the term "self-study" in varying ways. As defined in this Model Rule, Self-Study refers to activities that are important for a lawyer's continuing education and professional development, but which do not qualify as MCLE. Lawyers are encouraged to engage in Self-Study as a complement to earning MCLE Credits.

#### **Section 5. Accreditation.**

**(A)** The Jurisdiction shall establish regulations that outline the requirements and procedures by which CLE Sponsors can seek approval for an individual CLE Program. The regulations should indicate whether the Jurisdiction imposes specific requirements with respect to the following:

- (1) Faculty credentials
- (2) Written materials
- (3) Attendance verification

(4) Interactivity

(5) Applications and supplemental information required (agenda, sample of materials, faculty credentials, etc.)

(6) Accreditation fees

**(B)** Any Sponsor may apply for approval of individual programs, but if the Jurisdiction determines that a Sponsor regularly provides a significant volume of CLE programs that meet the standards of approval and that the Sponsor will maintain and submit the required records, the Jurisdiction may designate, on its own or upon application from a Sponsor, such a Sponsor as an “approved provider.” The MCLE Commission may revoke approval if a Sponsor fails to comply with its regulations, requirements, or program standards.

**(C)** Programs offered by law firms, corporate or government legal departments, or other similar entities primarily for the education of their members or clients will be approved for credit provided that the program meets the standards for accreditation outlined in Section 4.

**(D)** A Jurisdiction may establish regulations allowing an individual lawyer attendee to self-apply for MCLE Credit for attending a CLE program that the Sponsor did not submit for accreditation in the Jurisdiction where the individual lawyer is licensed.

**Comments:**

1. The vast majority of Jurisdictions now require MCLE. Over the four decades during which Jurisdictions began implementing MCLE requirements, they have taken a variety of approaches to accreditation requirements and processes. This has allowed Jurisdictions to consider Jurisdiction-specific priorities and needs when drafting CLE requirements. However, this has created challenges for CLE Sponsors seeking program approval in multiple Jurisdictions. Many regional and national CLE Sponsors spend considerable time and resources to file applications in multiple Jurisdictions with differing program requirements. This increased financial and administrative burden can increase costs for CLE attendees, and it can also affect the number of programs being offered nationwide on specialized CLE and federal law topics. While differences in regulatory requirements among Jurisdictions are likely to continue, Jurisdictions are encouraged to consider ways to reduce financial and administrative burdens so that CLE Sponsors can offer programming that meets lawyers' educational needs at a reasonable price. For instance, Jurisdictions can promulgate regulations that are clear and specific, and they can streamline application processes, both of which would make it easier for Sponsors to complete applications and know with greater certainty whether programs are likely to be approved for MCLE credit. In addition, Jurisdictions may choose to reduce administrative costs to the Jurisdictions, CLE Sponsors, and individual lawyers by recognizing an accreditation decision made for a particular program by another Jurisdiction, thereby eliminating the need for the CLE Sponsor or individual lawyer to submit the program for accreditation in multiple Jurisdictions. Jurisdictions might also consider creating a regional or national accrediting agency to supplement or replace accreditation processes in individual Jurisdictions.

2. Many Jurisdictions outline specific requirements for CLE program faculty members, such as requiring that at least one member of the faculty be a licensed lawyer. Section 5(A)(1) does not suggest specific regulations with respect to faculty, but Section 4(B) recognizes the value of programming in Law Practice, Technology, and Interdisciplinary topics. For CLE Programs on those topics, the most qualified speaker may be a non-lawyer. Therefore, Jurisdictions are encouraged to allow non-lawyers to serve as speakers in appropriate circumstances, and Sponsors are encouraged to include lawyers in the planning and execution of programs to ensure that any subject area is discussed in a legal context.

3. All Jurisdictions currently require that a CLE program include written materials, which enhance the program and serve as a permanent resource for attendees. Section 4(D) continues to require program materials for a program to qualify for credit. Section 5(A)(2) does not suggest specific requirements for written materials, but Jurisdictions are encouraged to provide clear guidance on the format and length of required materials, which will better enable CLE Sponsors and individual lawyers seeking credit for programs to satisfy the Jurisdiction's requirements with respect to written materials.

4. Section 5(A)(3) recognizes that many Jurisdictions require lawyers to complete attendance sheets at In-Person CLE programs or provide proof they are attending an online program. This

Model Rule does not take a position on how Jurisdictions should verify attendance, but Jurisdictions are encouraged to weigh the benefits of particular methods of verifying attendance against the administrative cost of the various methods of tracking and reporting attendance.

5. Section 5(A)(4) acknowledges that many Jurisdictions require that attendees have an opportunity to ask the speakers questions. While this Model Rule does not offer specific regulations on this topic, this Model Rule does endorse Moderated Programming with Interactivity as a Key Component, which includes allowing lawyers to attend CLE on demand. Those Jurisdictions that wish to provide an opportunity for attendees to ask questions are encouraged to consider alternate ways of allowing speakers and attendees to communicate, such as using Webinar chat rooms or email.

6. Section (5)(A)(6) recognizes that most Jurisdictions impose fees on CLE Sponsors or individual lawyers to offset the cost of accrediting and tracking MCLE credits. The amount and type of fees vary greatly by Jurisdiction. In some cases, CLE Sponsors make decisions about where they will apply for accreditation based on the fees assessed, and may decide not to seek credit in particular Jurisdictions, such as if providing MCLE credit for a handful of attendees costs more than the tuition paid by those attendees. This can affect the availability of CLE programming to individual lawyers, especially on national and specialized topics that may not otherwise be offered in a particular Jurisdiction. Jurisdictions are encouraged to consider various fee models when determining how best to cover administrative costs.

7. For an approved provider system, *see* Section 5(B), Jurisdictions should create regulations which define the standards, application process for approved provider status, ongoing application process for program approval, reporting obligations, fees, and benefits of the status. Benefits may include reduced paperwork when applying for individual programs, reduced fees for program applications, or presumptive approval of all programs.

8. Many Jurisdictions impose specific requirements on In-House CLE Programming, which is sponsored by a private law firm, a corporation, or financial institution, or by a federal, state or local governmental agency for lawyers who are members, clients, or employees of any of the those organizations. This Model Rule recommends that Jurisdictions treat In-House Sponsors the same as other Sponsors and allow for full accreditation of programs when all other standards of Section 4 have been met.

9. Section 5(D) endorses regulations that allow an individual lawyer to self-apply for MCLE credit for attending a CLE Program that would qualify for MCLE Credit under Section 4, but which was not submitted for accreditation by the Sponsor in the Jurisdiction where the individual lawyer is licensed. This allows greater flexibility for a lawyer to select CLE programming that best meets his or her educational needs regardless of where the program Sponsor has chosen to apply for MCLE credit. It is anticipated that each Jurisdiction will draft regulations that best meet the Jurisdiction's needs, taking into account factors such as: the standards, delivery format, and



content of the program; the Sponsor's qualifications; other accreditation of the program by CLE regulators; the availability of CLE Programs in the Jurisdiction; administrative considerations, including fees; and other factors.

## **Section 6. Other MCLE-Qualifying Activities.**

Upon written application of the lawyer engaged in the activity, MCLE credit may be earned through participation in the following:

**(A) Teaching** – A lawyer may earn MCLE credit for being a speaker at an accredited CLE program. In addition, lawyers who are not employed full-time by a law school may earn MCLE credit for teaching a course at an ABA-accredited law school, or teaching a law course at a university, college or community college. Jurisdictions shall create regulations which define the standards, credit calculations, and limitations of credit received for teaching or presenting activities.

**(B) Writing** – A lawyer may earn MCLE credit for legal writing which:

- (1) is published or accepted for publication, in print or electronically, in the form of an article, chapter, book, revision or update;
- (2) is written in whole or in substantial part by the applicant; and
- (3) contributed substantially to the continuing legal education of the applicant and other lawyers.

Jurisdictions shall create regulations which define the standards, credit calculations, and limitations of credit received for writing activities.

**[(C) Pro Bono]**

**[(D) Mentoring]**

### **Comments:**

1. A minority of Jurisdictions award MCLE credit for providing pro bono legal representation. This Model Rule takes no position on whether such credit should be granted, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the extent of free legal services existing in the Jurisdiction and pro bono requirements imposed by the Jurisdiction's ethical rules. Accordingly, this option appears in brackets in this Model Rule.

2. A minority of Jurisdictions award MCLE credit for participating in mentoring programs for fellow lawyers. This Model Rule takes no position on whether credit should be available for that activity, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the perceived need for formal mentoring programs in the Jurisdiction and the

availability of organizations to administer formal mentoring programs. Accordingly, this option appears in brackets in this Model Rule.



## REPORT

Nearly thirty years have passed since the American Bar Association House of Delegates adopted the Model Rule for Minimum Continuing Legal Education (MCLE) and Comments (hereafter, “1988 MCLE Model Rule”) to serve as a model for a uniform standard and means of accreditation of CLE programs and providers. The CLE landscape has changed considerably in the last three decades. Technological advancements have made it possible for lawyers to learn about the law in new and exciting ways. Evolution in the practice of law and changes in society have also created opportunities for educating lawyers about new subjects. In addition, increasing numbers of lawyers are licensed in more than one Jurisdiction.<sup>1</sup>

Although only thirty United States Jurisdictions required MCLE in 1988, forty-six states and four other Jurisdictions now do so.<sup>2</sup> While each Jurisdiction has its own MCLE rules and regulations, many requirements are consistent across Jurisdictions. As Jurisdictions continue to evaluate their MCLE requirements, they look to successes and challenges other Jurisdictions have experienced, as well as to the 1988 MCLE Model Rule. In light of the many changes that have occurred in CLE and the legal profession over the past thirty years, the time has come to adopt a new MCLE Model Rule to assist Jurisdictions in the years to come. This Model Rule retains many of the core provisions of the 1988 MCLE Model Rule, but it eliminates some detailed recommendations, such as those concerning the organization of MCLE commissions in each Jurisdiction and specific penalties for lawyers who do not satisfy MCLE requirements. This Model Rule also adds a definitions section, as well as new recommendations for specific types of programming and methods of program delivery. In addition, it has been reorganized for easier navigation.

### **I. Model Rule drafting process.**

Although the 1988 MCLE Model Rule was amended by the House of Delegates several times over the last three decades, the House of Delegates has not considered the document as a whole since it was adopted. In recent years, the MCLE Subcommittee of the ABA Standing Committee on Continuing Legal Education (“SCOCLE”) discussed several developments in CLE

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<sup>1</sup> The terms “Jurisdiction” and “Sponsor” are among those defined in Section 1 of the Model Rule. Those terms are capitalized in this report.

<sup>2</sup> United States Jurisdictions include the fifty states, the District of Columbia, territories, and Indian tribes. The following forty-six states require lawyers to take MCLE: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. In addition, Guam, Mariana Islands, Puerto Rico, Virgin Islands, and some Indian tribes (e.g., Navajo Nation) require MCLE.

that could necessitate amendments to the 1988 MCLE Model Rule. Then, in August 2014, the House of Delegates passed Resolution 106, which specifically asked SCOCLE to consider changes to the 1988 MCLE Model Rule, including those related to law practice CLE. *See* 2014A106.

To address issues identified by the MCLE Subcommittee and by Resolution 106, SCOCLE initiated the MCLE Model Rule Review Project (hereafter, “Project”), which has undertaken a comprehensive review of the 1988 MCLE Model Rule. The Project began by seeking volunteers from within and outside the ABA to serve on working groups. Over fifty volunteers—including individual lawyers, ABA leaders, CLE regulators, CLE providers, judges, academics, law firm professional development coordinators, and state/local/specialty bar association leaders—considered a wide variety of issues related to MCLE, including: CLE delivery methods, substantive law programming, specialty programming, CLE for specific constituent groups, the impact of technology on CLE, international approaches to CLE,<sup>3</sup> and many other topics.

Based on reports of the various working groups and larger discussions with working group members and other interested persons, the Project prepared a draft Model Rule that was circulated for comment to entities within and outside the ABA in August 2016. As a result of feedback from various entities and individuals, the draft was revised and is now being submitted to the House of Delegates for adoption.

## II. The Purpose of MCLE.

Long before Jurisdictions began requiring CLE, Jurisdictions recognized the need for CLE.<sup>4</sup> “Continuing legal education ... was originally implemented as a voluntary scheme after World War II to acclimate attorneys returning to practice after a lengthy absence in the military

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<sup>3</sup> The International Approaches working group looked at MCLE requirements in Canada, New Zealand, Australia, England, and Wales. In Canada, between 2009 to 2016, eight of the ten provinces and the three territories introduced a mandatory credit hours system. Although these Canadian requirements are similar to those in the U.S.A., the regulatory mechanisms have been designed to be less complex and significantly less expensive to administer. In New Zealand and four Canadian jurisdictions, a learning or study plan requirement has been introduced either in combination with or in place of a credit hours requirement. Most Australian states have a mandatory credit hours system. Very recently in England and Wales, the credit hours requirement for solicitors has been eliminated in place of a requirement that solicitors certify they are maintaining their competence to practice law. For information on these changes in England and Wales, please visit: <http://www.sra.org.uk/solicitors/cpd/solicitors.page>. Barristers in England and Wales moved to a similar requirement that became effective on January 1, 2017. *See* <https://www.barstandardsboard.org.uk/regulatory-requirements/regulatory-update-2016/bsb-regulatory-update-may-2016/changes-to-cpd/>.

<sup>4</sup> Several important national conferences considered the role of CLE. They were known as the “Arden House” conferences and were held in 1958, 1963, and 1987. More recently, in 2009, the Association for Continuing Legal Education Administrators (ACLEA) and the American Law Institute-American Bar Association (ALI-ABA) cosponsored an event called “Critical Issues Summit, Equipping Our Lawyers: Law School Education, Continuing Legal Education, And Legal Practice in the 21st Century.”

and to meet the needs of increased numbers in the profession.”<sup>5</sup> In 1975, Minnesota and Iowa became the first states to require MCLE, in part to counteract negative publicity caused by the involvement of lawyers in the Nixon Watergate scandal.<sup>6</sup>

Ultimately, it is clear that the primary reasons for requiring CLE have remained the same since the first states began requiring MCLE forty years ago: ensuring lawyer competence, maintaining public confidence in the legal profession, and promoting the fair administration of justice. In recognition of those goals, this Model Rule includes the following Purpose Statement, from which all other provisions of the Model Rule flow:

To maintain public confidence in the legal profession and the rule of law, and to promote the fair administration of justice, it is essential that lawyers be competent regarding the law, legal and practice-oriented skills, the standards and ethical obligations of the legal profession, and the management of their practices. In furtherance of this purpose, the ABA recommends this Model Rule for Minimum Continuing Legal Education (MCLE) and Comments, which replaces the prior Model Rule for MCLE and Comments adopted by the American Bar Association in 1988 and subsequently amended.

### III. Key themes addressed by this Model Rule.

The Project’s working groups were asked to consider what works well in Jurisdictions that require MCLE and what has challenged consumers, providers, and regulators of MCLE. Several key themes emerged and are reflected in this Model Rule.

First, when it comes to regulating MCLE, there are many similarities among Jurisdictions, but no two Jurisdictions have identical rules and regulations. Given that the vast majority of Jurisdictions already have MCLE rules and regulations in place, it is unrealistic to expect that every Jurisdiction will adopt identical rules. Rather than suggest that every Jurisdiction adopt identical rules for every aspect of MCLE administration, this Model Rule focuses on the most important aspects of MCLE, including those that affect MCLE on a national level. The Model Rule states that it is anticipated that Jurisdictions will develop additional rules and regulations to address administrative decisions such as reporting deadlines, fees, attendance verification, and other issues.

Second, the continuing education needs of lawyers vary based on the lawyer’s length of experience, practice setting, and area of practice. For instance, an introduction to an individual

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<sup>5</sup> Lisa A. Grigg, Note, “The Mandatory Continuing Legal Education (MCLE) Debate: Is It Improving Lawyer Competence or Just Busy Work?”, 12 *BYU. J. PUB. L.* 417, 418 (1998). For additional history of the development of MCLE, *see* Cheri A. Harris, MCLE: The Perils, Pitfalls, and Promise of Regulation, 40 *VAL. U. L. REV.* 359, 369 (2006); and Chris Ziegler and Justin Kuhn, “Is MCLE A Good Thing? An Inquiry Into MCLE and Attorney Discipline,” available at: [https://www.clereg.org/assets/pdf/Is\\_MCLE\\_A\\_Good\\_Thing.pdf](https://www.clereg.org/assets/pdf/Is_MCLE_A_Good_Thing.pdf).

<sup>6</sup> *See* Rocio T. Aliaga, “Framing the Debate on Mandatory Continuing Legal Education (MCLE): The District of Columbia Bar’s Consideration of MCLE,” 8 *GEO J. LEGAL ETHICS* 1145, 1150 (1995).

state's laws of intestacy will be helpful to a newer lawyer engaging in general practice in a single state, but of little use to a lawyer with twenty years of experience practicing products liability law in federal courts in six Jurisdictions. It is imperative that lawyers have access to high-quality CLE that most meets their educational needs. One way to achieve that goal is to allow lawyers to access CLE in person or using technology-based delivery methods such as teleconferences and webinars. This Model Rule addresses that goal by recommending that Jurisdictions allow lawyers to choose CLE offered in a variety of program delivery formats and not limit the number of credits that can be earned using a particular delivery format.

Third, it is important that lawyers continue to receive CLE on substantive legal topics—especially those areas in which the lawyer practices—because the law is ever-evolving. At the same time, it is also important that lawyers have access to CLE that addresses the management of their practices to ensure that they can properly serve and manage their clients. For these reasons, it is imperative that CLE be offered in substantive law areas, law practice, and technology. This Model Rule addresses that goal by recommending that Jurisdictions accredit substantive law programs, law practice programs, and technology programs, and further recommending that Jurisdictions not limit the number of credits that can be earned in a particular subject area.

Fourth, although this Model Rule is designed to allow lawyers to choose the CLE topics that best meet their educational needs, there are several topics that are so crucial to maintaining public confidence in the legal profession and the rule of law, and promoting the fair administration of justice, that all lawyers should be required to take CLE in those topic areas. Those areas include: (1) Ethics and Professionalism; (2) Diversity and Inclusion; and (3) Mental Health and Substance Use Disorders.

Fifth, the Model Rule recognizes that having each Jurisdiction draft its own rules and regulations over the past thirty years has allowed Jurisdictions to consider Jurisdiction-specific priorities and needs when drafting CLE requirements, but has also created challenges for CLE Sponsors seeking program approval in multiple Jurisdictions. There are increased financial and administrative burdens associated with seeking MCLE credit in multiple Jurisdictions, which can increase costs for CLE attendees and affect the number of programs being offered nationwide on specialized CLE and federal law topics. This Model Rule suggests several strategies Jurisdictions may consider to reduce those financial and administrative burdens so that CLE Sponsors can offer programming that meets lawyers' educational needs at a reasonable price.

Sixth, with the vast majority of Jurisdictions now requiring MCLE, many law firms, government legal departments, and other legal workplaces—especially those with offices in multiple cities and states—offer in-house CLE programs that address educational topics most relevant to the legal entity. In some Jurisdictions, these programs are not granted MCLE credit. This Model Rule recommends that Jurisdictions treat in-house Sponsors of CLE programs the same as other Sponsors and allow for full accreditation of programs when all other accreditation standards have been met.

Seventh, the legal profession includes hundreds of thousands of lawyers who are licensed in more than one Jurisdiction.<sup>7</sup> Some of these lawyers experience challenges meeting the requirements of each Jurisdiction in which they are licensed due to differences in requirements and the process for MCLE program approval. To reduce the administrative burdens on those lawyers, this Model Rule recommends that Jurisdictions adopt a special exemption for lawyers licensed in multiple Jurisdictions, pursuant to which a lawyer is exempt from satisfying MCLE requirements if he or she satisfies the MCLE requirements of the Jurisdiction where the lawyer's principal office is located.

#### **IV. 2017 MCLE Model Rule: A Closer Look.**

The Model Rule contains the aforementioned Purpose Statement plus six Sections, including:

- Section 1. Definitions.
- Section 2. MCLE Commission.
- Section 3. MCLE Requirements and Exemptions.
- Section 4. MCLE-Qualifying Program Standards.
- Section 5. Accreditation.
- Section 6. Other MCLE-Qualifying Activities.

The discussion below highlights some of the most important provisions of those Sections.

##### **A. Section 1. Definitions.**

The Definitions section defines sixteen important terms which are then incorporated in the five sections that follow. The term “Jurisdiction,” which we use throughout this report, is defined as: “United States jurisdictions including the fifty states, the District of Columbia, territories, and Indian tribes.” The term “Sponsor” refers to “the producer of the CLE Program responsible for adherence to the standards of program content determined by the MCLE rules and regulations of the Jurisdiction” and may include “an organization, bar association, CLE provider, law firm, corporate or government legal department, or presenter.”

##### **B. Section 2. MCLE Commission.**

Section 2 and its three Comments recognize that Jurisdictions, generally acting through the Jurisdiction's highest court, will develop MCLE regulations and oversee the administration of MCLE.

##### **C. Section 3. MCLE Requirements and Exemptions.**

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<sup>7</sup> Based on publicly available information, it is estimated that approximately twenty-one percent of lawyers are licensed in more than one Jurisdiction. The percentage varies greatly by Jurisdiction. For instance, nearly forty percent of lawyers licensed in New York are licensed in another Jurisdiction, but less than ten percent of lawyers in Florida are licensed in another Jurisdiction.



Section 3(A) outlines several MCLE requirements, such as requiring lawyers with an active law license to earn an average of fifteen credit hours each year; credit hours are defined in Section 1(B) as sixty minutes. Section 3, Comment 1 recognizes that some states have chosen to require fewer than fifteen hours or to define a credit hour as less than sixty minutes. Section 3, Comment 2 acknowledges that the Model Rule does not take a position on whether lawyers should report annually, every two years, or every three years, and it includes the following observation from the 1988 MCLE Model Rule: allowing a lawyer to take credits over a two-year or three-year period provides increased flexibility for the lawyer in choosing when and which credits to earn, but it may also lead to procrastination and may provide less incentive for a lawyer to regularly take CLE that updates his or her professional competence.

Section 3(B) recommends that all lawyers be required to take three types of specialty MCLE, including: (a) Ethics and Professionalism Credits (an average of at least one Credit Hour per year); (b) Mental Health and Substance Use Disorders Credits (at least one Credit Hour every three years); and (c) Diversity and Inclusion Credits (at least one Credit Hour every three years).

Ethics and Professionalism Credits are currently required in every state and territory with MCLE. They assist in expanding the appreciation and understanding of the ethical and professional responsibilities and obligations of lawyers' respective practices; in maintaining certain standards of ethical behavior; and in upholding and elevating the standards of honor, integrity, and courtesy in the legal profession. This Model Rule defines Ethics and Professionalism Programming as: "CLE programming that addresses standards set by the Jurisdiction's Rules of Professional Conduct with which a lawyer must comply to remain authorized to practice law, as well as the tenets of the legal profession by which a lawyer demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and unrepresented parties." *See* Section 1(D). Many Jurisdictions have similar definitions and, like the Model Rule, do not separate Ethics topics from Professionalism topics, but at least one Jurisdiction requires separate credits for those topics.<sup>8</sup>

Mental Health and Substance Use Disorders Programming is currently accredited in most Jurisdictions, and many Jurisdictions allow such programs to count towards Ethics and Professionalism Programming requirements. Three Jurisdictions specifically require all lawyers to attend programs that focus on mental health disorders and/or substance use disorders.<sup>9</sup> This Model

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<sup>8</sup> Georgia requires lawyers to attend both Ethics programs and Professionalism programs. Georgia's Rule 8-104, Regulation 4 offers this definition of the latter: "Professionalism refers to the intersecting values of competence, civility, integrity, and commitment to the rule of law, justice, and the public good. The general goal of the professionalism CLE requirement is to create a forum in which lawyers, judges, and legal educators can explore and reflect upon the meaning and goals of professionalism in contemporary legal practice. The professionalism CLE sessions should encourage lawyers toward conduct that preserves and strengthens the dignity, honor, and integrity of the legal profession."

<sup>9</sup> The following three states require one credit every three years of programming addressing mental health and/or substance use disorder issues: Nevada (substance abuse), North Carolina (substance abuse

Rule recommends that all lawyers be required to take one credit of programming every three years that focuses on the prevention, detection, and/or treatment of mental health disorders and/or substance use disorders. It is anticipated that programs may address topics including, but limited to, the prevalence and risks of mental health disorders (including depression and suicidality) and substance use disorders (including the hazardous use of alcohol, prescription drugs, and illegal drugs).

The need for required Mental Health and Substance Use Disorders Programming was underscored in early 2016 with the release of a landmark study conducted by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs, which revealed substantial and widespread levels of problem drinking and other behavioral health problems in the U.S. legal profession.<sup>10</sup> The study, entitled “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,” found that twenty-one percent of licensed, employed lawyers qualify as problem drinkers, twenty-eight percent struggle with some level of depression, and nineteen percent demonstrate symptoms of anxiety. The study found that younger lawyers in the first ten years of practice exhibit the highest incidence of these problems. The study compared lawyers with other professionals, including doctors, and determined that lawyers experience alcohol use disorders at a far higher rate than other professional populations, as well as mental health distress that is more significant. The study also found that the most common barriers for lawyers to seek help were fear of others finding out and general concerns about confidentiality. Many organizations, including the ABA Commission on Lawyer Assistance Programs, have seen the study’s findings as a call to action, which led to this Model Rule’s recommendation that all lawyers take one credit of Mental Health and Substance Use Disorder Programming every three years. Section 3, Comment 4 explains: “[R]esearch indicates that lawyers may hesitate to attend such programs due to potential stigma; requiring all lawyers to attend such a program may greatly reduce that concern.”<sup>11</sup>

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and debilitating mental conditions), and California (“Competence Issues,” formerly known as “Prevention, Detection and Treatment of Substance Abuse or Mental Illness”).

<sup>10</sup> See Krill, Patrick R.; Johnson, Ryan; and Albert, Linda, “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,” *JOURNAL OF ADDICTION MEDICINE*, February 2016 Volume 10 Issue 1, available at: <http://journals.lww.com/journaladdictionmedicine/toc/2016/02000>. The mainstream media have also shone a light on rates of depression in the legal system. See <http://www.cnn.com/2014/01/19/us/lawyer-suicides/>.

<sup>11</sup> At the same time, Section 3, Comment 4 recognizes that “Jurisdictions may choose not to impose a stand-alone requirement and, instead, accredit those specialty programs towards the Ethics and Professionalism Programming requirement.” In those Jurisdictions, Lawyer Assistance Programs, bar associations, and other CLE providers may wish to focus on increasing the amount of available Mental Health and Substance Use Disorder Programming, so that lawyers more frequently choose it to satisfy their Ethics and Professionalism requirement. It is extremely unlikely, however, that one hundred percent of lawyers will elect to take Mental Health and Substance Use Disorder Programming if it is not specifically required, which is why this Model Rule recommends a stand-alone requirement.

Diversity and Inclusion Programming can be used to educate lawyers about implicit bias, the needs of specific diverse populations, and ways to increase diversity in the legal profession. Currently, only three states require lawyers to take specific Diversity and Inclusion Programs, while other states allow programs on elimination of bias to qualify for Ethics and Professionalism Credits.<sup>12</sup> In February 2016, the ABA House of Delegates recognized the importance of requiring this programming when it adopted a resolution encouraging Jurisdictions with MCLE requirements to “include as a separate credit programs regarding diversity and inclusion in the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias.” *See* 2016M107.<sup>13</sup> Resolution 107 did not specify the number of credits that should be required. This Model Rule recommends that all lawyers be required to take one credit every three years.

Section 3(B) recognizes that Jurisdictions may choose to provide MCLE exemptions for certain categories of lawyers, such as those on retired status. Section (3)(B)(3) recommends an exemption for lawyers licensed in multiple Jurisdictions who satisfy the MCLE requirements of the Jurisdiction where their principal office is located. This exemption is designed to reduce the administrative burden and costs to those lawyers who have already satisfied the requirements of the Jurisdiction where their principal office is located. Section 3, Comment 7 recognizes that Jurisdictions may choose to limit the exemption to lawyers with principal offices in certain Jurisdictions, or to require that the lawyer attend particular CLE Programs, such as a Jurisdiction-specific Ethics and Professionalism Program.

#### **D. Section 4. MCLE-Qualifying Program Standards.**

Section 4 outlines the types of programs that the Model Rule suggests should receive MCLE credit. It explicitly addresses seven types of programming that are defined in Section 1, such as Technology Programming. Section 4, Comment 1 emphasizes that this Model Rule supports allowing a lawyer to make educated choices about which programs will best meet the lawyer’s educational needs, recognizing that the lawyer’s needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned for any particular type of program, including those outlined in Section (4)(B).

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<sup>12</sup> California, Minnesota, and Oregon require specific Diversity and Inclusion Programming (which they refer to “elimination of bias” or “access to justice” programming), while states such as Hawaii, Kansas, Illinois, Maine, Nebraska, Washington, and West Virginia allow such programs to count towards their Ethics and Professionalism Programming requirements. This Model Rule encourages Jurisdictions to implement a stand-alone credit requirement, but Section 3, Comment 4 also recognizes that “Jurisdictions may choose not to impose a stand-alone requirement and, instead, accredit those specialty programs towards the Ethics and Professionalism Programming requirement.” As with the Mental Health and Substance Use Disorder Credit, it is extremely unlikely that one hundred percent of lawyers will elect to take Diversity and Inclusion Programming if it is not specifically required, which is why this Model Rule recommends a stand-alone requirement.

<sup>13</sup> The full text of ABA House of Delegates Resolution 2016M107 is available at: [http://www.americanbar.org/content/dam/aba/directories/policy/2016\\_hod\\_midyear\\_107.docx](http://www.americanbar.org/content/dam/aba/directories/policy/2016_hod_midyear_107.docx).

Section 4, Comment 2 explains that while the Model Rule supports the creation of programs designed for new lawyers, it does not specifically require such programs, because many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the number of lawyers in the Jurisdiction, the availability of existing CLE programs, whether there are specific Sponsors available to teach such programs, similar educational programs required before licensure, and other factors.<sup>14</sup>

Section 4(B)(5) and Section 4, Comment 3 recommend that Law Practice Programming be approved for MCLE credit. That programming is defined as: “programming specifically designed for lawyers on topics that deal with means and methods for enhancing the quality and efficiency of a lawyer’s service to the lawyer’s clients.” *See* Section 1(H). This Model Rule provision builds on policy adopted by the ABA House of Delegates in August 2014. *See* 2014A106.<sup>15</sup> Resolution 106 and this Model Rule both recognize that providing education on the management of one’s legal practice can help lawyers avoid mistakes that harm clients and cause law practices to fail. Lawyers require far more than knowledge of substantive law to set up and operate a law practice in a competent manner. In fact, at a national conference on CLE, it was noted that the percentage of cases involving lawyers’ shortcomings in personal and practice management far outweighs the percentage of cases involving lack of substantive law awareness.<sup>16</sup> Effective client service requires lawyers to be good managers of their time and offices, skilled managers of the financial aspects of running a practice, and knowledgeable in areas that do not necessarily involve substantive law. Law Practice Programming is designed to help lawyers develop those skills.

Section 4(B)(5) and Section 4, Comment 4 recommend that Technology Programming be approved for MCLE credit. Technology Programming is defined as “programming designed for lawyers that provides education on safe and effective ways to use technology in one’s law practice, such as to communicate, conduct research, ensure cybersecurity, and manage a law office and legal matters.” *See* Section 1(P). The definition and Section 4, Comment 4 also recognize that Technology Programming “assists lawyers in satisfying Rule 1.1 of the ABA Model Rules of

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<sup>14</sup> Section 4, Comment 2 also recognizes that many of the Jurisdictions that have mandated specific CLE programming for new lawyers based the development of those programs on recommendations from a 1992 ABA task force report entitled: “Task Force on Law Schools and the Profession: Narrowing the Gap” (commonly known as the “MacCrate Report” after the late Robert MacCrate, who chaired the commission), which offered numerous recommendations for preparing law students and new graduates to practice law. New lawyer programming varies by jurisdiction. For instance, Florida, Pennsylvania, and Tennessee require new lawyers to complete basic skills courses, but Virginia requires new lawyers to take a professionalism course that focuses primarily on ethics CLE.

<sup>15</sup> The full text of ABA House of Delegates Resolution 2014A106 is available at: [http://www.americanbar.org/content/dam/aba/administrative/house\\_of\\_delegates/resolutions/2014\\_hod\\_a\\_nual\\_meeting\\_106.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2014_hod_a_nual_meeting_106.authcheckdam.pdf).

<sup>16</sup> *See* Critical Issues Summit, *supra* note 4.

Professional Conduct in terms of its technology component, as noted in Comment 8 to the Rule (“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology[.]”). The ABA Ethics 20/20 Commission that proposed that Comment to Rule 1.1 concluded that “in a digital age, lawyers necessarily need to understand basic features of relevant technology” and “a lawyer would have difficulty providing competent legal services in today’s environment without knowing how to use email or create an electronic document.” *See* 2012A105A.<sup>17</sup> The Commission further noted it was important to make this duty explicit because technology is such an integral—and yet, at times invisible—aspect of contemporary law practice. One MCLE Jurisdiction not only allows for the accreditation of these programs, but also requires lawyers to take technology-related courses.<sup>18</sup>

Section 4, Comment 6 acknowledges that some Jurisdictions have begun accrediting programming that addresses attorney wellness or well-being. While some Jurisdictions explicitly accredit attorney wellness or well-being programs, others allow accreditation under their Ethics and Professionalism or Mental Health and Substance Use Disorder programming. *See, e.g.,* Maryland, South Carolina, Tennessee, and Texas.<sup>19</sup> Across the country, numerous bar association committees, lawyer assistance programs, and other entities have recognized attorney wellness and well-being as compelling and important issues that affect attorney professionalism, character, competence, and engagement. The National Task Force on Lawyer Well-Being is currently compiling the various approaches and research regarding attorney mental health and wellness and will be preparing a formal report in 2017 outlining its findings and recommendations.<sup>20</sup> ABA

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<sup>17</sup> The text of ABA House of Delegates Resolution and Report 2012A105A and additional information on the Ethics 20/20 Commission are available at: [http://www.americanbar.org/groups/professional\\_responsibility/aba\\_commission\\_on\\_ethics\\_20\\_20.html](http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html). That resolution revised then Comment 6 to Model Rule 1.1, which was renumbered as Comment 8 pursuant to Resolution and Report 2012A105C.

<sup>18</sup> On September 29, 2016, Florida became the first state to require Technology CLE, effective January 1, 2017. The Florida Supreme Court amended the MCLE requirements “to change the required number of continuing legal education credit hours over a three-year period from 30 to 33, with three hours in an approved technology program.” *See* <http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/8c9f13012b96736985256aa900624829/3b05732accd9edd28525803e006148cf!OpenDocument>.

<sup>19</sup> For more information, please visit: [www.msba.org/committees/wellness/default.aspx](http://www.msba.org/committees/wellness/default.aspx) (Maryland); [www.scbar.org/lawyers/sections-committees-divisions/committees/wellness-committee/](http://www.scbar.org/lawyers/sections-committees-divisions/committees/wellness-committee/) (South Carolina); [cletn.com/images/Documents/Regulations2013.04.16.pdf](http://cletn.com/images/Documents/Regulations2013.04.16.pdf) (Tennessee); and [www.texasbar.com/AM/Template.cfm?Section=Lawyers&Template=/CM/ContentDisplay.cfm&ContentID=15117](http://www.texasbar.com/AM/Template.cfm?Section=Lawyers&Template=/CM/ContentDisplay.cfm&ContentID=15117) (Texas).

<sup>20</sup> The National Task Force on Lawyer Well-Being is a collection of entities within and outside the ABA that was created in August 2016. Its participating entities include: ABA Commission on Lawyer Assistance Programs; ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Well-Being Committee; The National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; and others.

entities participating in the Task Force may, in the future, propose amendments to the MCLE Model Rule based on the Task Force's findings and recommendations.

Section 4, Comment 8 discusses In-Person Moderated Programming, *see* Section 4(C) and Section 1(K)(1), which requires lawyers to leave their offices and learn alongside other lawyers, which can enhance the education of all and promote collegiality. Other forms of Moderated Programming and Non-Moderated Programming with Interactivity as a Key Component, such as Section 4(C), Section 1(K) and (M), and Section 4(A)(2), allow lawyers to attend programs from any location and, in some cases, at the time of their choice. This flexibility allows lawyers to select programs most relevant to their practice, including specialized programs and programs with a national scope. Some Jurisdictions have expressed concern with approving programming that does not occur in person on grounds that the lawyer is less engaged. Thus, some Jurisdictions have declined to accredit or have limited the number of credits that can be earned through these other forms of programming. This Model Rule supports allowing a lawyer to make educated choices about whether attending Moderated Programming (In-Person or other) or Non-Moderated Programming with Interactivity as a Key Component will best meet the lawyer's educational needs, recognizing that the lawyer's needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned through Moderated Programming or Non-Moderated Programming with Interactivity as a Key Component. If a Jurisdiction believes that Moderated Programming, specifically In-Person Programming, is crucial to a lawyer's education, then it is recommended that the Jurisdiction establish a minimum number of credits that must be earned through this type of programming, rather than place a cap on the number of credits that can be earned through other types of programming.<sup>21</sup> A key factor in deciding whether to require In-Person Programming is the availability of programs throughout a particular Jurisdiction, which may be affected by geography, the number of CLE Sponsors, and other Jurisdiction-specific factors.

Section 4, Comment 9 recognizes that jurisdictions currently calculate the number of credits earned based on the number of minutes of instruction or lecture provided to attendees, but it suggests that Jurisdictions may wish to consider offering MCLE credit for self-guided educational programs, especially as technology continues to advance. Those that choose to explore other ways of calculating credit could look to the experience of other professions. For instance, Certified Professional Accountants (CPAs) may earn credit for self-paced learning programming. Calculation of credit is determined by review by a panel of pilot testers (professional level, experience, and education consistent with the intended audience of the program) and the average time of completion (representative completion time) is then used to determine credit to be received

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<sup>21</sup> Currently, several Jurisdictions limit the number of credits that may be earned through non-live programming. These include: Georgia, Indiana, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, Ohio, Pennsylvania, Puerto Rico, South Carolina, Tennessee, Utah, and West Virginia. There are currently no Jurisdictions that explicitly require In-Person Programming credits; instead, they use the cap on non-live formats to effectively require In-Person Programming credits.

by all who complete the program.<sup>22</sup> The regulators require additional safeguards as part of the program including review questions and other content reinforcement tools, evaluative and reinforcement feedback, and a qualified assessment such as a final examination. CPAs may also earn credit for text-based content with credit calculation based on a word-count formula, and now allow for nano-learning—short programs (minimum 10 minutes) focusing on a single learning objective.

Section 4, Comment 10 recognizes that Jurisdictions have used the term “self-study” in varying ways. As defined in this Model Rule, Self-Study refers to activities that are important for a lawyer’s continuing education and professional development, but which do not qualify as MCLE.

#### **E. Section 5. Accreditation.**

Section 5(A) recognizes the need for regulations on topics including faculty credentials, written materials, attendance verification, interactivity, applications and accreditation fees, but it does not prescribe those specific regulations, leaving that role to individual Jurisdictions.

Section 5, Comment 1 recognizes that because regulations vary among Jurisdictions—and are likely to continue to vary—Sponsors bear significant financial and administrative burdens to seek MCLE credit in multiple Jurisdictions, which can affect the number of programs being offered nationwide on specialized CLE and federal law topics. Comment 1 suggests several ways Jurisdictions can minimize those burdens, such as by promulgating regulations that are clear and specific and by streamlining the application processes, both of which would make it easier for Sponsors to complete applications and know with greater certainty whether programs are likely to be approved for MCLE credit. Section 5, Comment 1 further states that Jurisdictions may choose to reduce administration costs to the Jurisdictions, CLE Sponsors, and individual lawyers by recognizing an accreditation decision made for a particular program by another Jurisdiction, thereby eliminating the need for the CLE Sponsor or individual lawyer to submit the program for accreditation in multiple Jurisdictions. Finally, Section 5, Comment 1 recognizes that Jurisdictions might consider creating a regional or national accrediting agency to supplement or replace accreditation processes in individual Jurisdictions.

Section 5, Comments 2, 3, 4, 5, and 6 discuss suggested provisions for faculty credentials, written materials, attendance verification, interactivity, applications and accreditation fees.

Section 5(B) recognizes that Jurisdictions may choose to create an approved provider program for Sponsors who frequently present CLE in the Jurisdiction. Section 5, Comment 7

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<sup>22</sup> The Statement on Standards for Continuing Professional Education (CPE) Programs (2016) (Standards) is published jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) to provide a framework for the development, presentation, measurement, and reporting of CPE programs. General information on those Standards is available at: <https://www.nasbaregistry.org/the-standards>. The Standards, including a discussion of the methods of calculating credit, is available at: [https://www.nasbaregistry.org/\\_media/Documents/Others/Statement\\_on\\_Standards\\_for\\_CPE\\_Programs-2016.pdf](https://www.nasbaregistry.org/_media/Documents/Others/Statement_on_Standards_for_CPE_Programs-2016.pdf).

discusses the types of regulations that would need to be created and the list of possible benefits for preferred providers.

Section 5(C) and Section 5, Comment 8 recommend that in-house programs, such as those offered by law firms, corporate or government legal departments, should be approved for credit as long as the program meets the general standards for accreditation outlined in Section 4.

Section 5(D) and Section 5, Comment 9 endorse regulations that allow an individual lawyer to self-apply for MCLE credit for attending a CLE Program that would qualify for MCLE Credit under Section 4, but which was not submitted for accreditation by the Sponsor in the Jurisdiction where the individual lawyer is licensed.

#### **F. Section 6. Other MCLE-Qualifying Activities.**

Section 6(A) and (B) recommend that lawyers be allowed to earn MCLE credit for teaching and writing, and that Jurisdictions create regulations which define the standards, credit calculations, and limitations of credit received for teaching or presenting activities or writing on legal topics.

Section 6(C) and Section 6, Comment 1 recognize that a minority of Jurisdictions award MCLE credit for providing pro bono legal representation, but this Model Rule takes no position on whether such credit should be granted, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the extent of free legal services existing in the Jurisdiction and pro bono requirements imposed by the Jurisdiction's ethical rules.<sup>23</sup> For that reason, Section 6(C) appears in brackets.

Similarly, Section 6(D) and Section 6, Comment 2 recognize that a minority of Jurisdictions award MCLE credit for participating in mentoring programs for fellow lawyers, giving credits to both mentors and mentees.<sup>24</sup> This Model Rule takes no position on whether credit should be available for that activity, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the perceived need for formal mentoring programs in the Jurisdiction and the availability of organizations to administer formal mentoring programs. For that reason, Section 6(D) appears in brackets.

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<sup>23</sup> Jurisdictions that currently allow lawyers to earn credit through the provision of pro bono legal services include: Arizona, Colorado, Delaware, Louisiana, Minnesota, New York, North Dakota, Ohio, Tennessee, Washington, Wisconsin, and Wyoming.

<sup>24</sup> For instance, Georgia and Ohio both offer lawyer-to-lawyer mentoring programs that allow lawyers to earn MCLE credit for participation. For more information on those programs, visit: <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/mentoring.cfm> (Georgia) and <http://www.supremecourt.ohio.gov/AttySvcs/mentoring/> (Ohio). Other Jurisdictions which allow mentors and mentees to gain credit are: Alaska, Arizona, Colorado, Illinois, Indiana, Oregon, Texas, Utah, Washington, and Wyoming.



## **V. Conclusion.**

MCLE continues to play a crucial role in maintaining public confidence in the legal profession and the rule of law and promoting the fair administration of justice. This Model Rule, which builds on four decades of experience in the Jurisdictions that have mandated MCLE, recognizes effective ways to provide lawyers with the high quality, accessible, relevant, and affordable programming that enables them to be competent regarding the law, legal and practice-oriented skills, the standards and ethical obligations of the legal profession, and the management of their practices. The American Bar Association strongly urges all Jurisdictions—whether they currently have MCLE or not—to consider implementing the recommendations in this Model Rule to further the continuing education of lawyers throughout the United States.

Respectfully Submitted,

Micah Buchdahl, Chair  
Standing Committee on Continuing Legal Education

February 2017

## Suggested Amendment – Collected Feedback

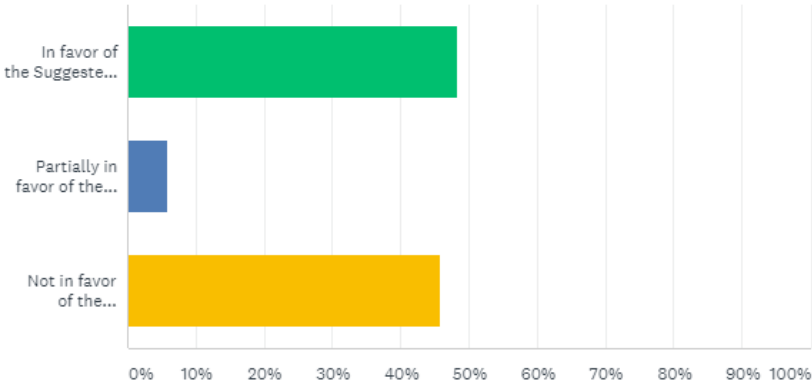
The below comments have not been edited in any way, including content, typographical errors, etc., and because the comments were submitted for consideration at a public meeting, we have included the commenters’ names but not their email addresses or other identifying information.

Based on the survey questions, comments have been assigned to one of three categories: “In Favor”, “Not in Favor”, and “Partially in Favor”. Within these three major groupings, comments are displayed in random order.

**As of August 25, 2020:**

### Position on the MCLE Board's Suggested Amendment to APR 11 ethics requirements:

Answered: 933 Skipped: 4



ANSWER CHOICES	RESPONSES	
▼ In favor of the Suggested Amendment	48.34%	451
▼ Partially in favor of the Suggested Amendment with some changes	5.79%	54
▼ Not in favor of the Suggested Amendment	45.87%	428
<b>TOTAL</b>		<b>933</b>

**TOTAL IN FAVOR OF SUGGESTED AMENDMENT - 451**

Name	Feedback/Comments
N/A	It's necessary training. We need to know how to best serve and effectively work with the diverse community we live in.
Mikaela Louie	This is a welcome, important requirement. Thank you.
N/A	
Elizabeth Donovan	
Kristen Boyles	
Maria Parris	
Michael Tribbl	
Susanne Ruiz Rodriguez	
Shara De Lorme	This is a necessary and appropriate amendment.
Allie Sisson	
Marsha Mavunkel	I strongly support this amendment. As a licensed attorney in WA state for the last decade, and a woman of color, I believe that it would be extremely useful and relevant to elevate our conversation around ethics to specifically call out a designated CLE credit targeted at education our profession on diversity, equity, and inclusion and mitigation of bias. It would help us to understand each other and our clients better and to communicate more kindly within our profession and broader community.
Britenae Pierce	Fully support the amendment. Thank you for proposing it!
Alexandra Burton	I believe it is imperative the bar take steps to combat systemic racism, especially within the court system. This is a small requirement and back down on this would make it unlikely anything further would be done. Please adopt this amendment. Thank you.
Alyssa Barton	I support a requirement for additional training on "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law" - and would be supportive of requiring more than 1 credit.
Asia Wright	One hour, every three years, is not much to ask. I watched the June WSBA Board of Governors meeting. One of the Governors made an offensive comment that was clearly rooted in bias. If that Governor had had this training that embarrassing moment could likely have been avoided.
Sally Linn	
Cynthia Hardiman	This should definitely be required!
Deborah Kaminetzky	
Steven Lee	
Laura Wulf	This is a great idea and I hope the committee will support it.

David Ward	
Sarah Leyrer	The suggested amendment is an important step to move the WSBA forward. We know that demographically, the legal profession is less successful in retaining and promoting women and BIPOC than white men, and people with intersecting identities (womxn of color) leave at the highest rates. Please approve this amendment to continue to advance inclusion within our ranks and a diverse perspective in the courts and the legal system.
Spencer Bishins	
Sruthi Namburi	One credit is nothing. More effort should be made. I don't understand why it even has to be lumped into ethics. I'd like to see a separate section for this with as much emphasis placed on it as ethics. Implicit biases don't go away with this little effort. A requirement that you spend one hour in 3 years on bias is almost meaningless.
Melissa Johnson	
Nicole Herrera	I am in favor of the suggested amendment, but I feel that only one credit in this area every 3 years is too little. It should require at least one credit per year, if not more. The legal system and legal profession are full of systemic racism and heavily contribute to the criminalization of poverty and mass incarceration. There is also almost no understanding of language access obligations and best practices in much of the state. Attorneys working in all practice areas should show a commitment to being part of the solution, rather than perpetuating the problems.
Janene Sohng	
Margaret Campbell	
Anuradha Zangri	This is so important. It will help lawyers be better lawyers, and for those that become judges, will help there too. We all have biases, so ongoing training on how to mitigate that is essential.
Andrew Pollom	Unfortunately, after the horrible comments of Gov. Hutchinson, it has become extremely clear that dedicating some credit hours to the elimination of implicit and explicit bias is warranted.
Jennifer Slagle Peck	
Pat Trudell	I agree with the Board's support of one (1) ethics credit in the topic of equity, inclusion and the mitigation of bias to be included in our ethics rule mandate. The rule moves us with society on issues of inclusion, equal treatment and fundamental fairness. Sincerely, Patrick Trudell
Erin Fullner	
Nicholas Berning	
Henry Dixon	
Laird A. Pisto	This makes perfect sense and should be approved.

Linda Sullivan-Colglazier	Strongly in favor of suggested amendment
Julie Kiesel	
Lauren Johnston	
Alisha Rodenbach	I think this would be a great way to educate legal professionals on diversity and implicit/explicit bias. It's critical that legal professionals know how to work with diverse populations as they are part of the population that is served.
Jay Spencer	
Janelle C Wilson	
Dean Browning Webb	Diversity, inclusivity, and civility are absolutely positively warranted!
Jaime Hawk	I strongly support this amendment, and would support an increased number of required equity, inclusion, and the mitigation of bias training CLE credits for each reporting period.
Jane Muhlstein Spencer	
David Spohr	Great idea.
N/A	I would like to see a wider variety of CLEs offered in this area, to encourage attorneys from various practice areas to actually engage in the practice material rather than just doing it to check off a requirement.
Christy King	
N/A	It is imperative
Carrie Benson	I solidly support this. I also hope it would encourage programming that educates WSBA membership on all the ways our legal system has historically perpetuated systems of oppression (e.g. by enforcing racist restrictive covenants). We have much work to do.
Roberta Church	I have no issues with making this change. Being more aware of sensitive issues, and listening to others' point of view on them, seems like a good thing.
N/A	
Carmela Conroy	It's a start! Too many members of the bar still talk like it's 1920, and they're ruining the impact of women on the profession.
Sarah Cuellar	
Sara Sandforf	
Kimberly Raphaeli	
Lynnette Jenkins	
michael lapin	About time
Grace McDonough	Since it's not an increase in the amount of credits you need, there's really no reason not to do this. It will only improve WSBA overall. As the saying goes, you are only as strong as your weakest link.

Sara Maleki	There is literally no reason not to do this.
Anthony W. Carter	
Audra Dineen	
N/A	
Laura A. Sutkus	Including some requirement for issues of bias and inclusion is appropriate. I understood that the 3 credit requirement in a 3 year period was rejected. This reduced requirement is a start. Thank you.
Danitza Casselman	Long overdue. Appears the amendment is based on sound scientific and social principles. I support WSBA efforts to formally recognize the importance of diversity, equity, and inclusion in our profession.
Trisha Wolf	
Don Kelley	
David Billetdeaux	Increased learning opportunities are helpful. Required learning is extremely helpful, as it will teach many attorneys for the first time about equity, inclusion, and the mitigation of bias.
Eliza Sanchez	
Carsen Nies	
Salaheddine K. Dandan	I am all in favor of the suggested amendment. Diversity and inclusion needs effort before it is realized. Making it a topic of study as part of the MCLE requirements would help.
Amy Lewis	
Tim Woodland	I think this is a great idea.
N/A	This is not only a good idea generally, it is a necessary step toward access to justice. I applaud the WSBA for this suggested amendment.
N/A	
Eileen Norton	It's about damn time.
Robert James Fallis	
Estera Gordon	
Alexandra L.	
Irene Hartzell Botero	
Brooke Pinkham	
Randall R. Hall	
Jamila E. Taylor	

Darcia C Tudor	Based upon my 40 years As an African practitioner in the Seattle area. I found my colleagues to be the most racist group I regularly deal with. They are not diverse or inclusive. They smile in your while telling you it's their clients which we find laughable. Successful minority and marginalized professionals must support practices of 80% or more white clients to succeed. We are here in spite of our colleagues not because of me.
Kirstin S. Dodge	One hour of such training every three years is a very small amount of time to dedicate to this very important issue.
Kim McCaulou	To address systemic problems, we must embed learning and discussion on the topics. This is one small, yet important way to encourage growth in this area.
Ann Stodola	1 hour of time dedicated to bias training is a good use of CLE time. In fact, it should probably be more!
Eileen	I believe this amendment is a positive step in the right direction. Attorneys and all those who serve the public should be educated in the fields of equity, inclusion and the mitigation of bias so that they may better understand, defend and protect whomever they serve.
Maria Puccio	
Kevin R. Scudder	I was in agreement with the prior proposal that we lawyers get three credits in IDEA concepts. Understanding these issues make us better humans, and better attorneys.
Dina Wong	
Victoria Thomas	
Nathan Barnes	
Allison O'Brien	
Colette Vogeles	
Susan West	
Roger D. Mellem	
Mark D Walters	Lawyers are life learners. Bring it!
N/A	I feel strongly about the inclusion of the word "equity" in the amendment because diversity and inclusion is not enough. The legal profession has made strides in diversifying the legal profession, but there continues to be a lack of diversity when it comes to partners and the retention of minority attorneys at large firms.
Gene E. Hays	
Nicole Westre	
Paul Oh	Perhaps more mandatory credit requirement for anti-bias training? If my graduating law class is a sample of what's to come, it is necessary.
N/A	

Jacob McCoy	
Paul Boyer	I think this is extremely important in today's environment and applaud the MCLE Board for proposing this amendment and showing leadership in this critical area.
Megan McNally	
Allison Stewart	I think this is fabulous, and important. Thank you!
Jay W Stansell	Excellent and obvious change. Bar members would benefit by a requirement of far more than one hour per year in this category, but this is a worthwhile first step.
Dwight Bickel	
N/A	The legal profession is in a position of power and such systems are inherently biased towards BIPOC and take part in systemic racism. Time to educate and make real change.
Kelly Stone	
Robert Tyler	Why not?
Lane Hatfield	Some of the current ethics training we're required to do doesn't always feel like the best use of my time. This, in contrast, could be the most important ethical issue we face today. Please add this to our CLE requirements!
Beverly	
Fo-Ching Lu	This is an important and much needed requirement that everyone would benefit from.
Valerie Sasaki	
Michaela Doelman	As a profession that serves all people and already required CLE why not? It's not that much to ask for. The fact that people are opposing such a small and easy ask shows just how much this training is needed.
Kristina Ralls	I am strongly in favor of this amendment. In fact, I believe that our profession would benefit from doing more than what is being requested. Like it or not, this is an issue that has been around for generations and is deeply engrained in our collective psyche. The more we can do to bring these concepts into the open, the brighter the future can be.
Veronica	
Laura Evezich	
Tajuraden Blackhorn	
Kurt Kruckeberg	It looks like the amendment focuses mainly on the "legal profession and practice of law" and deletes language about bias issues in the broader "legal system." I'm curious about that deletion because it seems important for attorneys to be educated on equity, inclusion, and the mitigation of implicit and explicit bias in both (1) the legal profession and the practice of law, AND (2) the broader legal system.



Marcus D. lee	I have no objections to the proposed changes. There is a concern that there will be sufficient availability of MCLE classes available for licensed members to attend (or view via online services) within the State and especially outside of the State. Additionally, there will need to be changes to the online CLE/MCLE accounting system to verify that this "separate" category of MCLE will be verified and accounted for in the tally.
Liz DeVleming	
Aileen Novess	
Faiza Mokhtar	
N/A	
Alix Foster	Great amendment
Elizabeth Haviland	This is an important piece to be added!
Darcy Cinq-Mars	
Joseph Benjamin Green	None
Kelsey Kittleson	Definitely needed.
Sara Amies	
Nanette Blackburn	Such a small thing to help a dinosaur of a profession come into a new day.
Colton Carothers	This is critical and would bring Washington in line with other jurisdictions such as Minnesota.
N/A	
Gwyn S Palchak	
Alma Zuniga	
Christina Maia Mittelstaedt	
Phil Brady	
Jeremy Jackson	Current justice system is broken. This is a bare minimum first step to fixing it.
Catherine Clark	
Lauren Parris Watts	
Kimberley Tibbert	
Tina	
Suzanne M Blakeney	
Christina Hartley	
Victoria slade	

Dainen Penta	For a profession that claims to be in the business of justice, the number of racist, homophobic, misogynistic lawyers who refuse to examine their own biases is alarming. I have met far too many in my time serving in WSBA leadership, a group that you would think was at least more enlightened on the whole than the larger bar. While we can't mandate that lawyers change their attitudes, we can change the continuing education requirements to help educate those who just need a little learning on the topic of equity. The rest will have to be dragged kicking and screaming, I am afraid.
Holai Holbrook	
Jean Kang	
Ann Miner	Black lives matter.
Deanna Swanson	
Jacqueline Justice	This amendment will equip people with the knowledge on how to best serve the increasingly diverse public.
Veenus Morgan	I would like to see more than 1 hour required but this is a step in the right direction.
Nathan Duletzke	
John M. Gray	As with the 2019 proposed amendment, I support the proposal to change APR 11(c)(1)(ii) and 11(f)(2). The last three years, and 2020 in particular, have shown that this proposal is needed. I think the proposal is a reasonable one and addresses legitimate concerns.
Melissa Pauley	
Nam Nguyen	
Jane Pearson	
Jeff	
Monica Turnbaugh	We don't know what we don't know. Requiring one measly credit per year is a start on the road to a legal system that delivers justice for all.
Jacqueline Walker	I am in support of this proposed rule. The legal profession must due its part in ending systemic racism and implicit bias in the legal profession and practice. All of us must educate ourselves, promote, and support diversity, equity, and inclusion in our nations efforts to someday live up to the ideals that it was founded upon.
Cynthia L. Smith	This seems like a good step forward for the WSBA.
Jamie Polito Johnston	
Laura Bradley	It's essential that legal professionals be educated in equity and anti-bias.
Sally Butts	
Valerie Inforzato	
N/A	

Leone Reinbold	
Evan F	
William Nvin Appel	I respect this as an effort to make lawyers better people, outside legal and ethical requirements of our practice. Because it is only one hour, I don't object. But I do not see making lawyers better people as part of a legitimate legal education curriculum. I can think of numerous ways I would like to see members of the bar be better people that would also better society, but I do not ask the Bar Association to provide that remedy. I do understand that the injustices to people of color have deep historic roots with profound effect on everyone involved, whether or not they know it. One of my sons and two of my grandsons are of color, and I am close to their stories. It's my opinion that the kinds of sensitivity training being offered by the Bar Association should start at the earliest and most universal points of education. It is a good cause, but I do not see it as a Bar Association function. But one hour of CLE shouldn't be too much of a burden to respond to well-applied but ill-placed pressure.
Katrin Johnson	I'm also licensed in Minnesota where we are required to complete 3 "elimination of bias credits" per reporting cycle. This rule has been in place there for 20+ years, and it's absolutely worthwhile. I wholeheartedly support the Bar's efforts in adding this one, small requirement to help us better represent the interest of ALL our clients.
Charles C. Caldart	Even if the required course were to have a positive effect on only one out of every ten participants, it would be worth the effort.
Elizabeth Backstrom	
Steven P. McMurdo	
Carol L Johnson	
David Corbett	
Alyssa	Racial equity and implicit/explicit bias are extremely important topics to address in the legal system. These topics are often something that is only explored by those directly impacted or individuals who seek to educate themselves. I think it is a wonderful idea to make this a required CLE credit.
N/A	
Faith Ireland	As a former judge and justice I wholeheartedly support this amendment as a step forward in assuring our members focus on fairness.
N/A	
Michael F. Schumacher	
Michael Bassi	As a white man, with mostly white male peers, this can't hurt. I am a 26.09 GAL and think the bias training we receive should be offered regularly and regionally to members of the bar.

Misti Schmidt	This is a great idea.
Seth Dawson	I am strongly in favor of the suggested amendment but would respectfully suggest that at least two credits in equity, inclusion, and bias-related topics should be required. One credit out of six is insufficient given the magnitude of these issues in the legal profession and in the broader society we a sworn to serve.
Michael Hintze	I strongly support this amendment. Being champions of equity and inclusion is core to the profession of law. And working to uncover and address our own biases and those of others is essential to meeting our basic professional and ethical responsibilities as lawyers.
N/A	
Aaron F. Dalan	It is a good idea and I will happily attend a CLE of this nature, 1.0 credit hours every 3 years is extremely reasonable and it is very needed as well given the state of our profession and our nation as a whole.
Edward Alexander	The mandatory credit should also include systemic racism.
Aaron Masser	
N/A	This sounds like just the right step.
Laurel Simonsen	I think this is a necessary, and overdue, first step. I honestly believe that the WSBA and all legal professionals in Washington should be doing MUCH more than this to combat racism and bias in our profession. The legal profession is long overdue to engage in meaningful anti-racism work. If this is the first step in requiring that all practitioners begin engaging in that work, then I am all for it. But we need much more than this.
Michael L Farrell	This amendment demonstrates a strong commitment to achieving equity in our profession.
N/A	
Evelyn Sue Tanner	
John Butler	Yes, we should absolutely require this training. As part of the system upholding white supremacy, we have a duty to shine a light on and dismantle the obstacles to equality and equity.
Mary Beth Short	
Ann Stevens	
Colin Folawn	
Deirdre Glynn Levin	
Don Jacobs	
James McVittie	
Peggy Hawkins	
Aliza Allen	

Andrew Shawber	
William Justyk	
N/A	
John Nettleton	Strongly in favor of this amendment
Joanne Black	This is so necessary. I would recommend more than 1 hour but I guess you start somewhere.
Melanie E. Baillie	One credit is probably not enough. However, one credit is better than nothing. As legal professionals it is our responsibility to take the lead in the changes our country desperately needs to make regarding racism, and racial, disability and gender bias.
Harmony Crawford	Knowledge it power!
Tong Li	
Blake Van Zile	
N/A	
Philip Mortenson	
Alex Silverman	This amendment does not go far enough but it is a start. Elimination of Bias should be a separate CLE requirement in addition to, not instead of, other CLE. Even so, one has to start somewhere so I support this.
Brandi McNeil	
Glenn C. Schroeder	Equity, inclusion and bias are among the gravest issues of our time -- not because they are "new" issues, but more accurately because we have not truly paid attention to them for decades (in my lifetime), or centuries (in our society). As the last few months have starkly demonstrated, until we ALL confront reality and address these issues we cannot claim to have committed ourselves to justice. Within the Bar we have a special role to model open and civil conversations that bring all of us together, as a high priority. I welcome and wholeheartedly support the suggested amendment.
Roxanne Mennes	
Lori Oliver	
Amy Sommers	Having members receive ongoing training on this subject would be a positive development and further strengthen the Bar Association's goal of professional and ethical licensed legal practitioners.

Yoona Lee	A working knowledge and application of inclusivity and equity principles is a sine qua non for any lawyer—especially in the current social climate, with the racial justice movement for Black lives making strides. For those working for justice, it's a dire necessity to combat white supremacy (which those who suggested MCLE were "Nazis" for proposing this amendment are shamefully complicit in upholding) and ensuring equity in every way possible. This amendment is a crucial step in the right direction.
Stephen Falk	
Rachel Roberts	Older white men are over-represented, compared to their percentage in the general population, in the legal profession. So I think this kind of training is particularly important to break down barriers to inclusion within the legal profession. Obviously, very few, hopefully none, of the legal professionals who take these classes will consider themselves racist/sexist/etc. But we can't do anything about our implicit biases if we don't know that they are there. I have found implicit bias training that I had to take when I worked in recruiting for the federal government to be really helpful for myself, and I think it would be really helpful for all lawyers to take those sorts of classes.
Chris Stecher	I think this is a great first step.
Richard Serns	
Jeanne Dawes	
Darby DuComb	Great idea!!
Janet Watson	
Janis L. Harwell	As an African American woman, I believe the legal profession's diversity and treatment of ethnic minorities, women and LGBTQ individuals is abysmal. This training is the very least the bar association should to begin to address the problem.
Karim Lalani	A good way to start building inclusion into the legal thinking mind.
N/A	
N/A	Wholeheartedly support this amendment.
Laurie Powers	Great idea. We are requiring this training of our law students. Our lawyers should have this too.
Tammi Hill	
Daniel Foster	
Melba T. Caliano	As a lawyer admitted to the New York Bar, I already have to meet such a requirement, thus, it is not an imposition because I already meet your suggested requirement. This kind of requirement will become widespread throughout the US in a very few years. It makes sense to implement it now. And, some people need to have their eyes opened a little more than they are open now.

Travis Lauricella	
John Donahue	
Jade Mitchell	Legal professionals should be hyper aware of the ways in which implicit bias can manifest in all forms in order to better defend their clients and communities. I am in favor.
Stacie Foster	
Joanna Braden	It looks like there was already a grammatical error in APR 11(f)(2) pre-amendment, it reads: "Ethics and professional responsibility, defined as topics relating to..." where it should probably read "Ethics and professional responsibility are defined as topics relating to...."
Roy Martin	I see the proposed change as a small and possible ineffective effort to rectify an important social problem. But real change happens in small and often ineffective steps. I appreciate the effort and it doesn't seem overly burdensome so perhaps even we attorneys, always quick to argue and complain, will go along with it. I hope so.
N/A	
Laurel Oates	
Leslie S Johnson	Change can only happen with education. Every lawyer can afford at least 1 hour every 3 years for this subject.
Jim Krueger	Thank you for your concern
Mary Pool	Great idea. Oregon did something similar quite some time ago.
Catharine Roner-Reiter	
Molly Matter	I was disappointed to see this recommendation not be advanced in 2019 and wholeheartedly approve of required Ethics training in racial equity and mitigating bias. It is the absolute least we can do.
Wendy Hernandez	I like it!
Pamela Loh Veljacic	
Bryan Roth	
Elliot Rockler	I would like to see the explanation for this change. I believe that this would be most useful in a discussion format. It will be difficult to engage many members of the bar, but this is vital for promoting real democracy.
Christine Anderson	
Scott Missall	Every little bit helps. Systemic problems (and we've got a big one) are hard to overcome. Go for it --

Jane Steadman	I am in favor of the suggested amendment, but it is incumbent upon the bar to ensure such CLEs are offered frequently and at little or no cost.
John Bury	it is a good thing. if a lawyer thinks they do not need it then the DO need it.
Lauren M. Ransford	
Kristin Beneski	
Dick Manning	An excellent proposed amendment - we all need it!
Peter Mostow	Knowing the good is not the same as doing the good, but it's a start
TALLIS KING GEORGE	
Laurie Johnston	
Nina Mesihovic	
N/A	Hopefully such a course will be scientific and not politically motivated and inspired. Also, it should not demonize certain ethic or racial or religious groups to fit a hidden agenda.
N/A	
Neil Diemer	
Carol Sue Janes	I am strongly in favor of this proposed amendment. I think it is a great idea, and will make a difference for our profession.
Maria E. Sotirhos	This is an excellent idea! I hope the amendment passes.
David Rynn	Great idea. Fully support even with more ethics credit. Thank you.
Mary Logan	
Jeffry Finer	I can foresee that some folks will scream bloody murder. Which underscores how needed this training would be. If the quality is poor it will erode progress, but the need is great. No one likes discomfort but lawyers can adjust to discomfort. Please include at least one hour requirement.
Brian King	
Sarah E. Mack	I support this amendment. It is narrowly drawn to address a critical responsibility that we have as lawyers to advocate for justice and equity. Provided the WSBA honors its commitment to regularly offer free CLEs on this topic, this amendment will expand our opportunities to meet CLE ethics requirements and would not unduly burden any practitioner.
J. William Zook, Jr.	It's too bad that the broader amendment proposed to the Supreme Court in late 2019 was rejected, but if this latest suggested amendment is accepted, then it will at least be a step in the right direction.
Audrey Powers	
Catherine Pope	
Bruce E. Ridley	



Julia Harris	
John Laney	
Leesa Manion	This amendment is long overdue. Kudos to the WSBA for seeking input and approval of this amendment.
Margaret Boyle	Great idea.
Tina Kondo	
Dianne Winter Brookins	
Glade Kim Risenmay	
Adam Smedstad	
Robert S. Morse	Been in a wheelchair all of my 41 years of admission to the Bar. Know what it is like to have a law firm, early in my career, tell me I didn't "fit their image" because of the chair. Received this information from a friend who was an associate with the firm. The partners on the hiring committee didn't have the guts to tell me this to my face.
Sarah Ward	
Kathryn Boling	
Joshua Steven Rouse	This is a great idea and I commend the Bar for its efforts.
Anita D. Raddatz	Long time coming...
Merrilee Harrell	
Charles Quackenbush	While I support this change as an important first step, one credit for hour every three years is dramatically inadequate.
Brian McClatchey	
Kari L. Sand	
Jennifer Divine	Excellent proposal and long overdue.
Iris Leong	I'm in favor of the suggested amendment as long as there are enough free Ethics & Professional Responsibility course resources available online for us to take. As you may know, the Ethics courses are harder to come by. Thank you.
James "Doug" Boling	I heartily endorse this as a reasonable (and probably not robust enough) change to the ethics policy. As lawyers we wield enormous power that is capable of significantly harming people if motivated by implicit or explicit bias. Unfortunately, I fear that the very professionals who need this training the most will resist even this small change to our continuing education requirements.
David E. Ortman	
N/A	

Omar Nur	We feel this amendment will give all the members of our bar the opportunity to learn more about these issues and better educate themselves on their importance.
Ross Jacobson	
Ken Levinson	
Shane Carew	Great idea!
Kaleigh Powell	
James William Fox	As attorneys we play a critical role in ensuring the trust and competency of the legal system. It is essential that we leverage whatever tools we have to help end systemic biases throughout our legal community. As a result I wholeheartedly support the proposed rule change.
Christopher Fournier	I agree with the proposed Amendment but would like to see the requirement expanded at some point to require 3 CLE credits required for equity, inclusion, and bias training (1 credit per year). I think that as members of the legal profession we are in a unique position to advocate for equity and inclusion in broader society and to ensure accountability when conscious or unconscious bias leads to inequity and discrimination. In my opinion it's important that legal professionals have a deep awareness and understanding of these ideas and concepts in order for change to occur on a more societal level. I fully support this suggested amendment, but hope it is only the tip of the iceberg.
Maria Hoover	It is important for legal professionals to understand implicit and explicit bias, and to work to eliminate bias from their practice of law. Clients have a right to unbiased representation and unbiased judicial officers. Indigent clients are particularly vulnerable to bias in the legal arena. I believe this amendment would do much to protect Indigent clients.
Emily Krueger	
Anne Milligan	I am in favor of this amendment and am recommending to my Oregon Board of Governors representative to make similar change in Oregon.
Sierra Valadez	
Daniel Pizarro	As a minority member of the bar, I believe this more specific requirement would be helpful address issues of bias.
Garrett Heilman	
Tina Krol	
Jennifer Adams	
Michael Leong	
Wei-ping Wood	
Don Morrison	Absolutely necessary.
N/A	

Justin R Jensen	
N/A	Great idea.
Thomas Nathanael Hutchings	
N/A	
Lynn Clare	
N/A	Great idea! You can begin with the Supreme Court's letter to the community, and keep the conversations going!
Kristen M. Blankenship	
Julia Osher Clark	No question that this amendment should be passed.
N/A	Drop back from 45 hours to 25 every three years, as California did. 45 is onerous, and unnecessary. While I have complied for several cycles, and occasionally I have learned something from a CLE, in most cases it has been a waste of time and money. It is not making me a more competent lawyer, by and large, because I learn everything I know through practice and by following developments in my practice field and related fields, on a daily basis, for which I do not receive credit. I suggest you survey attorneys on 45 vs. 25, which would be a more productive use of your time. No objection to the current amendment, regardless of 25 or 45. It seems to be tinkering with something that already exists, for no particularly good reason, i.e. a lot of people spending time on it when they might be working on something else, but it seems okay anyway.
Dua Abudiab	
Mindy Longanecker	
John Gagliardi	It seems like a timely and appropriate amendment to further social justice for all.
Carl Ullman	It is a good idea.
G P Sessions	It saddens me to realize that such a rule change is necessary. But it is necessary.
Karen A. Moore	Critical changes need to happen in our society regarding equality. Importantly, knowing that this does unfortunately include implicit bias, even if people cannot see that in themselves. This change to CLE requirements is a step towards what I hope would be encouraging, educational, and professional discussions.
Nathan Sugg	
Leslie Nelson	
	I think this is a small but important step towards spreading a broader understanding of a critical issue for every member of our American society.

Mercedes Donchez	I am strongly in favor of this amendment, although I would favor more than 1 credit being required. This amendment is especially important given recent comments by BOG members, it is clear that the members of the WSBA have a serious fundamental lack of understanding regarding equity and inclusion.
Maura Fahey	
Earle J. Hereford	
Kenneth Larkin VanDerhoef	
D'Adre Cunningham	
Julie Kate Mayer	Very glad to learn about this proposal!
Catherine West	
Aaron Maki	Should have increased the requirement here to 2 hours.
Matthew Crane	Appears reasonable and helpful to the professional
Salim D. Lewis	As a person of color in this community, I believe it is imperative that this amendment be included to ensure that we continue the process of rooting out racism, misogyny, and bias from this profession, which is steeped in those issues.
Kaustuv M. Das	
Melissa Pearlstein	
James Trefry	
Virginia C. Antipolo-Utt	Would suggest that any presenter on the topic have relevant experience in this area and not simply be an attorney. Bringing in wisdom utilizing a range of multi-disciplinary approaches would be appreciated. V
Laura Johnson	I feel this is an important topic to require. 1 credit should not offend anyone.
N/A	We should be allowed to count credits we have already taken prior to the amendment in this topic, if our reporting period ends after the amendment takes effect.
David Zapolsky	I think this is a positive change, one that is needed and useful, consistent with the mission of the Bar, and one that won't in any way add administrative or other burden on members of the profession. If I could make one change it would be to increase the number of required hours to two (2).
N/A	
Rachel Harper	
Justin Abbasi	I would go farther and require more, but this is a step in the right direction.
Adam Walters	
Michael Rossotto	WSBA CLE should provide a variety of trainings that satisfy this requirement free of charge throughout the year.

Molly Winston	Great idea.
Cayle Sharratt	Fully in support and believe this is a step in the right direction.
C. Morgan-Riess	Ensure that such credits are made available from WSBA to members, perhaps at no cost.
scott carness	
Marc R Ward	I am originally from California, where the state bar has an "elimination of bias" requirement. Spending an hour of time to better understanding how bias can effect the practice of law can actually be eye-opening (particularly to a 60 year-old white male).
Summereen Nott	
Gina L Cumbo	
Klaudia Ochocka	I think that educating legal professionals about inclusion and the mitigation of bias should be mandatory. It's a specific, but extremely important topic in current times that may not be always addressed with the current requirements.
Kendra LaCour	
Amir John Showrai	
James W. Spencer	I wholly support this Amendment. It is the right thing to do given the times in which we live.
Courtney J. Hagermann	Although I am in favor of the suggested amendment, I actually believe it would be beneficial to have a separate CLE requirement for training and ongoing education on issues related to bias and systemic racism, and educating legal professionals on how to recognize and appropriately address and mitigate the same. In particular, training on the recognition of biases in one's self would be beneficial.
Sherilyn Peterson	
Cassandra Quick	
James Smith	
Mark Rachel	I just relocated to WA after practicing in MO, which already adopted such a requirement. I supported it there, and would be happy to see it here!
Shannon McCarthy	I strongly support this amendment.
Margaret Christopher	It's the absolute minimum that the WSBA could do and in that regard it's offensive, but I support it because it's right. Now go do more things on this issue please.
Anusha Jones	
Zhi-Xiang Oh	
Donna Masumoto	
Ashley Gomez	
Jennifer S. Rance	
Andrew Morrison	

Holly Shannon	
Samantha Gouveia	
Amy Perlman	Thank you!!!
Beth Salaguinto	
Kristen Cha	
Alyssa Wiedenheft	
Emily robinson	
Leslie Lawson-Sims	
Sara Maleki	
Synova Edwards	
Elizabeth Arwood	
Elizabeth Fontanilla	
Christine Knisely	
Ada Hardy	
Marika Barto	You should be focusing a lot of time and energy training in diversity, equity and inclusion topics. It should become how you operate and not a stand along training requirement!
Monica Brown	Please consider approving this amendment. It is critically important that our trusted legal professionals maintain proximity to the issues of equity, inclusion and bias (both conscious and unconscious forms). The work our licensed legal professionals is too important to all in society and as citizens we want to trust that our lawyer will represent us and issues with an aware and just point of view.
Stephanie Fierst	
Courtney Lyon	
Darryl Colman	Diversity and inclusion are essential competencies that should be the subject of mandatory education for all attorneys. Not only will this help curb acts of bias and make the profession more welcome for non-majority groups, but also it will help businesses and organizations access the demonstrable benefits of better inclusion (better workers, better office culture, better decision making). Not only is this needed from the point of equity, but it's also just smart to hold lawyers accountable for these topics. The amendment should be adopted in full.

Anthony Jolley	I am an employee at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all.
Brenda Ferderer	I am an employee at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all.
Miriam Simmel	I work at Ryan, Swanson & Cleveland PLLC and support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. Our firm is committed to proactive ways in which to keep this topic and teaching fresh for greater on-going awareness.
Joel Paget	I am an [attorney/employee] at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all.

N/A	I am a member at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more lawyers, and remind all lawyers to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all. Thank you for advancing this proposal.
Ryan Florek	I am an employee at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all.
Jason Miller	I am an employee at Ryan, Swanson & Cleveland PLLC and support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic.
Lisa Keeler	
Bradley Moericke	
Kristina Ralls	
Nancy Chupp	I strongly support this change.
christal	
Bonnie Aslagson	This is one step in providing an understanding to power structures that systematically oppress others.



Heidi Jones	I am an employee at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all.
Michele Fukawa	The amendment will be a positive step in addressing the bias and disproportionality in our justice system.
Jennifer Belk	The proposed amendment is an excellent idea and will encourage more open and deeper conversation about these issues among legal professionals, and make it an express expectation that we all work to eliminate and mitigate systemic biases.
Kallie veeneman	
Jessica Campbell	I am in favor of the amendment. The WSBA needs more bias awareness training, which has been made ever so clear by recent unacceptable racist comments from board members.
Steven turner	
James E. Horne	As indicated in my previous comments in support of requiring specific topic areas for the Ethics portion of the Washington CLE requirements, I think this is a worthwhile and important topic area. In particular, it is a timely topic in light of the recent developments around the country. Washington lawyers should be leaders in the discussion of these topics and all lawyers should be familiar with the issues and how to solve them. I support the proposal wholeheartedly.
Margaret R. Riley	D&I and bias-elimination training should be mandatory for all attorneys. Our profession is purportedly on the forefront of justice, yet perpetuates many of the discriminatory or exclusionary systems that deny people their civil and constitutional rights. We need to be an example for the country, which we cannot do without educating members of our Bar about these issues.

Valerie Dominique	I am an employee at the law firm of Ryan, Swanson & Cleveland PLLC. I support the proposal to add a mandatory CLE credit on the topic of equity, inclusion and the mitigation of bias. As a firm, we have committed to educate ourselves about our biases, implicit and explicit, and to work to overcome them. The proposed change will increase the availability of quality programming on this issue, reach more people, and remind all licensed legal professionals to stay engaged and keep learning about this important topic. As a result, we will be more effective in using the unique opportunities afforded to us in the legal profession to advance justice, access to justice, respect, and safety for all.
Brittney Blokker	
Maren Calvert	
Jennifer Divine	Seems as if this is a small step that can only benefit each of us, our profession, our clients, and the larger community.

Jodi Nishioka	<p>a profession that seeks justice and equity and demands competence in the practice of law. With these principles in mind, Communities Rise supports the proposed amendment to APR 11. As a Qualified Legal Services Provider, we provide pro bono legal services to nonprofit organizations and small businesses, who cannot otherwise afford legal services. We use a volunteer attorney model, engaging attorneys from the private bar who volunteer their time to provide pro bono business legal services to our nonprofit and small business clients. Our clients are often People of Color who are working in communities of color, including refugee, immigrant, Black and Indigenous communities. Our attorneys come from many backgrounds as well, but a majority of our volunteers are white. We are committed to providing high quality legal services to our clients and believe providing competent legal services, includes having an understanding of racial equity and cultural humility, particularly when attorneys are serving clients who come from a different racial and cultural background than their own. When providing legal services to clients who have a different racial or cultural background, attorneys have to navigate the complex dynamics of race, culture, class, privilege, and bias, to be able to relate and communicate effectively with their clients, without causing harm or misunderstanding. In the case of the pro bono attorney-client relationship, there already exists an inequitable power dynamic due to the attorney providing the services for free, the differential in education and expertise between the attorney and client, and the economic status differential that is likely to exist in pro bono representation. Since most law schools do not teach law students how to navigate the pro bono attorney-client relationship where these dynamics exist, most attorneys do not have an understanding of these power dynamics and thus are not set up for success in serving clients who come from different racial and cultural backgrounds than themselves. At Communities Rise, we have unfortunately seen harm done to our clients by our volunteer attorneys, due to a lack of understanding of race, equity, and implicit and explicit bias. Communities Rise works with communities of color. Building trust with the clients and communities we work in is key to the continued success of our pro bono legal services. When one of our volunteer attorneys causes harm due to their own implicit or explicit bias, or a lack of understanding of how racial, cultural or power dynamics impact their relationship and communication with their clients, this damages the trust communities of color have in our program, in pro bono legal services generally, and the entire legal system. Communities Rise supports the proposed amendment to APR 11, that requires “at least 1 credit in equity, inclusion, and the mitigation of</p>
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	<p>Recognizing America’s criminal justice system is one wrought with inherent bias, we at the Seattle City Attorney’s Office have an obligation to our citizenry to acknowledge and work to remedy that bias. Education is at the heart of change, which is why I so enthusiastically support the Mandatory Continuing Legal Education (MCLE) Board’s proposal to require that “equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession” be at least one of the six ethics credits licensed legal professionals are required to earn. Lifelong learning in law means gaining a broader understanding of the thoughts and experiences of the people underrepresented in the legal profession and also of those who sometimes suffer consequences of the law. In the legal profession, inertia can result in siloed thinking, leaving lawyers focused on legal minutia while operating unaware of the larger context of their actions. My office has a dedicated team who focuses on advancing racial and social equity in the workplace, through the law, and in governmental policy. This team focuses on training all employees in the office and opening dialogues to learn about each other’s lived experiences, which helps staff recognize and address their own personal biases. My office’s Race &amp; Social Justice team also helps bring diverse perspectives while evaluating new and existing policy proposals; those proposals have been made better by the inclusion of multiple viewpoints than a homogenous group might have reached alone. Actions, no matter how well-intentioned, might have unforeseen consequences, and we’ve experienced that an environment fostering consideration of diverse opinions has identified problems early-on. Training and policy review with a racial equity lens can lead to dismantling structural dynamics that can perpetuate implicit bias. We see the inclusion of the newly proposed ethics credit as being in-step with our team’s efforts and will bring similar benefits to the legal profession as a whole. I’m so heartened the Mandatory Continuing Legal Education Board has recognized and elevated the need for a more inclusive and racially and culturally aware membership of legal professionals. Your comprehensive outreach conducted to date is evidence of how seriously MCLE is taking the issues of equity and bias. You have my full support in making this change.</p>
Pete Holmes	
Ayanna Colman	member of the MCLE Board
Cynthia Lee Capri Surber	I like the clarity of it. Please approve.
Lesli Ashley	
Maha Jafarey	
Patricia H Reutimann	
N/A	I was appalled at Gov. Carla Higginson's comments in the 6-26-2020 BOG meeting about Minority Bar Associations, and that most of the other Governors did not speak out against her comments. . Clearly this training is desperately needed.

Sarah Bove	I fully support requiring at least "one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law. "
Joseph Williams	1 credit seems too little right now. Long-term, yes. Short-term, perhaps double that.
	I had not commented on the previously proposed amendment, but did read the current proposal and all the attached commentary for, partially against and fully against the proposed amendment. I am in favor of the amendment as proposed; one of the already required ethics credits, with free CLEs offered to satisfy the requirement. Given the clear antipathy to any sort of "political indoctrination", it will be important to present the seminars as a presentation of information rather than a political view point. As a Rule 6 Tutor, I am currently teaching Constitutional Law, at this singular moment in time, to a future attorney. I appreciate the opportunity to step back and look at the broader historical perspective on WHY and HOW our democracy and system of laws was created and has developed as it has. I also take to heart the comments of the attorney with extensive academic background in this field who fears this requirement may do more harm than good. Perhaps presenting the topic as a "current developments" topic in a significant percentage of the qualified CLE seminars, will make it more approachable to those fearing a severely slanted perspective on these issues. I also do not think adding back in the mental health and addiction components as qualifying to satisfy the credit would be a bad thing.
Stella Edens Pederson	
Katie Carelli	
Sarah Mills	
Beth Bersson	This is a critically important topic area for everyone to be focusing on, but it's particularly important for attorneys. Adding this to the CLE requirements will help drive change within the legal industry and elevate the profession as a whole.
Jennifer Divine	Seems as if this is a small step that can only benefit each of us, our profession, our clients, and the larger community.

**TOTAL PARTIALLY IN FAVOR OF SUGGESTED AMENDMENT - 54**

Name	Feedback/Comments
Hugh Spitzer	I teach Professional Responsibility at the University of Washington School of Law. I have a strong interest in ethics CLEs for practicing lawyers. I support the concept of the Suggested Amendment, but I recommend that the number of mandatory CLE hours be increased to 7 hours, rather than cannibalizing the existing 6 hour ethics requirement. It is hard enough as it is to keep lawyers, LPOs and LLLTs fully up to speed and conscious of the wide range of professional responsibility rules. So again, I would ADD this new requirement (for a total of 7 ethics credits and perhaps a total of 31 overall MCLE required hours). Thanks. Hugh Spitzer, UW School of Law
Julia Rutledge	Having even more than 1 credit hour would be amazing.
Alexander D. DeVitis	The suggested change to APR 11(f)(2) is an improvement. I disagree with the added complexity to the mandatory CLE requirements that the suggested APR 11(c)(1)(ii) revision would bring. The same policy goals could be addressed by providing a no-cost CLE course on the subject providing ethics credits for members.
W. Scott Railton	I favor the requirement, but would make it in addition to the standard 6 Ethics Credits requirements. The importance of this training for legal professionals is clear. However, I do not favor reducing the obligation for training in other ethics subjects, which already are at a low threshold for protecting the public from professional responsibility errors and omissions. Over the course of three years, every attorney can dedicate a focused hour, above and beyond the 45 credit requirement, to this implicit and explicit bias training. Hopefully, attorneys would opt for more training than that.
Lisa Stephanie Mays	Would this apply to BIPOC as well? It seems our lived experience would suggest that one-size fits-all training to the persons the subject of bias and those perpetrating the bias is indeed a bit tone-deaf and risks further victimization.

Ellen Nolan	I believe training on equity and inclusion is important. I think it should include a diversity component as well. I hope if this passes, the MCLE board will be generous in certifying courses, such as those offered by the state (which is my employer) as I've attended entire conferences (two days) devoted to equity, diversity and inclusion training.
Susan DanPullo	I believe it should be at least two (2) credits instead of just one (1).
Andrew Ackley	One hour per credit reporting period is not even close to being enough. Recognizing bias is a skill not just something to "know" once and be done with.
Todd George	My only concern is the availability of credits that would meet this requirement. It's already hard enough to get enough ethics credits, and this seems like it would compound that difficulty.
Robert W. Richardson 37271	I support the initiative fully. However, programming of this type in the past has at times been inadequate or off-topic. People just telling life stories - however impressive or enlightening - does not necessarily make for professional educational credit. More thought has to be put into just who and what the speakers / modules are actually purporting to teach.
April Benson	I fully support the concept of these amendments, and think they are important and necessary for our profession. A small suggested change is that the proposed amendment to APR 11(f)(2) would be reformatted to reduce confusion in how the two required topics may or may not overlap/fit together (there are a lot of clauses and commas as proposed), and explaining whether the list is meant to be exclusive. For example, I would suggest: APR 11(f)(2) Ethics and professional responsibility, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including, but not limited to: (i) equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and (ii) the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;
Laura Kisielius	I whole-heartedly support this amendment. I encourage the WSBA include this topic as a free Legal Lunchbox CLE once each calendar year.

Chancey C Crowell	In this time where my reporting requirements have been extended and the conferences I rely on to obtain credits have been canceled, adding any new requirements for the reporting period is onerous. I'm certain that many of the credits that I have already earned would have qualified for the proposed new requirement, none of the learning experiences were classified to meet this new requirement. Changing the rules too early is onerous. Please delay implementation to 2022 at the earliest.
N/A	
ron culpepper 7133	As always, the details matter. Certainly GOOD discussions, seminars, talks are helpful. Poorly thought agenda driven things, not so much.
Paul Okner	DEI training is so important for us lawyers. I think the minimum requirement should be higher - maybe one hour per year.
Cherlyn Walden Borjes	I'm in favor of the proposed amendments, but would like to see diversity left in APR 11(f)(2).
Amy Stephson	I do not think that much can be accomplished in one hour, but oppose making such a class any longer. I would support this on several conditions: (1) WSBA creates the class using really excellent speakers; (2) It contains lots of concrete examples in the legal setting, not platitudes or attacks; (3) It includes all types of bias, not just racial; and (4) It is electronically available at a modest cost.
N/A	I am in favor of the Suggested Amendment so long as similar ethics CLE's already in other jurisdictions (CA, OR) are accepted by WA as well. These ethics issues are not jurisdictions-specific.
Matthew Samples	I think this is an important topic. I do not think this amendment goes far enough. One hour every 3 years is not enough time to have an impact, especially for those who could most benefit from this education. I think it should be a third requirement category, along side ethics and L&L. I think 3 hours every 3 years should be the minimum requirement. I am concerned there will be a dearth of approved courses. So I hope WSBA will provide free online courses to fulfill this requirement. I also would like to see WSBA develop a free course on the topic. Perhaps make it mandatory for all members or at least, new members as a requirement to be sworn in. Thank You



Sands McKinley	Greetings. CLE requirements are regulatory in nature; as such, the exercise of that regulatory power should be limited in scope to its purpose, to wit: the practice of law. The intent behind the amendment is good, but these topics are related to social and political issues - not the practice of law itself, and therefore should not be specifically required credits, but available (as approved) for general credits.
Jennifer Biely	I am in favor of adding a DEI ethics requirement, as long as WSBA provides free DEI ethics courses for its members. This issue is so important that having free and available classes on this topic should also be requirement. Since we already pay relatively high dues for annual membership and there are not very many DEI classes available, it would be an excellent service of WSBA to provide free DEI ethics credits and would reduce barriers of cost and availability that may prevent some members from taking these courses.
Anonymous Lawyer	I am actually taking no position on the amendment. Instead, I am objecting to names being made public if people ask to weigh in on this. It feels an awful lot like a shaming tactic. Anyone who doesn't want mandatory bias training has to out themselves publicly. This is going to have an obvious chilling effect for any lawyer who opposes the training, especially in our modern cancel culture where such opposition could easily be treated as evidence of bias in itself. Do you really think the average lawyer will risk his or her reputation publicly over one credit hour? There should be a silent vote and opportunity for anonymous comments. If you don't offer that then please don't pretend this process is fair or that any of us actually get a say or a real opportunity to express opinions.
Chris Williams	We have been doing corporate trainings for entities about diversity, sensitivity, and - in the case of police forces - de-escalation for decades and the country is in one of its worst phases for accomplishing what those trainings teach. We clearly cannot train ourselves out of our own biases (sadly). Structural changes must also be made such as making the law easier to access and reducing the cost of legal services. Billing at \$500/hour will pretty much guarantee that you will never meet a person of modest means in your professional capacity. Studying them for an hour each year is not going to give you a fair impression of them either.
Patricia Lally	1 credit is not sufficient to make adequate progress on institutional racism, equity and bias.

Jeremy Bordelon	<p>I support the goals of this amendment. However, as an attorney licensed in Washington, but principally practicing and licensed in Oregon, I ask that it be modified to continue allowing Oregon attorneys who are in compliance with Oregon CLE requirements to satisfy Washington's requirements without the necessity of additional CLE hours. While Oregon does not currently have an inclusion/bias CLE requirement, it does require credits in ethics, as well as specific additional courses in Child and Elder Abuse Reporting, Access to Justice, and Substance Abuse and Mental Health, each of which areas touches on topics related to inclusion. Allowing these Oregon credits to continue to satisfy Washington's CLE requirements would avoid adding a substantial hurdle to dual-licensed attorneys' CLE compliance.</p>
Andrew Grimm	<p>The Amendment is a good idea, but the MCLE course (or at least one course fulfilling the requirement) must be available online, for free, at any time. These are sensitive issues and, as such, those fulfilling the requirement must be able to take view the course in a place and time that is most comfortable to them. Also, the curriculum must ensure that diversity and inclusion includes all types of diversity, including political and ideological diversity. The legal profession has lawyers of a wide range of ideological views and represents clients of an even wider range of ideological views. Disrespect toward persons, no matter their political and ideological views, is unprofessional just like disrespect toward people based on other characteristics. No such disrespect is befitting for the profession. If both of these changes are incorporated into the suggested amendment, it has my support.</p>

KalMarie Rawald	<p>I support this training in general, if WSBA offers it for free to all members. WSBA already has onerous CLE requirements. Even if you substitute one ethics CLE, the specialize nature of this training will likely be burdensome and expensive for WSBA members to meet. If the MCLE Board truly cares about the need for this training, then WSBA should find a way to make it available to all members at no charge (including increasing dues). The Board should also consider allowing training of this nature that is not "legal" to qualify for this requirement. I work for the federal government and my agency presents annual training on mitigating bias, however, it's part of our HR training. I sincerely doubt that WSBA will accept this training for CLE credit since in the past I have had trouble getting WSBA to accept any of my annual federal training for CLE credit. If the Board truly supports this need, then it should be open to alternate training options to allow members to meet this requirement.</p>
Joseph "Gus" Voss, Jr.	<p>Equity, inclusion and mitigation of both implicit and explicit bias in the legal system are good values to pursue; these values ought to be explicitly targeted toward dismantling the oppressive elements of the legal system. I support this amendment over the current language; I would go further and incorporate language about dismantling the ways in which the legal system manifests the interpersonal, organizational, systemic, and structural oppression that we see throughout American society. Understanding that this language would be unlikely to be implemented by the Supreme Court, I am in favor of the language proposed.</p>
Alan J Scherkenbach	<p>As a former EEO/Diversity professional - 30 years in EEO investigation, management and training - I consider the gesture of 1 credit in 3 years meaningless. So why do it at all? It may be a symbolic gesture, but anyone with any sense in this area knows one hour will change absolutely nothing. Do it right or don't do it - acknowledge that one hour of training does not change minds or attitudes and/or that it is not the role of the Bar to train in this area.</p>

Sharon Ann Saito	Equity, inclusion, mitigation of bias and cultural competency are areas in which we can benefit as professionals. Our conduct affects the clients and communities we serve and it has never been more apparent given the current political and social climate that there is still much room for improvement despite past efforts. I would support the amendment, with a caveat: That there will be accessible, affordable, and adequate CLEs (live/webinar/on demand) offered via WSBA per year to satisfy that requirement. My professional liability insurance carrier requires me to earn three ethics credits each year to renew my policy. If the new amendment would result in an additional credit over our three-year reporting periods, I would still support such an amendment, provided we have the opportunity to access CLEs in those relevant areas.
Joe Hochman	
Lisa Bragg	I would favor the suggested amendment, assuming sufficient availability of CLEs focusing on those topics.
Gail G. Maurer	Amendment should provide that WSBA shall be required to produce a cle program(s) incorporating the required ethics subject matter which shall be free of charge and on demand throughout a cle reporting cycle.
Carol A Churchill	I became inactive because of the number of units required for practice. I am semi-retired, and provide exclusively pro bono services to the poor. I just do not want to study topics I am not interested in to get 45 units.
John Vomacka	While the aim is laudable I question the propriety of the bar association foraying into what I consider the slippery slope of what I consider to be "social engineering." I suggest offering such materials for those who wish to view them but not making them mandatory for MCLE purposes.

<p>Gary M. Georgeff</p>	<p>Here is my feedback on the proposed MCLE ethics requirements. “Equity, inclusion, and mitigation of bias” is a slight cosmetic improvement on the previously proposed “Diversity and anti-bias” amendment which was rejected. The proposed amendment, even under its new name, pretty much starts with the insulting assumption that lawyers themselves are against equity, inclusion, and are biased. Even if you believe that to be true, that is no way to build goodwill and engender thoughtful conversations about those kinds of issues. It is like forcing people to go to church. Also, you can unintentionally create the impression in the minds of various minority groups that secretly most people are out to get them. This recalls the rhetoric of the Oregon State Bar's (OSB) similar “diversity” and “elimination of bias” MCLE program. That was a disaster and led to the first ever Member referendum by which, by about a 2 to 1 margin, the membership voted that the program be dropped. (I am the OSB lawyer who authored the membership referendum and who was the principal proponent throughout the process.) Eventually, a compromise was worked out. The CLE hour requirements were reduced and the program renamed “Access to Justice”. It would be much better if the WSBA adopted the OSB name “Access to Justice” or something similar. It is surprising how much of a positive change this made in OSB program content. Instead of having people preach at the membership and basically accuse them of being bigots, it engendered the birth of programs with a positive approach. Examples include really important things, for example, like helping clients with physical disabilities get their legal problems through the legal system, education about transgender people, and societal norms for communication cues and styles based on gender. I now actually like the Access to Justice programs. So, if you are going to go down this path, learn from your OSB neighbor and do not make the WSB Board of Governors any more unpopular than it already is. I also hope that the WSBA would allow the credit requirement to be filled when lawyers licensed in multiple jurisdictions take CLE courses to satisfy similar requirements.</p>
<p>Carol Burton</p>	<p>I’m fine with the requirement as long as there are some free options, like the Lunchbox series. I don’t work at a firm, so I have to pay my own way and it’s expensive for some of us.</p>
<p>Lena E. Barouh</p>	<p>The language about diversity and antibias/antiracism is important. The rule doesn't go far enough without it, and anyone who would suggest otherwise is more interested in sweeping those problems under the rug than actually making meaningful progress towards solving them.</p>

Stephanie Mairs	Hello. I support the amendment. I would, however, like to see several opportunities offered to earn this credit free of charge. A number of us work at government agencies or even NGOs--all public interest law entities--where we are paid far less than most legal professionals and must pay for our CLE courses ourselves.
Ward Morrison Jr.	While I support the apparent motivation behind this proposed amendment, I do not believe it is a serious proposal. Indeed, it sounds somewhat pathetic (and perhaps even defeatist). One credit during a 3-year period? This will not do anything to move the needle toward a greater understanding of these complex and difficult issues. A serious problem requires a serious remedy, and this one falls far short. Again, I appreciate the effort and the good intentions, but if the MCLE Board wants to promote change and a greater understanding then the Board must be prepared to be more aggressive. Thank you.
Aneelah Afzali	I think this change is needed/appropriate, but would support more than just 1 credit (I would suggest at least 2 credits). Thanks!
Walton Dabney	In current form it requires one hour training covering an overly broad concept. 1. equity 2. inclusion 3. mitigation of bias, are each deep substantive topics in their own right. A mere one out to cover all three will not cover any of them properly. I recommend changing the language to read... "with at least one credit in *either* equity, inclusion, *or* the mitigation of both implicit and explicit bias in the legal profession and the practice of law." That way a CLE focusing on bias will not also have to cram equity and inclusion education into the hour to count toward this rule.
Bernard Ryan	Without a clear standard and definitions, this proposed amendment offers little to improve matters. It would help greatly if some clarity is offered on terms such as "inclusion" and "implicit" and "explicit". Without this, there will be a plethora of seminars and most of them will be so at odds with each other that we will never be able to know which (if any) of the seminars actually make a difference. Just taking a class on these subjects offers little chance for progress.

Steven L Gross	Because the current rule already includes diversity and anti-bias training I do not object to broadening the description. I disagree with the proposed change to have 1 of the 6 credits dedicated to this specific issue. The bar does not mandate any other specific type of training, and once you start doing so the other 44 credits can rapidly be carved up which would limit members' ability to select the training they believe is best suited for their practice.
James Miersma	I am fully in support of the proposed amendment with the understanding that it be effective in future years. I am scheduled to report my CLE time at the end of 2020 and already have all my requirements completed. I'd rather not take more CLEs when I have already fulfilled the current requirements.
Chloe Thompson Villagomez	I am in favor of this. In my experience, many attorneys are in need of greater awareness in the areas of equity, inclusion, and bias. I would actually like to see more than 1 credit required. I am also admitted to practice in Minnesota, and we have had to obtain 2 Elimination of Bias credits every reporting period for at least as long as I've been admitted (15 years). I would support requiring up to 3 such credits per reporting period. It's not a hard requirement to fulfill, and the topics are often quite interesting.
N/A	I do not support the mandate in APR 11(c)(1)(ii)
Richard E. Gifford	What is the anticipated scope/substance of the "bias/inclusion" training under consideration? It would help were you more specific and clearn.
Maria Luisa Germani	Please consider giving equity-related required CLE presentation(s) throughout the year for free for five years. This important topic should remain on the front burner moving forward, and all/any obstacles, e.g., financial for some attorneys, should be removed, at least temporarily. Thank you for considering this! - ML
Robert Carson Warden	In the spirit of equity, inclusion, and elimination of bias, such CLE should be provided by wsba free of charge every year in an easy online format. I am not in favor of any change that would potentially increase the cost of compliance. Only if WSBA provides the newly required CLE free of charge online am I in favor. Wsba membership is already far too expensive.
Carol Koller	More hours should be required on this subject, for example two per year.
Annie Cole	I believe that the legal profession should do more to eradicate bias, racism, and other forms of bigotry in our work. While one credit is a step, it is not likely to have to result in long term change.

L David Rish	What is "Bias in the Profession"? It certainly is not a term of art. California has used this requirement for a long time and I am not aware of any case law defining this term.



**TOTAL NOT IN FAVOR OF SUGGESTED AMENDMENT - 428**

Name	Feedback/Comments
Bruce Medeiros	Attorneys should demonstrate no bias by their actions, not by satisfying one cle credit requirement every 3 years.
N/A	I fell like, yet again, the WSBA is trying to compel its members to belong to a political action organization, which was never its designed purpose. I completely agree with equality and diversity of core principle of a healthy and successful society and, more specifically, bar association. But in light of the political positions espoused by the bar that I frequently have disagreed with in the past as a 20 year member, I do not support compelling this curriculum.
Gary Andrews	This is unnecessary. Just creates a point in CLE program for "emergency" phone calls, extended bathroom breaks, checking Facebook posts or mind-numbing, eyes glazed over audience. Forces choices of programs based upon providing the necessary check-off as opposed to meaningful legal education.
Kevin Halverson	MCLE is the wrong tool for this. Instead, I'd suggest offering free seminars on the subject or partnering with KCBA or other community organizations to offer seminars that might have broader interest. Catering to lawyers seeking to fulfill MCLE licensing requirements is going to make it less engaging and probably less useful for the social ends.
Alicia Berry	This CLE is a waste of time and resources and will put an undue burden on young lawyers. The professional of law is one of the primary places where equality and justice for all has flourished making such a class unnecessary. The topic does not lend itself for anyone to teach, and thus attorneys from more rural areas would be forced to travel to attend such a class or pay exorbitant prices for a Seattle based class because they cannot get it locally. Lastly, it does not teach anything that furthers the practice of law, only a political position, which is inappropriate.
Kevin Wills (Part 1)	<p>The WSBA Diversity Committee and other special interest bar associations are at it again.... pushing the divisive issue of coerced diversity (as if as attorneys and college graduates, we haven't been force-fed this amorphous and ever-shifting concept from day one of our education). They claim that this is viewed as one of the most important issues facing the legal profession. Really?! How about the cancer of political correctness in the legal field? For example (and there are many), strictly in the name of "diversity," California recently lowered the passing score required to pass the state bar and enter the legal profession. I guess California feels that racial minorities aren't as capable as their non-minority counterparts. This is clear, unmitigated, conscious bias. But I suppose this form of bias is alright given it helps a favored group. Is Washington next? The watering down of the legal profession in this manner is an existential threat to the legal profession itself. It isn't the members of the legal profession who need more diversity training, it is the "diversity" acolytes who need to be de-programmed. Yes, we need to do more as a bar association. Because with all that diversity brought to bear on the collective decision-making of our Board (through the diversity committee and numerous self-serving racial/gender/sexual preference-based bar associations), as currently constituted, we must continue to push "diversity" (favoritism toward one group and the punishment of another) and indoctrinate members of the WSBA into our already dangerously PC-overboard legal culture. To rationalize this requirement, the MCLE Board's report cites: •"an increased demand for the legal profession to increase its commitment to address systemic inequalities and increase awareness of both conscious and unconscious bias." •The MCLE Board's critical role, as set forth in Admission and Practice Rule (APR) 11 to among other things "improve equitable outcomes." Please reveal where this increased demand that the legal profession increase its already lopsided commitment to these issues comes from. Who or what is demanding that the legal profession increase it's already obsessive proselytizing on this issue? Promoting systems that attempt to create so-called diversity (coerced favoritism) outside of diversity created organically through individual merit and hard work is the definition of bias, i.e. conscious and intentional bias. Further, APR 11 contains no reference to the WSBA's or the MCLE Board's duty or role to "improve equitable outcomes." Is the WSBA in the business of engineering equitable outcomes for favored groups or individuals? Or is this just misleading rhetorical flourish on the part of the WSBA? I would like to believe the latter, although with the evidence in hand, I'm certain the WSBA believes the former. Please define an equitable outcome for me. Do the diversity acolytes not comprehend that "diversity" and "equitable outcomes" are antithetical? If we are celebrating our differences in skin color, background, and the like, we must also consider that each of us has different skill sets strengths, weaknesses, thought processes, decision-making processes, and the like, which guarantees different outcomes. Pushing for equitable outcomes along with its antithetical counterpart, "diversity," only serves to ensure that the diversity acolytes have lifetime appointments in their siren call for more diversity and favoritism for one group or another.</p>

Kevin Wills (Part 2)	<p>Further, it is shameful to cite the recent social unrest and rioting as an excuse to move up the timetable to implement the suggested changes. To believe that this change, if urgently implemented, will have even a scintilla of effect on current events, or even future events is in my opinion arrogant, naïve and foolish. Or are we just not letting a good crisis go to waste? I had thought the over-used concepts of "diversity" to have been thoroughly discredited by now. By which I mean the notion that a member of a favored category (some so foggy as to be determinable only by inquiring which self-selected box was checked on the latest census form), is elevated to a superior position by coercive force ( as opposed to market force or merit) without regard to ( or in defiance of) other objectively better or brighter candidates (who occupy, by definition, unfavored categories), under the indefensible rationale that the person promoted speaks for all his or her favored foggy fellows (who think as one), or will represent them where no one else will, or will contribute ideas that no one else will have, or will enhance the experience and inspire the creativity of everyone around by mere presence, or who requires a "critical mass" of others similarly categorized and elevated not to feel intimidated, or who will, by his or her promotion, redress the colonialist, sexist, racist, etc., misdeeds of our forebears and/ or salve the feelings of the paternalistic, patronizing and imperious bureaucrats wielding the coercive force and/ or at the least ( and at the same time most importantly) contribute to a more politically correct group photo, all to the everlasting "enrichment" of the polity. Defining "diversity" is admittedly a murky business. What proponent would want, in the 21st century, to shine analytical rigor and moral clarity on the face of such a disagreeable ambition? "Diversity" has no business among our core values or our MCLE requirements. Instead, let's substitute a time-tested principle needing no quotation marks and having a much shorter, more understandable and universally revered definition: Impartiality. Admittedly, returning to first principles will require, for some, a paradigm shift. Impartiality is antithetical to "diversity," and though lawyers are notorious for taking inconsistent positions, we cannot in good faith cherish both. Peel away the euphemisms and bromides, and "diversity" is inconsistent not only with impartiality, but with honesty, integrity and the human dignity of all involved. At its obnoxious heart, "diversity" is more than the appearance of impropriety writ large; it is an abuse of power that violates our collective trust. Maybe the WSBA ought to form an "Impartiality Committee" and make recommendations forthwith. If we as a profession committed ourselves to this concept, it would do more to promote fairness, equity, inclusion, and the like than any meritless "diversity committee" ever could. There's a reason Lady Justice wears a blindfold.</p>
Laura McClellan	<p>I feel this requirement falls outside the scope of legal ethics and is simply a general moral/ethics topic. I don't object to the Bar offering and/or encouraging the creation of CLE courses covering these topics, but to make it a requirement that would potentially force lawyers to attend courses that might be sponsored by parties with agendas not consistent with the actual best interests of the profession could create conflict that actually impairs the ability to thoughtfully address these issues.</p>
Trish Lenz	<p>A very similar proposal was floated last year and rejected. It should be rejected again. While important topics, these are better treated as optional offerings rather than mandated. I already receive hours of training on these topics from my employer, but none will count toward my WA CLE requirements. I live and work out of state and it is difficult enough to obtain my regular Ethics CLE hours without forcing me to take WA unique courses, for which I will almost certainly 1) have to come out of pocket and 2) take remotely. Why doesn't WSBA trust its members to determine the CLE they want to expend their time and money on and which will best serve their areas of practice? Again, this isn't to say that these aren't important topics to discuss, but if they're so important to the WSBA, put your money where your mouth is and offer them without charge and on demand. Or you could trust your members to behave like legal professionals, capable of making good decisions on their own.</p>
Joseph Harper	
N/A	<p>Unusually requirements like this are unduly burdensome for lawyers with multiple bars and diverse CLE requirements. They add nothing to most practices in reality. I am a member of OR, WA, and VA. If you have to do something like this, please at least coordinate with Oregon. There are a lot of dual OR/WA bar member. If we have to do a special extra hour, make it qualify in two states, please.</p>
Anonymous	<p>I am opposed to this because I don't believe that it is appropriate for the bar to be indoctrinating people with political speech. Nor do I think the bar should change its curricula because of political violence I am submitting anonymously because I fear political retribution.</p>
Kerry Kovarik	
Jeff French	<p>This is just more overkill by the bar in response to the politics of the time. MCLE has gone from education to the forced study of the "chosen" topics of the political elite. Enough. can't we as professionals choose what we do or do not wish to educate ourselves on? Do we really need more intervention from the state mandating the study of politically motivated topics? Lets keep politics out of the bar and let people have the freedom to choose what they do or do not want to study. I would simply make this another one of many course offerings and leave it at that.</p>

Ronald Roy Weston	I do not agree with specifying the 1 credit requirement for any particular ethics topic. Racial equity and inclusion might be the cause of the moment, it should not be a mandatory training obligation.
Jason Moscovitz	This is an unnecessary change to the MCLE rules that will add complexity for little to no benefit. No specific problem is solved by adding a separate ethics sub-category; ethics credit CLEs are already available that include the listed issues. This proposal appears to be an attempt to foist form over substance and to make it look like we are "doing things" to address nebulous problems. Let's not add additional onus to simply be able to pat ourselves on the back.
Dennis Beemer	I rarely comment on actions taken on behalf of our Association. However, I do not condone the Board's second attempt to bite this politicized apple. The Board exceeds appropriate boundaries when it mandates a specific CLE requirement in racial bias in order to maintain one's license to practice law. I represent many people of color in my practice, and mandating that "I need training in racial bias" is simply ridiculous. With regard to every other CLE credit I take, I am able to select the topic which will be most beneficial for expanding my knowledge base to ensure my continued effective representation of my clients. After 35 years of practicing law, the Board's proposed amendment essentially concludes I am no longer capable of determining which ethic requirement CLE's will best benefit my legal practice and/or my clients. I suggest the Board's broad brush-stroke conclusion that every attorney requires this training is a generalization without factual basis. If you want to offer a CLE on this subject fine. I can choose to attend or not attend based upon my assessment of the topics to be covered, and ultimate benefit to my practice. But REQUIRING me or others to pay to attend a CLE on racial bias is, in my humble opinion, nothing more than political grandstanding by the Board, and cannot be condoned.
Mark Robinson	LEGAL ethics is the only requirement that a BAR Association should be making. As professionals, we are capable and should be allowed to choose the subjects we need. I disagree with a legal professional organization such as the Bar Association getting involved in forced indoctrination into non-legal, cultural opinions and viewpoints.
William J Obrien	Condescending.
Michael K. Levy	While it is an innovative idea, there are many other ways to accomplish this goal. An example is the Board produces its own video on the subject and asks members to watch the video. This way the message is consistent and clear to the members. Otherwise, you get completely different messages depending upon what the provider puts out. In addition, they overcharge for every CLE course when they knw you must take it. I think good ideas get subverted when they can be ut forth in a simple and concise manner. I would put up a different video every year, and have all members of the Bar watch it.
Rene Erm II	The WSBA should concern itself with the practice of law, not the practice of politics, which is what this is.
Tom Hayden	CLE is enough of a hassle without the mind programming included.
Jonathan Baner	
anonymous	Racism is when a person is judged by the color of their skin and not the content of their character. I am being told daily that I am racist because of the color of my skin. That is racism. Stop already. The more you try to make me feel guilty because of the color of my skin the angrier I am becoming. The more you insist that I did not work for what I have but it was given to me because of the color of my skin the angrier I am becoming. Before you create another requirement show me the data that supports your position.
Nate Adams	
James Donohue	Required specialized requirements such as this will not achieve the laudable goal of increasing inclusion or diversity. The CLE coursework presented should include commentary on these goals. Thus the important message is imparted to persons attending without the specific "requirement," which by itself, could cause some negative pushback. The goals can be accomplished better by inclusion into the course material when presented. Focus should be on the presenters to figure out how to include this important message in their course presentation and materials.
Beth A. Jensen	I strongly disagree that the Bar should be forcing lawyers to take particular courses in order to satisfy licensing requirements.

N/A	I work for a Tribe. I do this as a choice and because I believe in representing the smallest of minorities. With that said, many people work for non-profit and other organizations that focus on equality and social justice issues. This is a choice. I feel uncomfortable with the WSBA forcing a political agenda on its paying members. If this is a forced requirement, people will not get what they need to out of this kind of ethics training. It has to be voluntary.
James Patrick Brown	Contrary to the MCLE Board's statement, the new amendment is not a "much narrower amendment to the rule, to focus on equity, inclusion, and mitigation of bias." The prior proposed amendment would have required CLE credits for "diversity and anti-bias with respect to the practice of law or the legal system." The current proposed amendment would require at least one CLE credit concerning "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law." Both proposed amendments would require CLE credits concerning diversity and anti-bias. The MCLE Board is attempting to take advantage of the current environment to push the same amendment that was rejected by the Board of Governors and the Washington Supreme Court in late 2019. I am offended by the MCLE Board statement that I, and my fellow Bar members, are uneducated on these issues, lack "cultural competency" and are unable to work "with the diverse public we serve" absent taking a 1 hour CLE each year. While I laud diversity and anti-bias, being forced to take CLE classes on these topics is not appropriate. These are Continuing Legal Education classes not Continuing Social Awareness classes. Please reject the proposed amendment.
Paul Treyz 16642	Adding such a change to the ethics portion of MCLE requirement would not be helpful and would only make the reporting requirement more confusing and burdensome. After all, anyone who is unequitable and/or biased toward his or her client is, in my opinion, unfit to be a lawyer in the first place and would be unlikely to be benefited by any such ethics CLE.
N/A	This should be optional. Dont make it harder to complete credits because they are all so specific
Stewart Feil	The law must not treat any individual differently from any other individual. The smallest minority -- the individual -- is the most likely to be treated unfairly by government. That is the only minority that the law has any business recognizing, and that the WSBA has any business providing training for. Shaming people because of their whiteness or accusing them of "implicit bias" because of their whiteness IS RACISM. It is unconscionable for the WSBA to train people INTO one form of racism on the premise that it is correcting another form of racism. We are lawyers. Our oath of attorney requires us to respect INDIVIDUAL rights and to protect each person from abuse of the legal process. To say that there is "implicit bias" is to say that all lawyers are violating their oath of attorney without a shred of evidence to support the assertion. If you want to increase disparity, increase tensions, increase racism, then pursuing this type of psychologically demeaning, virtue signal based, and completely unscientific training is the right way to go. If you want lawyers who are zealous advocates, who give everyone equal consideration, and fights ACTUAL injustice wherever it occurs then this social justice warrior nonsense needs to stop.
N/A	1
Erika Balazs	Here we go again. I will provide the same comment I did last time. I am tired of lectures on bias. I am a female who graduated from law school in 1982 and practiced in a larger firm for many years. I had some experience with bias and dealt with it. Progress has been made in a lot of areas and more is needed, but mandatory CLE hectoring is not going to change minds. What I learned from my practice was work hard, be as a good a lawyer as you could and change the minds of the doubters by example, not by whining. Every lawyer I ever talk to about "diversity" and "inclusion" is equally sick and tired of the constant lectures. At this point, I think it does more harm than good. I have listened to several of the free lunch time CLE on these topics - not so much out of interest but because the price is right - and honestly some of the suggestions get so "out there" I cannot take them seriously. So I will repeat, trying to force wokeness on everyone is just not a helpful approach to these difficult issues. I would reject the proposal
Larry Chin	This amendment, while well intended, is an unwanted intrusion into how we as attorneys should view and interact with the world. We are adults and ought not be preached to or have a certain world view imposed by the Bar.
Aaron Shawn Hicks	The proposed amendment is purely political. I disdain all the negative politics on the news. Forcing me to pay for and watch someone else's politics is, in my opinion, an unconstitutional invasion of my freedom of speech and association. If I am compelled to pay for and consume someone's political agenda, I will sooner resign as a lawyer. If you adopt this amendment, then perhaps that is what you want - my resignation.

Clint Coons	Ridiculous. Your suggested amendment begins with the assertion based on unproven suppositions that the legal profession is biased and thus needs training to unlearn our unknown bias.
eric krening	I believe that the old language better serves the LEGAL interests of civil rights. The knew amended language seems much more "political" and a knee jerk and ill conceived reaction to the current POLITICALLY charged environment. Additionally, the knew language ASSUMES such biases in the profession and highlights certain political agenda and interests above other equally meritorious interests with respect to civil rights and ethics. For these reasons, as a lawyer who has fought for a wide variety of civil rights for over 30 years, I find the proposal deeply concerning.
Richard Young	The world is getting littered with these hectoring courses that, frankly, seldom reach genuine issues. They are a blight in business, government and academia. Don't do it.
Kelly	This is another means by which WSBA is seeking to force its Progressive politics and worldview on members. It's bad enough that its publication already does this (which is an intellectual disgrace). Anyhow, this will wind up being redundant. A number of the free "legal lunchbox" CLEs already feel like PC struggle sessions.
Drake Mesenbrink	This amendment is a waste of time and money. A one hour CLE is never going to convince someone who does not care about equity and inclusion to change their practice. The amendment will just anger both sides of the issue. Those that oppose will feel anger at having to do one more, what they consider, a useless CLE. Those that agree already provide such services will continue to do so. This appears to simply be a political position and will not benefit any member of the bar.
Jon Parker	You do not need to guide me in my personal beliefs and behavior. Stick to law and not social engineering. You insult us.
Julia Youngs	While I am all for "equity, inclusion and the mitigation of bias in the legal profession and the practice of law," I have NEVER heard allegations that lawyers in Washington state are perpetrators of such – in fact, just the opposite! What existing problems in Washington State are we trying to correct? At first blush, this feels like a token action, accomplishing little except politically correct virtue signaling. To engage in such actions dilutes the impact of WSBA statements/actions, including those that would truly be meaningful. If we have a significant, demonstrated problem, let's call it out and address it. If we don't, then let's not make changes because it "can't hurt and it makes us look responsive."
Jennifer Whang	It is already difficult enough to find courses that fulfill the ethics requirement, so I am not in favor of requiring a specific type of ethics course, especially if I am not in the Washington state area. It will be difficult to determine what types of courses qualify for the new requirement as well.
Anonymous	Bias instruction tends to be inherently biased where implemented, based on the biases of the controlling parties responsible for leading the instruction. The instruction tends to further the biases, political agendas, and other opinions of the controlling party. If implemented, and I am not suggesting that it should be, extreme care must be taken to address religious (or non-religious), political, regional, and socio-economic biases of those promoting and controlling such bias instruction. Special care must be taken (especially in today's environment) to support objection thought and critical thinking skills, while avoiding the divisive and hateful message of identity politics. Do not every forget the message provided with the blindfold on Lady Justice.

N/A	<p>I have taken many WSBA approved and presented CLE courses and have been sadly disappointed in the quality of the materials and instructions in many of them in the past few years. I have been amazed some of the CLEs WSBA has put on were even approved for CLE credit. WSBA's oversight for approval has obviously changed. For example, unlike in years past, WSBA now frequently approves and presents CLEs, including ones with political or positional overtones, and allows presentations and material by just one side of the discussion/topic excluding completely presenters from the other side. CLEs should be learning tools, with both sides present as speakers when topics have more than one perspective. I have no problem with the proposed topic of the amendment being included as an eligible Ethics CLE topic, but I would not want WSBA to require one of the credits to be on the topic as (1) I do not trust WSBA to accurately gauge what is a quality educational presentation on the topic, and (2) there are many important ethic topics on which licensed legal professionals need to be regularly educated to protect the public and the professionals, and I do not support setting aside one of the ethics hours for a topic on which I lack confidence WSBA can accurately define or address. WSBA should continue to provide free CLEs on topics it wants members to learn, but WSBA needs to ensure it invites presenters from differing perspectives and "sides" even for those where there are differing perspectives and sides. We all learn by hearing from people and perspectives other than our own, right? So give us different people and perspectives. Yes, let's embrace the topics in the amendment, through free CLEs put on by WSBA, with WSBA being inclusive and balanced and inviting speakers from differing sides and perspectives. But don't try and set aside an hour for the topic, and then try and define what is covered by it. I don't trust you to do that well, and the Supreme Court should not either.</p>
David Risley	<p>slippery slope: what's next: climate change; plastic waste; public safety in a time of left wing terrorism or some other topic of the hour? Lets make better lawyers and leave reform of human kind to other agencies. Also, the property destruction, rapes and murders associated with the ideology this amendment propagates is becoming loathsome to many who don't share your political persuasion.</p>
Dan Brady	<p>I think this course should be offered for CLE ethics credit but not required.</p>
Laura Crowley	<p>Leave the MCLE requirements alone. Most of the ethics training out there addresses these issues, anyway. I am wholly opposed to this additional requirement.</p>
Michael W. Vaughn II	<p>While the topics of equity, inclusion and the mitigation of bias are worthwhile subjects for CLE's, they should not be part of a mandatory CLE ethics requirement. My argument against adopting this amendment is based on three points: 1) This dilutes the ethics requirement currently in place by assigning CLE's under the banner of equity, inclusion and the mitigation of bias in place of the full 6 credits of Ethics currently required. By reducing the ethics requirement currently in place, public trust in the legal profession is reduced; 2) A one size fits all approach is not beneficial. Not all members of the Bar will benefit equally from such a requirement and members of the Bar are adult professionals who are in the best position to choose which programs best suit their practice area, background, geographic location, and personal needs; 3) Along related lines, the notion that this is a topic that needs to be repeated every three years, eternally into the future, seems presumptuous--our members are in the best position to assess which topics currently best suit their professional and personal needs. No doubt, the future will hold other crises and other topics of importance that will come forward. Rather than rewrite our ethics requirements every few years to focus on topics that seem the most socially relevant, it is better to maintain the current system where our members can focus on what is best for their own needs at the present time. I believe a better solution would be for the Bar to sponsor one or more free CLE seminars dealing with the topics of equity, inclusion and the mitigation of bias in order to encourage participation and voluntary education in these areas. Put another way, if this is a topic of considerable importance for the Board of Governors, then it is better to incentivize voluntary participation than requiring involuntary participation. Incentives create interest. Mandates create resistance.</p>
Amanda Vey	<p>I am absolutely opposed to anyone dictating to me what courses I have to take AND PERSONALLY PAY FOR in order to satisfy someone's uninformed idea of what I need to "know".</p>

Sterling Throssell	This is continuing LEGAL education, not an opportunity for grievance mongers from every supposed maltreated party to whine. If you want to address laws prohibiting discrimination, fine, but the WSBA has already beaten the dead horse of diversity, inclusiveness, and whatever other kowtowing to a complaining minority enough. We've heard the whining, complaining, and self-flagellation enough. This isn't legal education, it is someone's quasi-religious belief. Don't try to force feed this to the rest of us.
Douglas Scott	When you get national CLE packages they mostly don't contain such a class. Plus it's political.
James Butler	As I stated in response to last year's proposed amendment, the Ethics requirement should be just that--Ethics and Professional Responsibility. The Public should know that that is what the Bar and its members take seriously. Tinkering with the requirement to impose social engineering topics du jour, such as "equity, inclusion and mitigation of bias" is nothing more than an attempt at imposing the political polemic of some on the Bar as a whole. Keep "Ethics" "Ethics".
N/A	We already zealously advocate for our clients in an ethical manner. Is the suggested requirement designed for lawyers who do not represent their clients well due to implicit bias against their clients, or are we supposed to change the way we view and treat our adversaries, not our clients? This seems to be just more bandwagon politically correct sop. Please, stop.
Felicia Watson	I believe that this is an important issue, but do not believe it belongs within the mandatory ethics portion of Washington's CLE requirements. Finding quality CLE courses, and particularly relevant ethics courses can be difficult at times and mandating one credit must be in a certain type of course can make compliance difficult.
Ami Abuan	It is already difficult to obtain ethics credits. This will just add another barrier. Please do not make this mandatory.
N/A	Given the prevailing climate in this state on these issues, I think a focus on equity, inclusion and mitigation of bias, would likely serve only to emphasize and exacerbate our diversity of views on these issues, rather than heal any actual bias or inequities that may exist.
SHANNON MOREAU	I do not believe as professionals we need to be taught about inclusion and racial bias. A requirement that this be part of our ethics isn't necessary. This feels more like the WSBA trying to be politically correct. The WSBA does not need to regulate or teach equity, and certainly should avoid looking like it is trying to demonstrate its members are morally and politically good people. These are principals already existing. The WSBA should be standing up for lawyers because our ethics and profession already foster equity.
Douglas Oles	Equity and inclusion tend to be subjective, and WSBA should not mandate CLE's on ethical issues where there is no consensus in the Bar.
Jason A. Foust	Diversity training is required by many attorneys place of employment. Creating ethics credit obligations for the same is a little too much. Additionally, in depth vetting of any of these suggested programs would be required, as I personally have been witness to statements in diversity programs that are patently racist and misleading. This also raises the issue that if something is considered racist or offensive to the listener, the WSBA is essentially forcibly requiring attorneys to be subjected to racist or offensive content for the sake of retaining their license to practice law in Washington state.
Kimberley Lane	In these times of COVID, it is hard enough to get basic requirements completed as is. For those in the metropolitan areas, this may not be a difficult request, but for those in rural communities that are struggling just to keep our firms alive, this is a burdensome requirement. Keep in mind, my practice is wholly pro (low) bono for the benefit of my community so that they have at least SOME access to justice. Requirements like this make services to the public like mine THAT much more difficult to provide. Therefore RESOUNDING NO VOTE. P.S. This requirement smacks of a board Bar that wants to virtue signal rather than truly spend time and money helping those who truly need access to justice. DO something; don't just draft something to feel better about yourselves. \$ where mouth is.
N/A	Ethics education should be limited to enforceable criteria, and not social issues or areas that may infringe on first amendment rights.
N/A	
David R. Hevel	This would be the same as appointing someone to teach what is moral and what is immoral. It is not the proper role of WSBA to teach the difference between right and wrong.
Mark Monson	

N/A	This is already a topic included in the ethics section. MCLE credits allow lawyers to choose to improve on the areas of law most relevant to their own practice. This additional requirement limits the ability of lawyers to choose to make adult choices.
John Panesko	Any mandatory CLE subject is a sign of failure. If we won't take your class voluntarily, that says something about the class. If you want to force our attendance, that says something about you. Imagine Starbucks requiring that we buy a cup of green tea each week or they'll exclude us from their stores. We'd soon hate green tea. Is that the response you seek? Your assumption that we all need this training is insulting. What about forced alcohol addiction training or forced spouse-abuse training or forced gambling addiction training? Implicit is the assumption that we are all so morally or socially bankrupt that we deserve annual guidance as punishment for our cultural sins. Who elected your group to judge us all guilty? Any effort to eliminate our freedom of choice should meet the strict scrutiny test. Firstly, are there serious violations of human rights by licensed legal professionals? Where is your proof that lawyers are illegally discriminating? Why haven't we heard of all the cases? Why are not the worst offenders punished and held up as examples? Without such proof, you fail the first prong of the strict scrutiny test. The second prong (choosing the least intrusive solution) takes us back to my main point: Why start with mandatory instruction for all? The Board of Governors is right. Equity, inclusion, and bias are loaded with moral and social judgment calls. Based on such corporate classes, these judgment calls will be presented from a leftist viewpoint dismissing other views (including firmly held religious beliefs) as backwards. You say you are eager for the bar to "catch up" with such training. The fact that we will lose our license if we don't accept your moral and social judgement calls, makes this a form of ethnic cleansing. If you can't convince other equally-competent professionals that their actions need correcting, then forcing moral and political viewpoints down our throats is the very worst thing you can do. You already knew that, yet you proceed.
N/A	WSBA shouldn't be taking positions on these kinds of issues -- it's not the Association's role. It's one of the reasons that I (and many of my colleagues) would not be a member if I wasn't forced to be.
Frank Abramonte	
N/A	It is hard enough to find appropriate, relevant, legal ethics CLEs. To narrow the focus in this way would make this harder.
mandy m mackenzie	I feel that since it's harder than most realize to get all the CLEs within a reporting period, narrowing the scope of one or more of them just puts added stress on fulfilling the CLE requirement
Vincent Bennett	



Jeffrey Hartwick	<p>I am OPPOSED to a mandatory “equity, inclusion, and the mitigation of both implicit and explicit bias” course for Washington lawyers. The MCLE Board Report provides no evidence that there is rampant implicit and explicit bias in the profession. It merely states platitudes and unfounded allegations of “systemic inequities,” and that somehow such an MCLE course “will better equip legal professionals with tools of cultural competency and understanding.” The MCLE Board insultingly assumes that lawyers with seven years of university education, from diverse upbringings and backgrounds, are unable to “better understand the lived experiences of individuals and entire communities” that are underserved without such a forced course requirement. Where are the statistics that attorneys are biased against others in society or in their practice of law? Where is the evidence that attorneys don’t understand the plight of the underserved? Further, there is no evidence that demographic differences in the profession are due to bias in the profession. The MCLE Board is attempting to craft a cure when there is no diagnosed disease. The purpose of MCLE is to foster professionalism, competency, and ethics. A forced implicit and explicit bias requirement does nothing to further this goal. It is instead political indoctrination that would promote divisiveness; all must be purged of “biased” thoughts and instead embrace those sanctioned by a governmental organization to which all attorneys must belong. This is Orwellian. Individuals become lawyers to help others and further justice in their communities. Many of us help underserved communities every day. To mandate the “re-education” of lawyers based upon a controversial explicit/implicit bias psychological theory is wrong. We are already a heavily regulated profession. The focus should be on practical MCLE classes, not pseudo-science or the progressive cause du jour. If the MCLE Board believes they suffer from “bias” and want to delve into bias education, then they ought to do that themselves and not force it on all attorneys. Both the WSBA Board of Governors and the Washington State Supreme Court have wisely rejected the prior Amendment. It should be rejected again, as unnecessary political indoctrination that is not within the province of the Bar.</p>
Peter Mueller	<p>This seems to me to be both perfunctory posturing and the height of offensive political correctness. Licensed attorneys and judges do not require mandatory annual training in such basic and clearly understood matters.</p>
Bob Lyons	
Maria Diamond	<p>I like many of my colleagues have previously taken courses dealing with this subject. It is an important subject but I do not think there should be a mandatory ethics requirement to include it. As someone who has been well educated on the subject, I and other similarly situated practitioners should have the freedom to choose how to earn our ethics credits.</p>
N/A	<p>I oppose the continued effort to "require" CLE on given topics deemed "appropriate" those seeking to promote social and political agendas. This is unnecessary to the practice of law and inappropriate as a licensing requirement.</p>
Joseph E. Nagy	
Suddeth, William	<p>I am not interested in being forced to pay for something that does does nothing to enhance my legal practice or knowledge Base. Change the Lange to something like: encouraging at least one credit.....</p>
Thomas J Hoffmann	
Rhonda Neben	<p>Encourage providing ethics credits for D&amp;I and bias mitigation courses, without adding the requirement, to ensure that the programs are quality programs and not just surface, check-the-box programs to fulfill a requirement.</p>
Charles Bates	<p>Thank you for this opportunity to provide feedback for this newest suggested amendment proposal from the Mandatory Continuing Legal Education (MCLE) Board, regarding changing the ethics CLE requirement. This issue was already proposed and rejected last year. As a side note recommendation, the WSBA should consider instating (what many have suggested in the past) that if a proposal is pushed and rejected, that there needs to be a “respite” period of a couple years before the same (or substantially similar) proposal is pushed on the membership yet again. It appears this “new” proposal is really just the bulk of the already proposed and rejected proposal of 2019, reworked a bit, as an attempt to allow “the camel to get its nose in the tent”. Simply an attempt to continue to wear the membership down, forcing them to keep ever vigilant, requiring them to fend off in essence the same proposal over and over again, and if it is passed, I fully expect the rest of the old proposal to be proposed again, next year. This proposal is simply another attempt for some individuals within the WSBA to foster their personal, political, and social opinions and viewpoints upon the membership. I recommend that this proposal be rejected.</p>
N/A	

Jim	I disagreed with this the first time, and I disagree with it the second, even as more narrowly defined. There is no attempt to make the case, to begin with, for approval. I don't know why you are proposing this or why I should or shouldn't approve it. But more importantly, this is not an appropriate role for the WSBA to be playing; it is, within a firm, the responsibility of the governing body, its policies and procedures and of its HR department to comport with applicable law and regulation. This is true from the largest of firms, where these matters are or should be formalised, to the sole practitioner, where the means may not be as formalised but where equivalent means exist for managing them. From a WSBA accountability standpoint, there is no transparency into the governance process around who decides what the language you are proposing means, or what courses will need to deliver to be eligible for credit. As a member of the WSBA who lives outside the state of Washington, there will likely be a dearth of courses that meet the criteria (whatever those are) for credit. Whatever the concerns underlying this proposal, they are not professional in nature; they are political. Once enshrined in law it is for management to implement any legal or regulatory requirements. Although you have not defined what your concerns are, they appear to apply to society at large, not just to lawyers licensed in the state of Washington. So leave it to the politicians to address them.
Karl Barth	
Collin Alberts	Most law schools now train students on these issues during law school. Therefore, requiring additional MCLEs on these issues is unnecessary for most new lawyers.
Jennifer Lee	Jesus Christ is the ONLY way, truth, and life. Study of Him and the Bible is the only necessary education with respect to "equity and inclusion."
Mariano Morales, Jr.	
JOANNE G COMINS RICK	
N/A	Already too many requirements.
Curtis J. Coyne	Totally unnecessary. Keep it simple stupid.
Paul E. McIlrath	Attorneys are expected to be fair, unbiased and impartial in our dealings with clients and potential clients. I do not believe further training on diversity and inclusion is warranted.
Vicki Parker	As well-educated attorneys, we do not need requirement which is actually a politically motivated requirement. Please, respect our professionalism and reject this proposal.
Stephen Faust	
N/A	If you do this, you should change the name to "Mandatory Legal Indoctrination". Whatever course should be required should be a viewpoint neutral look at the issues. But by the name, there is a very definite viewpoint being presented. I would rather see a name such as "Racial and Gender Issues in the Legal Profession."
N/A	Lawyers do not need more instruction on what courses we should take to improve our practices. We are professionals and far better judges of this than you. Please stop trying to micro-manage everyone else!
Tim Rybka	Mandating an ethics credit in the topic of equity, inclusion and the mitigation of bias is not only one sided and suppressive, but highly insulting to the legal profession as it assumes facts not in evidence towards a lawyers character.
Linda Tompkins	This is a good first step but doesn't go far enough. Three to five credits per reporting period would be a better first step. Without raising the overall total requirement, there is an urgent need to provide an understanding of the historical development of the law and it's factual bases.
Stephan R. Illa	
Jason Hatch	This is a stupid, wasteful attempt to regulate morality. You are acting as if the legal profession is filled with children that need to have the details of equity explained to them. If this mission is this important to you, you should be able to provide it as an optional, free seminar. Make it available to all practicing attorneys. The expectation that you know something about equity and inclusion that other professionals don't is pathetic. I do believe your heart is in the right place, but I absolutely assure you your ego is in an elevated place that it never deserved to be. All the best.
N/A	Mandating training does not work. Those who don't want to listen will tune out the cle and resent it. If not online and free, harder for those in rural areas to meet this requirement.

James E Yocom	I am a PhD sociological social psychologist at a large public university, in addition to being an inactive member of the bar. As part of Oregon's State Bar I organized and helped administer various D/I issues over the years. Here is my problem with the proposed language. On what grounds will program developers and reviewers of MCLE applications be deemed competent to provide scientifically accurate, empirically adjudicated content? Repeatedly in D/I administration I observe practitioners prepare and deliver content that is inaccurate, misleading, misrepresentative of scientific consensus, and sometimes just partisan propaganda. Unlike typical CLE content, which is prepared by people with a colorable claim to expertise based on practice, the overwhelming majority of people seeking to administer this sort of D/I content have minor or extremely low-quality training in the area, and their competencies are mostly self-declared. How is the MCLE application reviewer going to be able to distinguish a program with a balanced set of perspectives on D/I issues with a firm grasp of the diverse views presented by scholars from a variety of disciplines, from the ravings of a single scholar who was cherry-picked because of a credential but terrible grasp of the scholarship, or from a foaming-at-the-mouth activist with an ax to grind? Look, I can grant that this content is important, but there needs to be a quality-control mechanism in place somewhere, which does not involve someone with no formal training in the SCIENCE of D/I issues--which often conflicts with popular discourse--deciding what is "good" CLE content. You are heading down a road in which possibly good and, god forbid, creative content and ideas on increasing diversity, fairness, etc., etc. will be drowned out by (civil) religious fervor. The strain this will put on politics in the bar--and the possibly delegitimizing effects it will have on the institution--could be considerable. You have GOT to seriously think about, and incorporate into the rules, how competence will be judged before this floodgate gets opened.
Paul C Burton	Stop with the politically correct indoctrination schemes and concentrate on leadership which brings us all together, not divides us into political camps.!!
Tom Prescott	I am admitted in CA as well and they have a similar requirement. I have found this requirement to be essentially useless. It feels like a politically correct hour rather than a substantive learning opportunity. The same objective can be achieved in other ways.
Susan Komori	The legal community is already aware of this and it would narrow the focus of learning in other areas if one specific area of ethics is singled out. ALL areas of ethics are of equal importance.
Allan A Bonney	I am not in favor of the suggested amendment until and unless the substance and topics and specifics of the required CLE courses are provided, in other words, until and unless the definition of "equity, inclusion, and mitigation of both implicit and explicit bias in the legal profession and the practice of law" is defined. How would an MCLE provider and the MCLE Program staff know whether a proposed course met the APR requirements.
Colleen	
N/A	Just sounds like a money making opportunity for the WSBA.
Emily Calkins	
Ryan English	
Kerry Regan	
N/A	
Krystle Gomez	
Jessica	Ethics courses are difficult to obtain. Adding a bias component to the curriculum requirements of ethics courses seems a more streamlined manner in which to ensure legal professionals receive such training. If this amendment passes, I strongly urge the WSBA to offer a free/low cost webinar in each of the first 3 years to accommodate low means counsel, LPOs & LLTs; & ensure all those in the legal profession have equal access to what will be a difficult credit to obtain.
N/A	
James Robertson	Forcing every member to take this particular topic every cycle is biased toward folks who think this is the most important ethics issue; not all of us do; let us chose which ethics topics we study, including possibly, but not mandatorily, this one.
Tiersa Justice	
S.	This is not necessary.

Mitchell Stocks	I live overseas and meeting the CLE requirements is already challenging. I am not in favor of any special requirements.
David Cromwell	While I appreciate and support the overall intent of the Suggested Amendment it should not be made mandatory as part of our ethics training. If it is made mandatory, it should be required only as part of admission to the Bar by new members. Ethics training should be focused on PR. The WSBA can and should offer this type of training, which I have previously completed in other venues and found highly informative, but it should be optional and count towards general CLE requirements. As an out-of-state attorney I am also concerned about requiring very specific training that will likely not be readily available without costs where I reside. If said training is required, then the WSBA should make it easily accessible and free over the internet, but that undermines the value of this type of training. If we're simply checking a box then there is no value-added.
N/A	Ethics credits are expensive and not enough will be done to achieve this goal in terms of cost. All CLE credits are way too expensive. I haven't gotten one from the WSBA in years that I've paid for. It's a rip off.
N/A	This has nothing to do with legal education. It is just political propaganda that has no place being called "continuing legal education."
Jay Bromme	The strides already made in this area make spending time on this amendment unnecessary
D. Wendel	1. As written, the use of conjunctive "and" twice, with the three main and two sub subjects, becomes a challenging curriculum to comport with. 2. The precedent of prescribing curriculum within the existing two categories poses a specter of undue complication and growth in CLE costs, as further specific curriculum subjects, general and ethics, arise.
Tim George	Against any proposal requiring specific politically-motivated CLE prescriptions. Please keep identity-minded, politically-divisive rhetoric out of required continuing legal education. If a member wants to improve their cultural skills, great! Those offerings should definitely be made available! They should not be mandated.
Pamela Bradley	WSBA should merely offer these types of ethics CLE's rather than mandating that licensed professionals track this additional requirement. It's completely unnecessary and creates an additional burden on the professionals.
N/A	This is just one more restriction on being an attorney, for that attorneys have to pay their own money for the privilege of earning a living. I don't think it's going to actually have a positive benefit. It's just annoying and expensive.
Edward S. Winskill	I oppose this proposal in each and every respect. It adds nothing to the existing legal ethics, dignity, and responsibilities of our honorable profession. I propose that the WSBA concern itself henceforward and forevermore solely with the practice of law, eschewing the shifting, ever changing political landscape. Get back to the real business of the practice of law. Spare us the barrage of politics that has disfigured every issue of the Bar News these last several years. One last comment: I am a lawyer, not a "Licensed Legal Professional (Lawyer, LLLT, LPO)". I modestly suggest you have the category "Lawyer" to check in these sorts of surveys in the future. I do have a question, rather than an assertion: if the Supreme Court rejected the proposed rule, why is the WSBA trying to resurrect it?
Aldo Melchiori	
Yvonne Kinoshita Ward	As a civil rights practitioner, I caution that "Equity" is both a subjective and now highly politicized term. Who defines it? Will counter speech be allowed? Given that the WSBA is a government agency, this is probably unconstitutional. It will most definitely be DIVISIVE.
N/A	
Robert Gudmundson	The study and practice of law is inherently aimed at the elimination of unfairly prejudicial bias. Attempting to require a special focus on specific forms of bias tends to chop up and divide. This gives rise to unintended opportunities to create or enhance bias that is not specifically proscribed or focused on. We all can be described as an "intersectional" assortment of traits and backgrounds. To attempt to address only select bias and not all unfair bias is too great a risk to take. I do not support the amendment.
John Moore	
Tom Prescott	I'm also admitted in California and the MCLE requirements include a similar item. Frankly I have found this requirement to be virtually meaningless. I'd much rather completely a substantive MCLE hour.

Julie Sak	Any presentation on bias or the mitigation of bias will inevitably include the speakers opinions which is therefore personal bias. Why should I be forced to sit and listen to someone spout their bias at me? It will be much like the Bar choosing which free speech to endorse and which to silence. If someone chooses to take an ethics course on this subject, that is their right but it should not be mandated.
John Brolin	I am concerned with finding access to these specialized CLE courses.
N/A	Totally unnecessary.
Inez Peterssen	I am also not in favor of the WSBA opening up this vote to people that do not have to CLE requirements levied upon them. When those people pay dues or part of my dues, then they can have a say about CLEs but not before.
Frank Washko	
N/A	I wholeheartedly disagree with the proposal. Many PR courses already taught cover these precepts—which are also strongly deeply-rooted within our ethical rules. In addition, these are always being subject to ongoing dialogues within our sections. I find it quite offensive as a minority person that every mandated response for every real or fictitious issue now turns inexplicably into equity, inclusion, and bias—particularly when these precepts have been ingrained in every attorney since our first day of law school and continue to be part of our ethical obligations and training we receive. Such mandate equates to requiring specific hours for given PRC titles.
Suzanne MB Hayden	Frankly, I see no reason to complicate the ethics portion of the MCLE. Keep it the way it is please.
bruce bjerke	
Kyle L. Perkins	
Jessica Winn	I'm fairly neutral on this topic. On the one hand, I think many lawyers would benefit from some continuing education about bias, equity, and inclusion. On the other hand, I think that the CLE requirements are already complicated and somewhat burdensome, and I don't advocate further complicating them. I am also somewhat skeptical that a one-hour CLE credit per reporting cycle will address the issues; in my experience, one-hour CLEs either delve deeply into one very narrow topic, or address superficially a broad topic, such as the one being proposed here.
Osgood S. Lovekin	Despite all the clamor about "systemic racism" I believe that lawyers as a group are among the least racist and most inclusive people in society.
Julie Olds	
Alicia Derry	
N/A	It is racist. It is proven to create bias and animosity or heighten it. It has nothing to do with being a competent lawyer. Oppose.
N/A	
N/A	
Carin Marney	For the same reasons that a similar amendment was rejected in 2019, ethics education is left to the broad discretion of the individual attorney. It is unreasonable to mandate this subject and not others. It is also not within the WSBA's authority to mandate that I must take credits on this topic, but I can otherwise select all CLEs that affect my practice at my discretion. I oppose having this topic mandated.
Bruce Reed	Cultural Indoctrination, Political Correctness Compliance and Thought Policing is not the purpose of Continuing Legal Education. This State has embarrassed itself too much already.
Ya right, and invite the angry mob	"Implicit bias" is pseudo-science brainwashing. Equity and inclusion are fine.
Jeff Oster	One size does not fit all. If you saw the extreme and strong diversity of the companies we've done, you would know that we walk the walk and don't need to be lectured by those who merely talk the talk. While the goal is laudable, the execution to achieve this goal is misguided. The ends don't justify the means.
Michael J. Folise, Esq.	The amendment is political and divisive.
AnnMichelle G Hart	Unless you plan to offer *multiple* opportunities-as in MANY classes on this narrow requirement &/or re-mark existing CLEs that fill it, it's going to challenging to find affordable stand-alone CLEs that will meet the requirement. It's hard enough to get in all the required CLE already without making it more challenging and potentially more costly to obtain.

N/A	Every diversity/anti-bias training I has taught me that my white, Southern upbringing is Black culture -- which it most assuredly is not. I grew up in many years of separate but equal and I remember "colored" water. There needs to be training, I'm happy to go, but it needs to be authentic, viable, real, and reflective of the entire Black experience from the most marginalized to the most favorable.
Zachary Leighton	I'm not against it, but I wouldn't say "partially in favor" either. Overall, I'd say I don't have a preference either way. If a 1 credit requirement was included, I would want more information as to how those CLEs would work. Would there be more broad CLEs with multiple ethics credits, including a credit for the equity and inclusion requirement? Or, would there be more of a focus on 1 credit CLEs for equity and inclusion training? Some additional information on that would probably influence my opinion one way or another.
David Crump	While I wholeheartedly agree that there should be no place for bias, racism, or inequality of any protected class, it is my position that WSBA should not require CLE Ethics credits for any topic other than "professionalism".
William Mord	I have no issue with these types of MCLEs being offered, and I agree that we should be mindful of, and attempt to mitigate bias. Considering the average attorney does not decide who does or does not become a licensed attorney in WA, I'm unclear as to what the drafter's specifically mean by "equity [and] inclusion [...] in the legal profession." Based on the proposed change to APR 11(f)(2), these phrases must mean something other than "diversity and antibias." Currently, six credits of ethics and professional responsibility MCLE is required of attorneys. The proposed change would instead require five credits of ethics and professional responsibility and one credit of whatever is meant by these terms -- which is apparently different than "diversity and antibias." In my humble opinion, this appears to be trendy virtue signaling in light of current events.
Dan Plantz	
Stephen Whitehouse	I am not opposed to the concept, and would not oppose a requirement that at some time each licensed attorney be required to view on line something like a two hour presentation on the subject, for credit. I am opposed to a continuing requirement.
Caleb Perkins	This appears to be codification of a political movement which just seems a bit ridiculous.
N/A	This is an attempt to inject a divisive political issue into what should be objective training relating to a lawyer's competence to practice law. I will oppose any Board Member who supports this change.
Don Lukes	MCLE should be about legal education. It's one thing to add ethics training but requiring lawyers to DISPLACE legal education with equity, diversity, etc. Training diminishes the WSBA and opens it to a charge of being "politically correct." I wholeheartedly believe in equity, diversity, etc. but it's not the job of the WSBA to push this. Why not require training on the importance of being a good spouse, parent, citizen, etc.? Just as relevant--more so. The WSBA should help all of its members be better practitioners--not use our resources to pander to the movements of the hour--as valid as those are.
K. Garl Long	Absolutely opposed. The CLE requirement should not be used to impose a social dogma; or to require others to listen to such dogma. The bar has become too political already. A mandatory propaganda program is inconsistent with its mission; liberty should not be treaded upon, no matter how much the proponent is enamored with its social message.
N/A	Unless you can show clear and factually based evidence to support the recommendation that we have to be "woke" in order to be lawyers, I think you should stop wasting our time trying to facility the left wing agenda.
Neil Meyers	The WSBA should stop all political and "social justice" activities, and limit itself to necessary regulation of the legal profession.
Robert Wayne	The purpose of CLE is legal education. Once you open it to political / social cause re-education there is no limit to how it will be used. It is not legal education to attempt to reprogram lawyers on implicit bias. I just took an hour CLE on this through NITA. It was a waste of time and a soap box for a politically correct point of view. I oppose implicit bias, try to recognize it in myself and attempt to deal with people as people. This kind of a lecture is condescending and ineffective. Please don't follow down the path that the Calif. Bar has followed.
Paul G Hanson	This Equity, Inclusion & Bias topic is a relevant one that will attract many lawyers to voluntarily attend CLE's on it. But there is no need to make it mandatory. Lawyers do not need to be ordered to attend CLE's that help them practice law better. No need for coercion like this.

DB	This is outside the prevue of the WSBA's mandate. It is getting tiring having to constantly monitor the WSBA in its ever-evolving mission to force their political agenda upon the membership.
Cris Anderson #8228	In my experience, making something "mandatory" means you've already failed. It's a "feel good" measure. Rather than your suggestion, just make all-inclusive requirements "for ALL ethics credit courses" to include areas you believe mandatory. That would be better than saying "take 1 hr of this and you are deemed 'fixed'". I would think members would learn enough about this seeing that we need multiple ethic-hours to renew.
Douglas Ross	We don't require any specific courses as part of the CLE requirement—we don't require that a family lawyer, for example, take CLE in family law (let alone show continuing competence in family law). We should not start requiring specific content unless it's part of a comprehensive effort to reform CLE requirements.
Bruce Ross	As a Trial Attorney for DOJ, I am already required to complete a number of CLE ethics credits each year, for which I don't get credit from WSBA. But REQUIRING annual lessons on "equity, inclusion and the mitigation of bias" each year does not strike me as particularly effective—more like a waste of time. Instead of requiring everyone to watch one of THESE topics, why not expand the choices of ethics programs by INCLUDING these topics, instead of compelling them—i.e., more choice, not less?
Michael Cressey	Proposal makes you sound and look so caring and inclusive but otherwise a waste of time. I was on both the CLE committee and Pro Bono Legal Aid committees in the past. We proposed and you rejected every idea that would improve the practice of law in favor of these look pretty meaningless amendments. If you really gave a damn about the quality of legal services you would have long ago: 1. Required all attorneys to take a course in client funds management. (that is primary source of injury to clients) 2. Provide heavy CLE credit to attorneys who provide pro bono and reduced fee services through QLSP's. For those persons in need, the quality of legal service is currently zero. You could increase it infinitely if you would only use your powers to encourage lawyers to provide services to the poor and underrepresented. You wont because you get no brownie points for that. But that would improve the quality of legal services to those in need. Please stop wasting your time and our dues on lets look like we are cool and care meaningless provisions. It may not be as much fun to talk about at your social events but it would make a difference to those you claim to care about. Mike Cressey,
N/A	
Larry Johnson	This proposal is just so much pious, left-wing virtue signaling.
Robyn Dokken	
Beverley Brown Losey	Just makes keeping track of CLE ethics requirements more complex; and, subject is already a part of ethics.
N/A	My understanding of the CLE requirement is that it provides information to the practitioner about specific areas of the law. A sort of law school continuance. This proposal is an attempt to inculcate an attitude. I therefore oppose it.
Wilton Viall	BS
Eric Gorrell	Obviously, this is will be an emotional offering, based on perceived biases, and certainly will have no factual basis. worse, such coursework will be taught based on a political agenda with little regard for the truth. Daniel P Moynihan once said "You are entitled to your opinion, but you are not entitled to your own facts." In the above offering, only politically correct Opinion will be taught or tolerated, and will have absolutely no basis in fact. I will not attend, nor will I support, such an effort.
Todd Miller	There are ample opportunities to explore these areas for concerned individuals. This does not need to be forced on everyone.
N/A	
Charles Lagattuta	
N/A	This topic is not in the purview of the Bar and should always remain optional— never mandatory.
Kris Sundberg	MCLE compliance is already getting too complex and difficult to keep track of. Furthermore, this particular subject is one fraught with so much subjective baggage that I fear it will serve little useful purpose other than to make WSBA feel like it is "doing the work."
Lisa Kosek	

Gary A. Morean, WSBA #12052	The WSBA should not get into the business of micromanaging and mandating specific CLE issues/topics that are, or maybe, inapplicable to individuals and their areas of practice. You should approve a CLE, but I should get to choose if it is of interest and/or would be of help in my practice. Shoving any topic down someone's throat is not a recipe for successful education.
Walker Weitzel	This is an incursion of critical theory, and has no place in a legitimate organization.
Clark Fridley	
Sarah Brown	NOT in favor of making this a requirement. Do not create additional burdens on your membership. In favor of allowing equity, inclusion, and the mitigation of bias as topics that could count for ethics credit.
N/A	
Jacqueline Marks	unnecessary change
Robert A Dutton	Until the Board can conduct itself in conformity with ethical and moral principles, it should not burden the membership with yet another bandaid approach. The Board's stunning lack of transparency concerning the termination of the former executive director and the bickering, claims and lawsuits among Board members does not give the Board the moral high ground on any issue. Further, the Bar Association is a regulatory agency. It would seem such a rule as proposed would violate the First Amendment. Finally, we don't need more rules or training to tell Members what is the right thing to do. If there is a problem within the Bar (and there does appear to be one among the "leadership") there are already adequate tools to address those shortcoming.
Suzanne Burke	
Dennis DeFelice	This seems to be another attempt to find a problem where none exists. It also seems to promote "diversity and inclusion" as some type of quota or minimum number that can lead to discrimination by requiring the inclusion of less qualified individuals to meet the quota to the exclusion of more qualified individual that do not meet the "preferred or desired" mix of the quota as arbitrarily determined by a favored or privileged class that pushes for these types of provisions under the guise of "equality."
Sandi Shelton	These topics are extensively covered through free CLE offerings. I oppose a mandate.
Gregory Lyle	Mandatory ethics CLE requirements should be limited to ethics responsibilities set forth in the Rule of Professional Conduct. If equity, inclusion, and the mitigation of bias are to be required education, they should be set forth as requirements in the Rules of Professional Conduct, adopted with the full discussion and procedure that modification of those Rules requires.
James Richman	
John W. Rankin	This Suggested Amendment appears to be an exercise in political correctness for the sole purpose of appearances to the public. In my opinion, the proposed required CLE hour would be useless in creating more inclusion in the profession. Most of us know how to act and speak properly, and those that don't will not learn anything from the required course. And the addition of one more course we are required to attend (assuming it is a stand-alone) simply complicates complying with the existing MCLE requirements. The ethics time requirements imposed by the MCLE rules are better spent reviewing legal ethics that directly affect the practice of law.
Jake	
Bradley Bowen	
C. Scott East	Some legal professionals need less training in this area than other professionals and do not wish to increase the overall time required for CLE training. Each should be entitled to select that CLE training in areas that we determine to be most needed in order to stay competent in our respective practices.



Scott D. Gambill	It is not necessary, as the current rule covers ethical issues related to bias. It is also smacks of forcing a political agenda on legal practitioners. The current cultural madness raging in the streets of our cities is mostly driven by radical left anarchists and communist agitators who illegitimately cloak themselves in rhetoric related to the social justice movement. Their motives have little to nothing to do with "inclusion" or "implicit bias." In proposing this rule change, it appears that the MCLE Board harbors many of the same political leanings as those rioting in the streets. The current rule already requires all legal practitioners to take courses in ethics. A practitioner should be allowed to satisfy that requirement with ethics classes that do not include clear political indoctrination.
James J. Lamont	If any "group" of people is aware of the need to avoid bias of any sort, it's attorneys. I believe this amendment is simply an attempt, driven by politics rather than need, to make attorneys look good; it's just political pandering. Therefore, I'm against it.
Julie Smith	I feel very strongly that mandating specific CLE topics is a bad idea. As a professional I do not need my CLE selections to be micromanaged; I am very much able able to choose the areas of CLE, within the basic requirements, that will best help me grow as an attorney. I worry that the specific topics will proliferate so that each 3 year period has many sub-topic requirements. Such a requirement is also very hard on attorneys trying to meet CLE mandates from more than one state and could present hardships for out of state practitioners. Would there be free on-line ways to meet such a requirement? An aspirational goal, with strong encouragement would be more appropriate Than a requirement.
bruce butcher	I believe it is a fell good and politically correct amendment proposal that has nothing to do with legal ethics. If professional have not learned about how to treat others by the time the are licensed , they never will. A better requirement would be a requirement that before admission to the Bar or Licensed they have attended a class on diversity of some type
Eugene Graff	While understanding and confronting bias is a necessary part of the profession, the timing of the proposal to mandate it as an ethical requirement suggests to me it is attempt by some to exploit the passions of the moment in the service of a political agenda.
Patrick J. Kirby	Let's focus on practicing law and not social engineering.
O.Shane Balloun	<p>Certainly everyone has and faces biases from time to time, which as professionals who are in the pursuit of justice we already ought to be—and no doubt are—working within ourselves to check. However, the notion that bias in the legal profession is material enough that it needs to be addressed at all, let alone repeatedly year over year, by regulatory mandate, rests on unchallenged and unproven assumptions. Furthermore, the ideas that the WSBA by its regulatory purview over lawyers in the State of Washington is the right organization—and that the MCLE rules are the right means—to address this unproven set of assumptions, are themselves unchallenged and unproven assumptions. "Bias" and the "elimination of bias" are code words within the realm of the deconstructive philosophy of critical theory, which is at best a theory about how to view the world but certainly not the "correct" method of viewing the world or even necessarily a productive or good way of looking at the world. Critical theory demands that everything be viewed through a lens of bias based on features of human beings that they cannot control, i.e., anything that is not about character or action. Such "bias" in critical theory is always axiomatically presumed to exist (again without proof; only mere assertion). This jargon is designed to sound reasonable and unassailable, but as code words, they represent a paradigm that certainly not all (or even the vast preponderance of) members of the WSBA agree with. To the extent that ethics and professional responsibility are the principles by which we commonly understand how we should regulate ourselves, critical theory is inapposite to that mission, wholly unnecessary, and as a potential regulatory educational requirement, an unlawful abridgement of the freedom of speech and belief of the members. It is not the WSBA's proper purpose to espouse or socially engineer belief in the philosophy of critical theory (and its subgenres of critical race theory, critical gender theory, and critical [X] theory) among its members. Furthermore, given the communist origins of critical theory, it is disturbing that this paradigm is now possibly being foisted upon the members of the WSBA using the classic Leninist technique of (re)-education. Certainly, members of the WSBA should act with equality and equanimity to all persons based on the aspects about them that have nothing to do with the content of their character. This proposal is not the way to achieve that goal.</p>
N/A	

John Poffenbarger	I think the focus of the eithics CLE requirement should remain on compliance with the RPC's - Lawyers have enough trouble just with that.
Joseph Valente	I think it is well intentioned to try to make lawyers kinder, more empathic and sensitive to needs of others. I also think this is beyond the scope of a mandatory state licensing agency.
Beth	Not interested in any rule changes during this time.
Kristofer Pasquale	
N/A	
Derek Jensen	Don't be reactionary. We already have well developed ethical standards. Check the box ethics is not helpful to the profession.
N/A	Is the WSBA going to offer a free course that would meet this requirement? Does the Board believe that we are so backwards in this day and age that we do not know about being inclusive? Has there not been enough education given and consumed by WSBA members in this area so that we have to re-learn it every three years? We are neither idiots nor ignorant children and should not be treated as such.
N/A	You're telling us that we are bad persons, in need of change. Also, you allege universal inequities, biases, and "continued injustices that Black and other minority communities and individuals" yet provide no proof, nor even one example of where this is occurring. While I do not challenge that there are those in society who are racist (and this goes for persons of every race), I do not believe it is widespread, nor that our institutions are systemically racist or biased. Again, no proof has been presented by this Bar Association nor any other entity or individual. I absolutely do not support this amendment.
Glen Miller	Appreciate the sentiment but not the mandate. As a military attorney, I'm sure we are afterthoughts for many WSBA requirements but this seems like another assumption that everyone is in Washington or even the United States and finds WSBA offerings convenient. This has not been my experience. Although licensing fees continue to climb, I'm not seeing increased benefit. If you are looking to encourage diversity training, by all means encourage it. If you'd like to track it, I'd recommend a similar approach to pro bono hours.
Withheld	
N/A	The Ethics rules are too important to practitioners to change the current mandated credit requirements. Why not amend the required legal credits instead. How would the Bar's proposal change behavior?
Rob Keefe	Enough of this PC Nonsense! Give WSBA members credit that they already sign up for such courses when offered. As persons and professionals we already do!! Geeze, enough!!
Kevin Fichter	Equity, inclusion, and bias are important, and a deficit in one of these areas should be sufficient to call into question whether the member should be a member. But a CLE such as this type is not going to accomplish its goals. For people who are tolerant and empathetic, the CLE isn't going to teach anything new. For people not so inclined, they'll suffer through and ignore it. Imagine if a diehard racist was a member of our bar, they'd attend the CLE because they have to, but will that do anything? Will the CLE teach them how not to hate or how to not burn churches down? Will the CLE requirement encourage them to give up lynching? CLEs should be about teaching and keeping current with the law, not about being a kind, decent human. We don't teach kindergarten civics in law school because that is assumed baseline knowledge. For our bar, it should be assumed/required baseline behavior to be equitable, inclusive, and unbiased, and a deficit in such an area is not solved or even addressed by a one hour mutable YouTube video twice a decade. At its core, my concern is that this CLE requirement is just lip service, window dressing, to make it look like the bar takes the issue seriously, and I fear it would distract the bar from making more fundamental changes to actually effect positive change throughout our membership to be more inclusive, equitable, and unbiased.
Jody Long	I'm licensed in many states and they might not have such a specialized requirement. That means instead of taking one CLE over two days, I would have to take another day to satisfy a particular requirement in a different state. However, I don't have any problem with making it a suggestion rather than a mandate.
Lewis W. Card	Social engineering is not a proper reason for Bar rules. The proposed rule, though presented as a proper ethics topic, is really an attempt to get the Bar to endorse politically motivated social engineering.

Clayton Montgomery	I thought everyone was equal under the law, or did that recently change? This is racist virtue-signaling that makes no meaningful positive change in the world of law, and instead says that we should treat minority communities as different, rather than actually equal under the law
N/A	My office already requires me to take 6-8 hours a year of this training. It is almost always redundant, and I'm concerned that this would be equally repetitive with what I'm already required to take. In addition, based on the WAPA presentation on this topic in 2020, I think this is often a highly politicized presentation.
Allan Marson	Now is not the right time to introduce this topic because the topics of equality, inclusion and bias are being used as an excuse for widespread illegal and unconstitutional activity. Equality and bias could be introduced later in a less charged atmosphere.
George C. Rondeau, Jr.	While politically correct, it is not believed necessary. My experience is that attorneys are very knowledgeable in these areas already, sensitive to the social and legal issues, and in larger firms, get a great amount of internal training on the subject.
Meredith McKell Graff	This is a political dictate and it is not appropriate for the bar to require members to submit to political speech in the guise of an ethics requirement.
Michael Murray	Given the recent decision to waive the Bar Exam, I'm in favor of waiving all CLE requirements.
George A. Leone	Don't see the need to further restrict the ability to chose CLE's in one's area of practice.
N/A	
Sean Lewis	I'm still trying to figure out what the problem is you're trying to solve. I think everybody is trying to shove out solutions but they haven't identified a problem they're solving.
LARRY BERG	I am a government lawyer. This kind of training has been Routine. The news cycle covers these issues extensively. The only way I would support this requirement is if it could be fulfilled by a one hour self study with supporting declaration.
Alan Seago, Bar 22574	Your willingness to follow every political correctness fad is disappointing. Rather than your proposal, I suggest instead that every Washington attorney be required to participate in one hour of CLE each year regarding the historical legal foundations of the U.S. Constitution, or the international law aspects of human rights abuses committed by Russia, China, North Korea, and Iran.
John j Soltys	
J.E. Sullivan	Further qualification of ethical credits is unnecessary. Mandating bias education creates an additional obstacle to obtaining the minimum ethics credits. As professionals, we should retain some flexibility in choosing our continuing education courses. I have attended bias education - and I understand the issues. Most of us in the legal field do understand. While I appreciate your goal, I think it is misplaced. We don't need to attend over and over and over and over again. Please drop this ill-advised idea.
N/A	
N/A	
Larry Schreiter	Having been told "no" already, this is yet another attempt by those holding a certain social and/or political ideology to impose upon the entire Bar membership more propagandistic claptrap. It may only be a single hour, but there is more than ample amounts of this stuff in the media and all around us in seemingly all our institutions. I respectfully decline the obligation to endure being berated by ideologues because of my faith, my race, my ancestry, my beliefs, and my heritage. If the MCLE people want to approve such nonsense for credit hours, fine, but do not make any of it mandatory. Thank you.
Douglas Tesdahl	This is typical far left-wing political correctness and has nothing to do with making lawyers understand their ethical obligations under the RPCs.
Jim Bledsoe	By definition the amendment is not a subject of continuing legal ethical education, unless you assume legal ethical education pertains to instructing members of the legal profession without regard to a legally required ethics rules. This view opens the door to almost anything it would seem. What evidence exists of a need in this area or is this just a move to point toward positive action should anyone claim they have not been included or perceived some sort of bias?
N/A	

Benjamin Miller	I don't believe this requirement would serve the ultimate purpose of continuing education for lawyers. Having courses available in the areas of equity, inclusion, and mitigation of bias is sufficient for those who are interested in such topics to fulfill continuing education requirements. I don't believe in using continuing education requirements as a platform for social justice and I am strongly against making it a requirement. At least with ethics CLE requirements, there is some relation in that attorneys must demonstrate knowledge of the rules of professional conduct to be licensed, and must continue to adhere to those rules in practice. Because of that close relation, it is appropriate for the state bar to require ethics CLEs. There is not any such relation to the topics of equity, inclusion, and mitigation of bias to justify a mandate with respect to those topics. This seems to be a reactionary proposal to the current political environment rather than a well-reasoned proposal with an appropriate nexus to the actual practice of law.
N/A	While this is an important topic, it is not an appropriate topic to mandate as part of MCLE credits for legal professionals. There is no other topic mandated with this level of specificity as part of MCLE requirements. Even ethics hours are much broader. There are plenty of other opportunities for practitioners to obtain this information and mandating this credit will not have the desired change. Instead, make these courses eligible to receive MCLE credit and let practitioners choose how they satisfy credit general credit requirements consistent with the needs of their practice and personal interests.
Anonymous WSBA Member afraid of cancellation and retaliation	I have been a licensed WSBA member for over 20 years and wish to remain anonymous because I'm afraid of professional repercussions and retaliation for opposing this amendment. In my opinion, this CLE requirement will be used to indoctrinate members into thinking in certain ways about the contentious issues of race and gender. It will also burden attorneys' first amendment rights to think and say what they please about important social issues and subsidize the diversity consulting industry. The WSBA has had a long-standing disconnect with many of its members and this proposed burden will only serve to further alienate those members. The WSBA might as well say it is going to require 1 credit of CLEs in "Why attorneys should be woke progressives and only vote for such candidates and policies" or "Why you need to be anti-racist" or "Color-blindness is not enough." This is not an appropriate mandate. Please leave your members alone and let them practice law.
gary p schuetz	I believe the suggested amendment is unnecessary and just pandering to a media created non-issue.
N/A	
Jose R Mata	For those of us admitted in multiple jurisdictions, there is a balkanization of MCLE requirements where each state has specific requirements no other state has. Perhaps if uniform content for specialized credits could be negotiated so you can attend a diversity CLE and it is good for e.g. all of Washington, Idaho, Oregon, California.
Melissa Hall	I really WANT lawyers to get this kind of training but I don't think the research is there yet and some evidence shows awareness training alone can backfire. Models for behavioral change seem to do better esp. habit breaking frameworks, but given the way CLEs tend to be developed I am worried about missing these nuances in the programming. ( <a href="https://scholars.org/sites/scholars/files/skocpol_edit_ssn_key_findings_goff_swencionis_and_bandes_on_implicit_bias_training_is_not_a_silver_bullet.final_.pdf">https://scholars.org/sites/scholars/files/skocpol_edit_ssn_key_findings_goff_swencionis_and_bandes_on_implicit_bias_training_is_not_a_silver_bullet.final_.pdf</a> <a href="https://www.ucd.ie/equality/t4media/ub_an_assessment_of_evidence_for_effectiveness.pdf">https://www.ucd.ie/equality/t4media/ub_an_assessment_of_evidence_for_effectiveness.pdf</a> ) These are my favorite ethics training options but I don't think we are ready to require it, instead I would prefer we make it clear the duty of competence includes cultural competence wrt the communities you serve
Richard Sybert	This is nothing less than mandating political correctness, reminiscent of totalitarian "re-education camps." You have no right to tell someone else how or what to think. I do not need you to instruct me on morality. Any such substantive requirement as proposed here should be abolished.
Laura	These topics are highly biased and political, and rarely involve any factual basis. I could not be more opposed to the idea of being forced to sit through the WSBA's attempted brainwashing on these subjects.
Gerald "Jerry" R. Neal	Why does this group want to impose their agenda on the entire membership? At best make any similar CLE voluntary only. Thank you for the opportunity to comment.
Joe MORris	Absolute waste of time and really amounts to nothing more than virtue signalling by the board. C'mon now, you're better than that...maybe
Kathleen Dassel	

Patrick Julian	We dont need the MCLE Board playing politics. Who the hell are they to say I need this training? they are saying every person in the bar is racist. they dont know anything about me or care about me. Hell no to this rule change!
N/A	While I would encourage it, I believe that long term, coming up with topics that are covered in this area would be difficult to find and cost burdensome. Unless you are also planning on arranging to put on this type of CLE every year and also making it free, I think carving it out is unnecessary.
Gregory Mark Wilson	As with any good rule, it would be wise to define the terms: specifically, what is the intended meaning of equity, inclusion, and the mitigation of both implicit and explicit bias in the practice of law. What is equity? It means justice. That is a given for lawyers, right? Lawyers have equity bias? Well the antonym of equity is bias? So, someone thinks we are biased to justice? That is silly. What is inclusion? You probably mean the act or practice of including and accommodating people who have historically been excluded by lawyers because of their race, gender, sexuality, or ability. Define your terms instead of hiding behind ambiguity.
Craig Ritchie	I love the concept. However, I don't think requiring a CLE makes sense. There are many additional great topics for mandatory CLE involving mental health and suicide prevention, substance abuse issues, environmental issues and criminal justice, access to justice issues, but mandating a CLE for each issue is not the way to educate lawyers. Use the Bar Journal.
Ryan McPherson	
Christopher A. Johnson	While the goal of expanding this area of instruction is laudable, I have reservations of making it a requirement. Perhaps it would be better to simply make it policy, for the WSBA and all Sections, to include such a topic in at least 1 or 2 sponsored CLEs each year. (And encourage private CLE sponsors to do the same.)
Breanna	Although i think it's a good idea these types of ethical CLEs are offered, i think requiring one to be specifically on that topic is too narrow. My concern would be trying to find CLEs regarding this topic. It could potentially add an additional cost. As of right now, i've been fortunate to find many ethics CLEs for free. If this one is not free, it's adding to my costs ON TOP OF the \$500+ i pay a year just to have my license. If the WSBA offered to host/provide this specific of a CLE once a month so everyone could attend, then i would be for it. But otherwise, it think the intention and topic is good, but in reality going to cause a lot of problems. I don't want to be out of compliance because i was unable to find a CLE of that nature or couldnt find one between my trial schedules. And i'm not willing to pay an astronomical amount for 1 credit of the specific CLE when i can find plenty of ethics CLEs for free.
Diana Anderson	I am tired of the 'presumption' that I am racist, biased etc. and that I must be REQUIRED to complete these kinds of trainings. It is offensive to me to have the Bar Association presume that myself, and all other members, need to have these kinds of trainings. I do not deny that some members of the bar may have issues that need to be addressed with this kind of training but that should be the province of bar complaints and remedial sanctions etc.
N/A	
Greg Raburn	My practice is patent law and my clients are large corporations. Like the other specialized CLEs I already have to take to maintain my Oregon license (e.g., elder abuse, child abuse, bias about the legal profession, etc.), this continuing legal education requirement seems to be one more requirement that has very little applicability to my practice.
N/A	
Anthony Bandiero	Please do not tell me what ethical training I need. I want freedom to choose. Thank you.
Erich Potter	I'm very much in favor of increasing equity, inclusion and the mitigation of bias related to the practice of law, however I'm against any and all additional MCLE requirements.
David Gecas	I am not in favor of the amendment because I am not in favor of mandatory CLE's. I previously practiced in Michigan where CLE's are optional, and most attorneys, including me, attended CLE courses but they are not required. Other jurisdictions where CLE's are not required include District of Columbia, Maryland, Massachusetts, and South Dakota. The proposed amendment would not add to the total number of required CLE credits, but would require a credit on a particular ethics sub-topic, and the requirement would be recurring. I may be interested in taking a CLE on that ethics sub-topic at some point, but would like it to remain optional, and do not want it to become a new recurring requirement.
Bruce Echigoshima	Many already get this training at the companies they work for. (I work for a corporation).

Ilya Gamel	
Suzanne Pierce	There are many worthwhile values that most of us choose to espouse but very few should be made mandatory, or the subject of mandatory education.p
Jason Gelfand	What do the authors mean by equity? That's a term that seems to mean radically different things to different people.
Louise Wolfe	I believe that the ethical demands of justice are far more varied than this amendment would appear to assume, and I favor allowing members of the Washington bar, of which I am one, to decide for themselves which courses on ethics offer them the most useful content without narrowing it in this manner. I think it would be particularly important to abstain from changing CLE requirements at a time when the U.S. is in a fevered and polarized political climate which is not conducive to open respectful debate. I favor giving lawyers discretion over what ethics content is most relevant to their individual professional lives, and respecting their decency and wishes for a fair and just American society enough to believe that they will make wise and judicious choices which benefit society as a whole.
William Waller	Keep requirements simpler. Let people do specifics on their own, less mandates.
Christien L. Drakeley	I find this amendment to be offensive. This topic is an EEO and HR issue. To devote an entire class to the issue is over the top and to make it mandatory is absurd. This is not a bar issue. It is a civil matter. It is addressed or should be addressed in courses that deal with civil matters. I have black attorney friends. I have worked for and have had work for me black people, Filipinos and Chinese people. The mere fact that you make this a mandatory requirement class insinuates that I and every other attorney is racist or could possibly be racist and I find it highly offensive. The bar has never mandated a particular ethics class that ALL attorneys need to take.
David Freeburg	I am a member of numerous other state bar associations that do not require CLEs. CLE requirements are not helpful to lawyers or the public, because any lawyer who does not stay abreast of continuing legal developments is committing malpractice with or without CLE requirements. Instead, CLEs requirements have created a cottage industry of unhelpful but mandatory and expensive CLE providers. The WSBA should propose a different amendment to eliminate CLEs together.
Jean Jorgensen	Our ability to continue to practice law should remain focused on competency as opposed to current/political issues. Where would this stop? Why wouldn't a requirement pertaining to LGBTQ follow? We have a variety of attorneys in practice with diverse opinions, backgrounds, and perspectives, all of which are valuable in different ways to different clients. We all have biases, as human beings, and no ethics class is going to change that. This simply creates an unnecessary hurdle and expense for competent counsel who have demonstrated no personal deficiencies, so that the Bar can take credit for taking a step toward addressing a non-issue in the first place. CLEs are not designed to serve as self-help tools.
Steven Cooke	No, No, Hell No. This is nothing more than blatant political activism, and a REQUIRED indoctrination to a political view and movement. It will not be content neutral, is not scientific, and is not intellectually rigorous. It's about FEELINGS because the WSBA and its leadership are on a political jihad of virtue signaling, self-guilt and social transformation. You are exercising the power of the state and many of us do not believe in the corrosive and divisive agenda of the liberal/socialists which infect the Bar. Keep "the summer of love" sickness in King County.
Dominic Lindauer	The proposed amendments should be rejected. Existing sections APR 11 (f)(3), (f)(4), (f)(5), (f)(6), (f)(7) should be deleted. APR 11 (2) should be truncated as "...LPOs, and judges."
Brook Goddard	
Michael Boswell	
William Weissinger	I oppose any effort to require any specific "segments" of ethics education.
Kimberly Sloan	I strongly support anti-bias efforts, however I do not believe training in this topic should be required as a regulatory matter in WSBA's purview. The purpose of the bar is to regulate members and the services they provide. WSBA seems to go far afield of this. As the most expensive bar association in the country, WSBA should be concerned with limiting its scope, not expanding it.
Colleen Broaddus	

Tim Borchers	Are we going to start sub requirements for the General CLE area, such as 1 credit on how to take a deposition or 1 credit on trusts? Let the members of the bar be adults and choose the credits that are most important to them and their practice. If they want a credit on equity it will be available for those who want to take it.
Thomas G. Jarrard	This looks like view point politics, that we need to steer away from. We already address equity, inclusion and the mitigation of bias in RPC 8.4 and the oath of an attorney. Also, by requiring one hour, without increasing the Ethics hour requirements, then you are necessarily eliminating hours on other ethic topics that are major problems that are much more prevalent, such as malfeasance with client funds. I see lawyers every month in the back of the bar magazine who have misused client funds. I have never seen anything (or observed an attorney) doing anything that would be offensive to the concepts of equity, inclusion or mitigation of bias in our system of justice.
Steven King	
N/A	I am all for having a broad range of CLE topics available for attorneys. I also agree on the current ethics requirement and the ability to voluntarily choose qualifying CLEs. I even agree the Bar Association might encourage the voluntary selection of particular CLEs. However, I disagree with a requirement that narrows voluntary choice and mandates a political correctness CLE-- which is what this amendment proposes. Once the Bar Association gets onto the slippery slope of a arrowing process, what is next? Mandatory CLEs on stress, diet, life-styles, religion, etc.?
N/A	While the goal of this is laudable, it goes beyond the scope of what is intended for continuing legal education. The purpose of CLE is to improve the skills, knowledge and ethical behavior of attorneys. It is not intended to tell us how to conduct our businesses or to impose political positions. I think the current rule adequately addresses the need for equity. I do not believe we need to be preached to, as opposed to educated. I would urge the BOG to reject the amendment.
Jeff Riback	
Grant B. Anderson	I am opposed to the "leftists" dictating unnecessary requirements impacting how I run my Practice and my life. The Constitution provides for equality and fair treatment for all.
Benjamin D. Reichard	When the previous amendment was suggested, I opposed it on the grounds that the bar would be inviting itself undue headaches with such a requirement, despite its apparent good intentions to ensure a membership that reflects contemporary cosmopolitan ethics. Nothing changes with the amendment. Principles of equity and bias are topics that are exquisitely difficult to teach in a manner that is not politically tempered, especially in a brief CLE format that invites a reductionist approach that would tend to disserve those complex topics. That being so, my belief is that this proposal will have an effect that is the opposite of its intent. I think the bar is better served by leaving that training to individual employers who wish their employees to receive such training.
mary ronnestad	
J Thomas McCully	This is just chasing the latest buzzword - it's a meaningless gesture. It will have little to no impact on the problem.
Lloyd W. Sadler	This amendment would make the Washington Bar different from all others, the consequence of which is that compliant CLE courses are unlikely to be found in other states. This amendment would therefore be a great and unfair burden (in both time and cost) to members of the Washington Bar who live outside the state. It is inappropriate for the Washington Bar to implement rules that discriminate against and disadvantage any group of bar members and this includes members who reside outside the State of Washington. I, therefore, urge you to reject this proposed amendment.
Danielle Flatt	A subcategory of ethics credit and new criteria would make it more difficult to find subject matter experts as speakers, and more difficult to plan and create accredited presentations. It would be better to leave the ethics requirement as-is, but allow this type of topic to count towards ethics credits (which I believe it already does; I have attended a few diversity & inclusion presentations throughout the years which counted towards ethics)
Janet Anderson-Briggs	I am also licensed in the State of Texas, where I have to obtain three hours of ethics annually. However, there is no similar ethics requirement in Texas as you are proposing. I take my CLE classes from the ALI-CLE, so that I can meet both jurisdictions' requirements at the same time. If you require this amendment, I am concerned that it will be more difficult to find specific classes at the ALI-CLE to meet the specialized requirements of Washington State. I do not take CLE classes from vendors solely in Washington State.

Joshua Park	
Ken Harer	I believe is unnecessary and will reduce the number of CLE hours completed by attorneys which are directly related to their area of practice.
Joseph Evans	I advocate for and spend large portions of time working towards inclusion and equal justice, that is my choice and part of my passion. That being said, ordering members to take one cle every 3 years on a subject is not going to change any hearts and minds. One CLE every 3 years is a remedial measure that will simply create an additional burden for members while not affecting attitudes. It is a bad idea that should be instituted.
N/A	
Zack Mosner	I don't think you can teach a bigot to change through mandatory sit down lectures. If I felt you could I would heartily endorse it. Admirable for trying. Why not work on a broader base teaching tenets of civility and collaborative problem-solving as an adjunct to the legal process?
Mary Jo Moltzen	
Richard B Sanders	This is an effort to be politically correct and push a point of view. If people want to take a CLE on this that's fine but should not be mandatory.
Susan Stearns	
Mark Clausen	We should not require any specific subject for MCLE credit. The subjects of the seminars attended should be selected in the discretion of the attorney in his/her professional judgment.
Garrett	This is ridiculous.
A. S. Quigley	I think the bar should produce an equity, inclusion, and mitigation of bias CLE and make it available without charge to licensed professionals. Ethics credits are hard to come by. Many professionals will take the course as an easy and inexpensive way to meet CLE requirements. That will get the message out as proponents wish. I do not think, though, there should be a requirement to take the course. This may very well be the start of a very slippery slope. People will start advocating that various other course subjects should also be mandated. This will be divisive, when we need healing. Moreover, it seems odd to mandate such a course be taken by those who feel they are the subject of inequitable treatment, exclusion, or bias. People who have those feelings should be free to take other courses which pertain to their professional needs. In short, provide such a course, make it inviting, but don't make it mandatory, which may in turn create unintended negative consequences.
Roger Belman	Will we end up with a specific requirement for each of the six hours of ethics and professional responsibility training? If programs on inclusion and mitigation of bias are being offered and no one is attending, are there ways to increase attendance on a voluntary basis?
Raymond Davis	I suggest everyone read The Disuniting of America (Reflections on a Multicultural Society) by Arthur Schlesinger Jr., (1992).
N/A	It is improper to use bar association powers to advance political objectives.
Mark J. Hilliard	This additional requirement will have no impact, whatsoever, on truly advancing issues of equality; rather, it is simply a superficial means of "checking the box" in reaction to recent political events. Moreover, these types of credits are not as easy to find, or as readily available, as "general" credits or other "ethics" credits. Thus, the proposed amendment imposes a burden on members while at the same time, failing to provide any true or meaningful benefit to those who contend they are treated unfairly. The amendment should be defeated as unnecessary.
Mark Beatty	I'm a solo practitioner that does not litigation. I do not understand how the proposed requirement relates to my law practice in any manner. I make an effort to treat all opposing counsel with respect (assuming I receive similar treatment). I typically do not meet with them or see them (email and phone are the most common forms of contact) so have no idea of their race, gender or sexual preference.
N/A	This should be optional, not required. Only those who care to continue their education on this topic will actually benefit from it. If it's required, then certain individuals will take the course to simply "check the box". You can't make people care by imposing a requirement -- it needs to be organic and genuine.
Jason Powers	



N/A	
David Sprinkle	Not needed and strays from the PRCs. But it is a good job of virtue signaling.
Wm. Randolph Turnbow	Please excuse attorneys who comply with Oregon's ethics requirements to avoid non-parallel access to justice CLE requirements.
John P. Livingston	Mandating such courses is downright insulting, because it is based on a flawed "assumption," i.e., that all attorneys have "implied" bias. You don't know me. I am an individual. All attorneys are individuals. All black attorneys do not think alike. All LGBT attorneys are not alike, and all BIPOC attorneys do not think alike. That being said, there is no such thing as "white privilege." It is a buzz-phrase from a racist, exclusionary ideology that assumes all people of a certain group all think alike and have the same biases. If such courses are such a good idea, how come you have to mandate attendance by the entire bar membership. I treat all my clients, opposing parties, opposing counsel and judges the same: I presume most lawyers are well-intentioned honest people, until I have direct evidence to the contrary. I will not comply with such "mandated good ideas." John P. Livingston.
N/A	I would very much prefer to take courses that are actually applicable to my practice and practice area(s) with regard to both subject matter and ethics CLE's.
Eric Graham	The language of the proposed amendment is vague and meaningless. More importantly, political agendas of any stripe have no place in the regulation of the legal profession.
N/A	I do not believe this is something that should be required.
Phillip C. Gilbert	Respectfully, I think the Bar would be going too far in adopting this requirement; the Bar cannot require all members to adopt values that the Bar's Board holds. I also think that in today's day and age, everyone has been exposed to generous information regarding these subjects, and has the ability to look deeper (i.e. on-line) if they so choose.
Dione Hauger	
Joseph Banks	The bar has the responsibility to regulate the practice of law and not to promote any political agenda. I am strongly against such a measure.
Andrew Mathers	How do you expect to get a fair and real survey in this new cancel culture?
Tory Johnson	
Jody Cloutier	This topic has become too politicized, and any training on this topic is subject to bias based on politics with radical groups conducting the training, so I am not in favor of the amendment.
Alexander Trueblood	Social justice warrior engineering should play no part in continuing legal education. It is irrelevant, harmful, and an insult to everyone's intelligence.
Michael J. Andrews	This is an attempt to mandate a political point of view, and not ethics.
Anna A. Argenti	Hello, I do not see any necessity in the amended ethics requirements. The requirement of "six credits must be in ethics and professional responsibility" is broad enough and includes all the necessary components of the legal profession. Thank you, Anna
Jane Burns	No!! Enough of the thought control, force-fed, genuflecting to the politically correct mantra! It's a fad; it's meaningless, and damaging to all. Please stick with the law.
anonymous lawyer	
Lynn Maynard	
N/A	Because I have plenty of other things to worry about. I had to take Indian Law on the bar exam even though I don't practice in that area and nothing in my practice touches or concerns Indian Law. Trying to work out of state and maintain this license requirements while meeting overly politically correct ethics requirements? Working against bias should be part of our daily jobs as attorneys. Maybe if 49 other states had this as a CLE requirement?
Antony Sayess	Stop mandating social justice causes on the legal profession.
Sarah Carpenter	The suggested topic falls into the realm of HR and is not unique to the profession of law. Employers are widely instituting training regarding diversity, inclusion, equity, and bias. To add this as an MCLE requirement is duplicative. MCLE should focus on issues unique to the practice of law, which are not addressed by employers in other capacities, such as through HR.

Carlos Hector Oliveto	
N/A	I agree that equity, inclusion, and bias CLE offerings should be made available and supported by the WSBA. However, adding one more specialized category to the CLE requirements makes it more difficult to meet CLE expectations and leads to hunting for courses the check boxes not further useful education. Additionally, without direction from the WSBA now on what CLE topics would satisfy this requirement this amendment creates too much ambiguity.
jim johnston	This is a political view outside the scope of the WSBA - please stop it and focus
Darius Massoudi	I am a gay Iranian-American and am in favor of equity and inclusion efforts, yet recognize that adding additional requirements to the MCLE regulations may themselves actually hurt equity and inclusion within the legal profession. I am fortunate to have a well paying and stable legal job, but what about those in our community that are struggling? What if they are unable to meet these requirements because they cannot find a reasonable and affordable option for them? Please stop adding additional MCLE requirements when jurisdictions like the District of Columbia do not even have any. There are other ways of ensuring that you are up to speed with the law rather than mandatory requirements like this that constantly threaten to revoke or suspend your license.
N/A	
N/A	
John van Velthuyzen	
Michael Grim	
Ron Santi	It is becoming a full time job reviewing communications and proposals from WSBA and MCLE. Well intentioned no doubt, but relentless tinkering.
Matthew Gerber	Equality before the law and equal protection of individual rights are what truly matter. I am very concerned that any policy that elevates a group of whatever type over the sanctity of the individual.
David Hallowell	You need to change the whole CLE requirements. first ten years should be 45 hours per three year period. second ten years should be 30 hours. third ten years should be 20 hours and after 30 years in practice it should be 10 hours all ethics.
Kevin Rosenfield	
Dana Hein	Why force this, you will not change minds or hearts in doing so. Instead offer many of these types of courses- make them interesting, engaging and thoughtful- not the typical political diatribe- and convenient and cheap. For ex., convenient does not mean on Tuesdays mid-day for working people. However, the Legal Lunchbox curriculum could easily deliver these topics 10 times each year. Give our members the opportunity to opt in. It will be a better long term result
N/A	It is a waste of time. And code for far left identity politics. Inclusion should be by merit. Don't need training in this
Raymond Graham	Stop messing with the CLE requirements. If people want to take those classes, they can. Heck, offer them for free on the brown bag series.
Julia Phillips	stop trying to add more requirements, we already have enough and this not needed
James Benedetto	I have no objection to members voluntarily taking MCLE credits on this topic, but I oppose making such a requirement mandatory.
Joshua Kasten	Too many MCLE requirements already; this would just add yet another burdensome requirement that is unnecessary.
Tyler Everett	This would mean professionals who are trying to keep updated in our primary practice areas would be taking classes to meet the requirement which would have no being on our practice. If this is an important issue then MCLE should require their presenters to include materials in each subject specific area which discuss diversity.
Moshe Admon	There are many available CLEs on this topic. Adopting this amendment and mandating that practitioners take one credit on this topic further politicizes an already heated issue and will create rifts in our legal community. I will support a proposal that Judges should be required to take such a CLE, but mandating attorneys to do so puts additional unnecessary pressure on us.
Ralph Yenne	

Joseph Coli	
N/A	Stop trying to force your political/moral agenda on us in the professional realm. We address these issues privately.
N/A	
John Dorsey	
Doug Ogden	Diversity and inclusion ethics instruction should be part of ALL CLE ethics courses, not a special break-out category. Categorization of what should be fundamental (and broadly, not "specially" taught) doesn't strike me as solving the problem. But I'll go along with whatever is decided, as our society, and attorney leadership, needs to be fundamental.
Jay Griffiths	
Mark Makler	We already do this and as attorneys this is part of our oath of office and our admission requirements. Do not add more political fodder to the fire - attorneys know the rules and if not then the WSBA can sanction and discipline for failure to follow the rules as they are NOW! No more "added" and force-fed lectures and training for what is already and remains current and the norm.
N/A	
Eric Theile	CLE cost and compliance are already burdensome for many lawyers. Adding the proposed requirement will only increase that. This topic is heavily addressed in undergraduate and law school curriculums.
Anonymous	
Andy Chase	
Matthew Hardin	The MCLE requirement is working just fine as-is. There is no need to inject political ideas and viewpoints into the MCLE process.
Ryan Beaudoin	
N/A	Seems awfully reactionary and not well thought out. We should let this sit for a bit and see if its sill just as pressing in 12 months. Having the requirement is one thing. Having access to programs to fulfill it is another. There needs to be a market before a requirement.
N/A	
Benjamin Sheridan	I'm confused. Is there a problem with attorneys being inequitable or noninclusive that the need to be trained in it every three years by mandate? Why not just make it a means by which attorneys can meet their credit hours or give a pitch as to why its needed. Is there any data on this?
N/A	
Thomas Vest	This proposal is a symbol of everything that is wrong with the WSBA-attempted unnecessary indoctrination of professionals harboring no biases with "corrected" attitudes dictated by the WSBA.
Charlotte Smith	
Isaac Anderson	This is nothing short of an attempt to infuse the legal profession with mandatory reeducation on highly debatable and politically charged subjects.
N/A	
Michael Schrenk	I think lawyers should be able to select the ethical topics of interest to them when choosing CLE's.
Paul Brummett	1. This rule change assumes negative facts; and then requires training (indoctrination) into the assumed negative facts. 2. The content suggested by the rule change is, and will be, incorporated into current CLEs without the proposed change. 3. This rule will make earning, and reporting CLE credits, harder. 4. The CLE reporting process and forms are already more complicated than a tax form. 5. This rule change is simply an exercise in virtual-signaling for the political party that controls this state and the bar association.

Alyssa P. Au	<p>Dear MCLE Board: Thank you for soliciting comments on this Amendment. I write to you as a female, Asian American attorney who majored in American Ethnic Studies at the University of Washington. Other than my personal experience as a person of color and minority, I also have an academic background exploring the history of racism in the U.S., and the social, political, and psychological theories that encompass racism and its effects on people of color and minorities. Coming from this background, I am not in favor of the Suggested Amendment because I do not believe it will be effective in its purpose, and it may even cause further harm. Please consider this article published in Time Magazine in 2018: <a href="https://time.com/5118035/diversity-training-infuriates-men-fails-women/">https://time.com/5118035/diversity-training-infuriates-men-fails-women/</a>. The article references the work of Harvard organizational sociology professor Frank Dobbin, who explored why these programs fail. He identified three situations where the training is "doomed to fail": when it's mandatory; when it so much as mentions the law; or when it is specific to managers, as opposed to being offered to all employees. I believe that while the intention of this Suggested Amendment is rooted in the right place, the effect of requiring mandatory equity, inclusion, and mitigation of bias training will ultimately cause resentment among the group that will feel personally targeted by this new rule: older, white men. Unfortunately, they comprise the majority of management and I fear their resentment will bleed into their hiring practices, whether conscious or not. I think it should be highly suggested and highly recommended that Licensed Legal Professionals get this training, but it should not be mandated. LLPs who willingly choose not to engage and participate in these CLEs need to make that decision on their own, and it reflects more on them personally than it does on the Bar collectively. Perhaps the MCLE can collect data on who attends these sessions and use that as "peer pressure" to get more people involved willingly. Thank you for considering my feedback.</p>
Kevin Underwood	<p>I am opposed to mandating additional MCLE requirements. The MCLE Board's proposed revision was included in the broader proposed revision advocated by the MCLE Board last year. Last's year's proposal was rejected by the BOG. The BOG could have indicated its approval of a portion of the last year's proposal, such as this portion presented to us now, but chose not to. As noted in the MCLE Board's Report and Recommendation, "The WSBA Board of Governors made a commitment, at their September 2019 Board meeting, to provide free ethics CLEs to be made accessible both in-person and on-demand each year in these three topics: equity, inclusion, and the mitigation of both implicit and explicit bias ...." Thus, the BOG chose to implement a plan to achieve by voluntary means, the policy position the MCLE Board advocates achieving by mandatory means. At a minimum, we should allow the voluntary plan play out, before reconsidering whether the policy should be mandated.</p>
Anonymous	
William L. Cameron	<p>The CLE committee claims the "recent recognition of the continued injustices" has prompted their resuscitation of this racist proposal. If the Capital Hill Occupy Protest is any demonstration of the efficacy or justice of this new fascism, we need to take a second, cautious look. In the space of two weeks two black teenagers were shot and killed by the rioters. This is a band wagon that is going over a cliff. The last thing the Bar needs to do is pile on.</p>
Larry Stout	<p>With due respect, I'm 63 years old, have been in practice for 30 years, and I really don't need or want to be forced to take equity, inclusion and/or the mitigation of bias courses to retain my license. Is there evidence that members of the BAR, particularly senior members of the BAR, are in need of such education..? If not, the proposal should be scrapped...</p>
Chris Evans	
N/A	<p>The proposed change will put additional burdens on legal professionals without any beneficial result. Being forced to listen to (and to pretend to agree with) partisan, leftist propoganda will do nothing to change anyone or anything. This is institutional virtue-signaling from a bar association that already spends too much time and resources focusing on politics and not enough on the real needs of its members or the public.</p>
Wright	<p>It's already difficult enough to get general ethics credit, delineating the type/category of ethics credits an attorney must have would make it even more challenging/difficult. As such, I am opposed to the proposal.</p>
Bob Baird-Levine	<p>I do not favor the mandatory nature of the suggested amendment. Ethics credits are already mandatory. Let lawyers choose among all offerings as we scramble to complete required credits. If an offered course promises already-mandatory ethics credits and is interesting and inexpensive, many people will take it, and you will impact minds and behavior which is your goal, correct? In fact, offer it as a free Legal Lunchbox offering. Humans, even attorneys, prefer honey to vinegar, persuasion to coercion, and free to costly.</p>
N/A	

Ginger Boyle	I believe that such CLEs would be helpful, and I prefer that we have choice as to attend them or not.
Rachel Morrison	<p>I am opposed to the requirement that at least one ethics credit be in "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law." First, practically speaking, there will not be many options for this required ethics CLE course, making this a difficult and/or costly requirement for WSBA members. Second, before such a specific course is mandatory for ALL WSBA members, there should be a study or report that demonstrates that it is an area of needed education by the majority of WSBA members. I have seen no such study or report that this area is something that WSBA members are uneducated about or that such ethics credits will improve attorney education or the practice of law. Third, from what I have read, the science behind implicit bias is inconclusive at best, and it is far from clear that learning about implicit bias will have any positive impact in eliminating any implicit bias that may exist. While well-meaning, this suggested amendment seems to be a solution in search of a problem. I have seen no evidence to demonstrate that the proposed amendment is necessary or advisable, or that such a CLE requirement will be successful in achieving its goal, whatever that might be. That being said, if WSBA wants to give ethics credits for CLEs in "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law," I have no problem with that. Those who are interested in such ethic courses could choose to take them.</p>
Lisa Wiese	<p>I am not at all in favor of the WSBA dictating the subject matter of any CLE. Requiring a category like "ethics" is one thing, but requiring a specific topic is something else and inappropriate for professionals. Furthermore, the topic of equity/inclusion is a general public interest topic that we are already well aware of and is not directly related to the practice of law.</p>
Mary Atkinson	<p>I am opposed to the proposed amendment. The terms in the amendment of "equity," "inclusion," and "implicit and explicit bias" are expressions found in what is commonly referred to as "critical race theory" or "intersectionality." These theoretical concepts often refer to "whiteness" or "white fragility," which makes assumptions about a whole demographic of people. Forcing training in such a theory can create resentment and exacerbate current concerns. While we all believe that racism is toxic, it can be opposed from within a variety of ethical and philosophical belief systems. For example, under classical liberal theory, racism is opposed by treating persons as individuals, and not based on a particular identity. Fulfillment of CLE requirements is necessary for one to practice law in the state of Washington, and thus to earn a living. It is not the place of the State to coerce training in a particular belief system, which includes tenets some of us may not agree with, in order to practice our profession.</p>
Justin Lonerger (Part 1)	<p>I am against this amendment as drafted for various reasons, the most important of which is that this requirement is not the proper manner of addressing these important issues. These are complex, multi-layered issues that have diverse causes and perpetuating factors. Not all communities, even within Washington, have the same dynamics at play. However, this CLE requirement is stated so generally that it is almost certainly going to enable and enforce the presentation only one viewpoint without any obligation on the WSBA to explore or present a diversity of viewpoints. From my limited time as part of the WSBA (I have been practicing for 12 years but a WSBA member only for 1), I am very concerned that the WSBA's efforts to date have not reflected the type of dialog and diversity of thought, viewpoints, and candid discussion that I would expect of legal professionals, who have historically been so critical to the formation and advancement of American liberal (little l) thinking. Instead of proposing a rule that frames and embraces that process, however, the WSBA's proposal would allow one presenter to present his or her viewpoint without critical deliberation but, yet, with force of law. In that regard, I believe there are probably significant federal constitutional issues with imposing this requirement. This is particularly so if only one or a few viewpoints are presented – and especially if members are losing rights, privileges, and other protected interests as a consequence of not subscribing to conceptions/viewpoints with which they may have reasonable disagreement or alternative perspective.</p>

Justin Lonergan (Part 2)	<p>For brevity, I am not going to post my thoughts on whether the WSBA should even wade into this issue. I will assume this is a fair topic for a mandatory bar association to take up, although I believe that there are fair arguments that it is a false choice to say that the legal profession cannot meaningfully address these issues without WSBA's authorities. In any event, if the WSBA believes that CLEs can be effective, it should first develop and present optional CLEs (note the "s" -- again, diversity of thoughts and viewpoints...) and solicit feedback from across Washington State's lawyers. I think you would find that lawyers would be more than willing to be a constructive part of developing such programs. For example, I do not have a desire to be a CLE board member or run for a WSBA seat, but I would be more than willing to give you my time to carefully review and discuss proposed programs – if the authors are similarly willing to honestly listen to my feedback and not attempt to dismiss dialog by attaching labels that assume the exclusive truth of the authors' premise. These steps would prove to the community that WSBA is capable of fostering constructive and viewpoint neutral dialog and training on these important issues... with the goal of meaningful and sustainable change. Lastly, I will note that for the first decade of my career, I was part of a governmental organization that routinely and carefully considered these issues. Organizational leadership attempted one mandatory CLE-type training on this topic and never again did so because it was so counterproductive in that it embraced only one conception of these issues. Instead, the issue was pushed down for local engagement, discussion, and reflection. That experience reinforces the point htat lawyers do not need to be told how to think – they need to be engaged and have a voice in the process... this is the same process that has created meaningful, if incomplete, progress in the advancement of ideas that are so fundamental to both our individual freedoms and collective success. I therefore ask that you treat these issues with the respect they deserve and, instead of approving this one-size-fits-all CLE requirement, seize on the strengths of the legal profession to lead through dialog, mutual respect, and constructive engagement. That would be an effort to which I would proudly subscribe my name.</p>
Lisa Scott	<p>I am opposed to this rule. It is another example of the Bar micromanaging us attorneys without any evidence that it is needed. Isn't reading the Bar News every month enough "anti-bias" training? Who defines bias, equity and inclusion anyway? Does it include bias against people who have conservative or traditional beliefs, and who are often denigrated and vilified in our current political climate? This is another burden imposed on lawyers to make us all toe a politically-correct line. It's a form of bias to assume that all lawyers need to be (re)-educated against being biased (as defined by whom?). We all strive to be better lawyers and better people, and there is always room for improvement. I have no problem with these issues being brought up under the general topic of ethics. Forcing us to take a separate credit for this goes too far.</p>

<p>Mike Frost</p>	<p>Comment #1: Making these courses mandatory is a bad idea. Keep them voluntary rather than mandatory. Comment #2: TO WHOM IT MAY CONCERN,</p> <p>With all due respect to the MCLE Committee for WSBA, I object the suggested amendment of APR 11 to require that all practicing attorneys (approximately 38,000 in number) take at least 1 hr MCLE ethics course on the topics of "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law."</p> <p>This objection is based on the following reasons:</p> <ol style="list-style-type: none"> <li>1. This is essentially the same proposed amendment that was submitted to the Washington State Supreme Court in late 2019, and rejected without comment. There have been no significant changes in circumstances that would justify resubmitting the same proposed amendment so soon after it was rejected by the court. This is a controversial proposal that will require considerable review in order to make the correct decision. With the current burdens already placed on the court, and other institutions, as a result of the COVID pandemic, it's not believed that this is the appropriate time to submit this controversial issue to the court. It's recommend that the Board of Governors ask the MCLE Committee to use the next two years to assess the success of the voluntary courses and to report back to the Board of Governors in 2023 if it still believes that these courses should be made mandatory. 2. The "compromise" position of the WSBA to offer its members courses on these topics free of charge is the more appropriate course of action. This is what WSBA currently does. More time is needed to assess and evaluate the content of these courses before mandating them for all practicing lawyers. Unfortunately, WSBA doesn't currently have examples of what these courses will look like on its website, so it wasn't possible to view an actual course before making these comments. It's believed that the next course will not be offered until 9/15/20. Currently WSBA offers these courses free, and on a voluntary basis. It is believed that the courses should remain "voluntary" for anyone who is interested or believes it may help their practice. Forcing every practicing lawyer to take such a course could easily be counterproductive. As a group, lawyers generally don't like being told that they have to do something unless it's clearly necessary. In this writer's opinion, the courses that the MCLE Committee suggests be mandatory by the MCLE Committee are not clearly necessary for all licensed lawyers.</li> </ol>
<p>Mike Frost (Part 2)</p>	<ol style="list-style-type: none"> <li>3. There has been no showing by the MCLE Committee that such a course is so essential to the competent practice of law that every lawyer should be required to take it. This appears to be more in the nature of what is sometimes called "virtue signalling" (a relatively meaningless gesture made for the purpose of appearing morally superior rather than doing something meaningful about a problem). As such, it's submitted this is a misuse of MCLE requirements, and establishes a bad precedent. 4. The proposed courses involve matters that are largely a matter of personal opinion rather than objective facts such as rules of procedure and practice. A voluntary course with similar objectives was initiated by the City of Seattle to mostly negative reviews. Those courses mostly taught about "interrupting internalized racial superiority" and how whites were "fragile" and needed to "loose their whiteness" and how White Supremacy leads "People of Color to internalize radicalized beliefs, ideas and behaviors about themselves under the girding the power of White Supremacy." If the courses proposed by the MCLE Committee are anything like what the City of Seattle offered, I submit that it's inappropriate to require lawyers to complete such a course in order to maintain their license to practice law. 5. Last, it's respectfully submitted that mandating such a course for all practicing attorneys would violate WSBA by-laws prohibiting WSBA from taking positions on political or social matters. However this course is packaged, it's really advancing a particular position on a social issue rather than something that genuinely affects the practice of law to the extent that all lawyers must be required to take the course to maintain their license to practice of law.</li> </ol> <p>Thank you in advance for consideration of my thoughts on this matter.</p>

Le Ann Larson	<p>Equity, Inclusion, and Bias are important social issues at the forefront of our national news and dialogue. Trainings and conversations are taking place in our communities, workplaces, churches, and around our kitchen tables. The WSBA does not need to mandate this training. The requirement would mean duplicative trainings as most of the community and workplace conversations &amp; trainings that members are exposed to, are not for CLE credits. Also, will the WSBA treat other important issues as they arise by requiring further specific CLE topics? How does the WSBA say "no" to the next issue people find important? The best approach is to offer one free social justice ethics CLE a year. That would show that the WSBA values this issue. Many members would attend, especially in a virtual format.</p>
Michael S. McNeely	<p>Dear WSBA, I am opposed to the Suggested Amendment to APR 11. I have worked in a leadership role in corporate and university settings where equity, inclusion, and mitigation of bias training has been required. There were no demonstrable indications that these trainings produced the stated goals. What did work was conversations between people from different backgrounds sharing with each other about their families and their life's experiences growing up to present time. These issues are truly a matter of the "heart" and not an academic exercise that we can check off in a box. Better results are likely to come from asking members of the bar to take one hour for conversation with another bar member to get to know one another (and maybe the conversation continues beyond the initial hour). Creating an MCLE requirement for these issues may only give bar professionals reason to resent a top-down effort for life re-education. Building new relationships with fellow bar members with different life experiences through personal dialogue gives this initiative a basis to succeed. Thanks for the opportunity to provide input. Michael P.S. The WSBA Board of Governors can determine the best way to pair up bar members from different life experiences or ask the membership for the best ideas to accomplish this.</p>
Pam Loginsky	<p>I am the staff attorney for the Washington Association of Prosecuting Attorneys (WAPA). While this proposal is narrower than the last, WAPA remains opposed. WAPA believes that issues of equity, inclusion, and the mitigation of both implicit and explicit bias are best incorporated into all trainings. These issues are regularly addressed in both ethics and general legal credit classes. The proposed rule would require WAPA to forego other critical training as the hours available are limited.</p>
Lee Roussel	<p>The proposed mandatory ethics requirement is not evidence based and may be inconsistent with the Bar's obligation to protect the public from attorney misconduct. The purpose of ethics rules is to protect the public, and ethics courses should enable attorneys to avoid misconduct and ethical violations. WSBA disciplinary actions are the best evidence of attorney misconduct, indicating subjects that ethics courses need to address. While disciplinary reports in the bar journal may be lamentably incomplete, they do provide some indication of the type of conduct that harms the public and that lawyers should be trained to avoid. Even a cursory review discloses that the proposed mandatory subject is not among the more common violations. If the WSBA must mandate CLE subjects, it should focus on those resulting in public harm, as reflected in disciplinary actions. The proposed mandated course would divert attendance from those subjects (such as diligence, timelines, communication and financial matters) that involve more frequent ethics complaints, disciplinary actions and harm to non-lawyers.. Moreover, it is far from clear that the proposed mandatory course is necessary, since employers often provide a comparable course to all employees, legal and nonlegal. There are probably few, if any, attorneys in Washington who haven't attended such a course. The WSBA and the Supreme Court should remember their responsibility to protect the public. The proposed mandate is inconsistent with that responsibility.</p>
N/A	<p>The requirement would be another barrier for attorneys to practice law thereby resulting in the exact opposite as intended. There would then be requirements to take regular credits AND ethics credits AND these new credits. 50 more complexity and making it even harder to comply. Solution: Make these new classes an OPTION under ethics credits.</p>



Shelley Hickey	I view a mandatory requirement to belong to a bar association as the right to impose upon my ability to maintain my professional license only regulations which apply to my competent practice of law under the laws of that bar association's jurisdiction. When the association starts to impose educational requirements that are politically motivated (regardless of whether I agree with the political agenda or not), I believe it's time for the bar association to be a voluntary endeavor rather than mandatory. For those who feel they need to be schooled on equity, inclusion and the mitigation of bias, they can be voluntary members. As long as I have met all substantive CLE requirements (supposedly to improve my education in those areas in which I practice) and I do not violate the disciplinary rules which govern lawyers who practice in the State of Washington or any other jurisdiction, for that matter, I should be free from all requirements imposed on me by the regulatory body overseeing my professional license that are politically charged/motivated. Let me ask a question: wouldn't it behoove our membership and the public we serve for the bar association to focus on members who are committing crimes, abusing drugs and behaving in ways that are unbecoming and detrimental to the profession, rather than immediately bending to the one sided politics that are raging across this country? By the way, my opinion about the bar's regulatory authority to impose 1 hour of CLE on this topic has no relation to how I feel about equity, inclusion and the mitigation of bias, all of which are honorable endeavors.
Erik M. Kupka	I am already labeled a minority by the majority class. The majority needs the education in equity, inclusion and mitigation of bias. Not me.
Cheryl Adamson	Lawyers have historically been treated like professionals and allowed to select which CLE topics are most relevant to their particular practices. I do not believe the WSBA should be elevating the importance of one ethics topic over other topics, such as candor to the court and other counsel and management of client funds, especially when that elevated topic is mired in sociopolitical debate. Many may elect to take a CLE on the proposed topic, but none should be required to do so.
Rachel Morrison	I am opposed to the requirement that at least one ethics credit be in "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law." First, practically speaking, there will not be many options for this required ethics CLE course, making this a difficult and/or costly requirement for WSBA members. Second, before such a specific course is mandatory for ALL WSBA members, there should be a study or report that demonstrates that it is an area of needed education by the majority of WSBA members. I have seen no such study or report that this area is something that WSBA members are uneducated about or that such ethics credits will improve attorney education or the practice of law. Third, from what I have read, the science behind implicit bias is inconclusive at best, and it is far from clear that learning about implicit bias will have any positive impact in eliminating any implicit bias that may exist. While well-meaning, this suggested amendment seems to be a solution in search of a problem. I have seen no evidence to demonstrate that the proposed amendment is necessary or advisable, or that such a CLE requirement will be successful in achieving its goal, whatever that might be. That being said, if WSBA wants to give ethics credits for CLEs in "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law," I have no problem with that. Those who are interested in such ethic courses could choose to take them.
Debra Stanley	
Robert W. Strohmeyer	
Lisa Wiese	I am not at all in favor of the WSBA dictating the subject matter of any CLE. Requiring a category like "ethics" is one thing, but requiring a specific topic is something else and inappropriate for professionals. Furthermore, the topic of equity/inclusion is a general public interest topic that we are already well aware of and is not directly related to the practice of law.
John Staffan	Law school admission at my first choice of school was, in effect, closed to me for the purpose of inclusion. In spite of this, I became an attorney. Please don't make me re-learn my lesson to remain one.
Michael O'Donnell	

**TO:** WSBA Board of Governors  
**FROM:** Kyle Sciuchetti, President Elect, Chair of the Committee to Investigate Alternatives to Mandatory Malpractice Insurance; Committee to Investigate Alternatives to Mandatory Malpractice Insurance  
**DATE:** September 9, 2020  
**RE:** Action on Suggested Amendment to RPC 1.4: Enhanced Malpractice Insurance Disclosure

**Action:** Approve the *Ad Hoc* Committee to Investigate Alternatives to Mandatory Malpractice Insurance suggested amendment to RPC 1.4 for submission to Washington Supreme Court according to GR 9 procedures

On January 21, 2020, WSBA President Rajeev Majumdar convened the *Ad Hoc* Committee to Investigate Alternatives to Mandatory Malpractice Insurance (“Committee”) to gather information and advise the Board on potential viable alternatives to mandatory malpractice insurance.

The Board of Governors convened the Committee after the Board’s decision last year not to submit the February, 2019 recommendation of the Mandatory Malpractice Insurance Task Force to the Washington Supreme Court. The Board decision was based on lawyer concerns about mandated insurance, including concerns about expense, the perceived difficulty of obtaining reasonably priced insurance in specialized practice areas, and the limited amount of work being performed by some lawyers. The Committee explored approaches to public protection other than mandating malpractice insurance, and ultimately focused on a rule requiring disclosure of a lawyer’s insurance status to clients when the lawyer is uninsured or underinsured.

At its August 2020 meeting, the Committee presented, and the Board considered and provided feedback on, a suggested amendment to RPC 1.4. Specifically, it considered the Committee’s proposal to add a new section (c) that would require disclosure of a lawyer’s malpractice insurance status to clients and possible clients if the lawyer’s insurance does not meet minimum levels. See [the Board of Governor’s August 29, 2020 meeting materials](#) for more information on the specific proposal. During the Committee’s presentation, the Board expressed concerns regarding the recommended minimum coverage amount that would trigger the disclosure rule and the scope of additional disclosure requirements that extended beyond communications with clients.

The Committee met on September 9, 2020, and, after consideration of the Board’s feedback, revised the draft rule. A copy of the revised suggested rule amendment is attached as Appendix A. The Committee revised the draft as follows, based on comments from various Governors.

*Minimum levels of professional liability insurance.* The Committee initially recommended that to avoid the disclosure requirement the minimum level of insurance be at least \$250,000 per occurrence and \$500,000 in the aggregate (“\$250K/\$500K”). Some Board members asked whether the minimum level of coverage might be too high, and questioned whether instead the rule should impose a minimum level of \$100K/\$300K and/or should be a “non-wasting” policy. After discussion, the Committee reaffirmed its conclusion that the \$250K/\$500K level is appropriate given the typical amount of resolved claims, recognizing that the vast majority of malpractice policies are “wasting” in that the costs of the defense of a claim are deducted from the coverage amount.

*Additional disclosure requirements.* The draft also recommended a requirement, in section (c)(3), that a lawyer without a minimum level of insurance also provide notice of lack of professional liability insurance on the lawyer’s letterhead, on electronic communications, and on the home pages of a lawyer’s website. The Board expressed concern regarding the breadth of that requirement, namely the requirement of disclosure on letterhead and emails, especially because that correspondence might be directed to individuals other than the client. After discussion, the Committee agreed that the scope of the notice requirement should be narrowed. In the revised draft, the requirement of notice on the lawyer’s letterhead is deleted, and notice requirement applies only to written communications with clients, written solicitations of new clients, and a lawyer’s website (which can actively function as a solicitation mechanism).

*Recordkeeping requirement.* The draft included, in section (c)(4), a six-year records retention requirement applicable to records of disclosures and signed consents and acknowledgements. The Board questioned the rationale for a retention period of six years. After discussion, the Committee noted that the only other specific retention period in the RPCs—for trust account records—is seven years. See RPC 1.15B(a). The Committee reaffirmed the six-year period, concluding that six years is a good balance between shorter and longer periods that might be required.

With this Memo, the Committee asks that the Board approve its revised suggested amendment to RPC 1.4 and recommendations for submission to and consideration by the Washington Supreme Court according to General Rule (GR) 9 procedures.

# APPENDIX A

## Proposed New Washington RPC 1.4(c)

(c) Disclosure of lawyer professional liability insurance status to clients.

(1) A lawyer not covered by lawyer professional liability insurance in the amounts specified in paragraph (c)(5) shall, before or at the time of commencing representation of a client, notify the client in writing of the absence of such insurance coverage and promptly obtain the client's informed consent in writing. A lawyer who knows or reasonably should know that the lawyer's professional liability insurance policy has either lapsed or been terminated during the representation shall within 30 days either (i) obtain a new policy in the required amounts or (ii) provide notice in writing to the client and promptly obtain the client's informed consent in writing. If a lawyer does not obtain a new policy in the required amounts or provide notice to the client and obtain the client's informed consent in writing within 30 days of a lapse or termination, the lawyer shall withdraw from representation of the client.

(2) (i) A notice to the client in substantially the following form satisfies the notice requirements of paragraph (c)(1):

Under Rule 1.4(c) of the Washington Rules of Professional Conduct, I must obtain your informed consent to provide legal representation, and ensure that you understand and acknowledge that [I][this Firm] [do not][does not][no longer] maintain[s] [any lawyer professional liability insurance (sometimes called malpractice insurance)] [lawyer professional liability insurance (sometimes called malpractice insurance)] of at least two hundred fifty thousand dollars (\$250,000) per occurrence, and five hundred thousand dollars (\$500,000) for all claims submitted during the policy period (typically 12 months). Because [I][we] do not carry this insurance coverage, it could be more difficult for you to recover an amount sufficient to compensate you for your loss or damages if [I am][we are] negligent.

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Lawyer's Signature

(ii) A client consent and acknowledgment in substantially the following form satisfies the informed consent requirements of paragraph (c)(1):

I acknowledge and supply this written consent, required by Rule 1.4(c) of the Washington Rules of Professional Conduct, that [insert attorney or firm's name] [does not][no longer] maintain[s] [any lawyer professional liability insurance (sometimes called malpractice insurance)][lawyer professional liability insurance (sometimes called

malpractice insurance)] with at least maximum coverage of \$250,000 for each claim, and at least \$500,000 for all claims submitted during the policy period (typically 12 months), and I consent to representation by [the lawyer][the firm].

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Client's Signature

(3) A lawyer not covered by lawyer professional liability insurance shall provide clear and conspicuous notice of that fact: (i) ~~on the lawyer's letterhead;~~ (ii) on each written electronic communication with a client or possible client; ~~and~~ (iii) on any form of written solicitation of professional employment ~~from~~ directed to a possible client, and (iii) ~~v~~ on the home page of a lawyer's firm website.

(4) A lawyer shall maintain a record of notices of disclosure to clients, and the signed consents and acknowledgments received from clients, for at least six (6) years after the representation is terminated.

(5) As used in this paragraph (c), "lawyer" means an active member of the Washington State Bar Association, and any other person authorized by the Washington State Supreme Court to engage in the practice of law, including emeritus pro bono status lawyers and lawyers permitted to engage in the limited practice of law in this state as provided in Admission and Practice Rule (APR) 3(g); however, as used in this paragraph (c), "lawyer" does not include, (i) a judge, arbitrator, or mediator not otherwise engaged in the practice of law; (ii) in-house counsel for a single entity; (iii) an employee of a governmental agency practicing law in that capacity; (iv) an employee of a nonprofit legal service organization, or a lawyer volunteering with such an organization, where the nonprofit legal service organization provides lawyer professional liability insurance coverage at the minimum levels required by this paragraph to that employee or volunteer pro bono lawyers. "Lawyer professional liability insurance" means a professional liability insurance policy that provides coverage for claims made against the lawyer that arise from an act, error, or omission in the lawyer's performance of legal services to a client, with limits of liability of at least two hundred fifty thousand dollars (\$250,000) per occurrence, and five hundred thousand dollars (\$500,000) for all claims submitted during the policy period.

## Proposed New Comments to RPC 1.4

### Additional Washington Comments (8-14)

#### *Insurance Disclosure*

[8] A lawyer without a basic level of professional liability insurance might not pay for damages or losses a client incurs that result from the lawyer's mistakes or negligence. Consequently, possible clients and clients should have sufficient information about whether the lawyer maintains a minimum level of lawyer professional liability insurance so they can intelligently determine whether they wish to engage, or continue to engage, that lawyer. Paragraph (c) requires a lawyer to provide disclosure if the lawyer is without a level of lawyer professional liability insurance specified in paragraph (c), and to obtain each client's acknowledgement and informed consent. Client consent should be obtained promptly—ordinarily within 10 days of the lawyer's providing disclosure. Certain lawyers are excluded from the disclosure requirements of Rule 1.4(c), including full-time judges, arbitrators and mediators, in-house lawyers for a single entity, and employees of governmental agencies. If a lawyer serving as a judge represents clients outside judicial duties, or an in-house lawyer or government employee represents other clients, such a judge or lawyer is subject to the requirements of Rule 1.4(c) regarding those representations.

[9] As used in paragraph (c) a lawyer who "maintains" or "is covered by" lawyer professional liability insurance is an insured lawyer under a lawyer professional liability insurance policy providing coverage regarding claims relating to legal services provided by that lawyer. The minimum limits of lawyer professional liability insurance specified by paragraph (c)(2) include any deductible or self-insured retention that must be paid by the lawyer or the lawyer's law firm for claim expenses and damages. Lawyer professional liability Insurance, as defined in paragraph (c)(2), does not include an insurance policy with a deductible or self-insured retention that the lawyer knows or has reason to know cannot be paid by the lawyer or the firm if a loss occurs.

[10] As used in paragraph (c)(3), the requirement of notice on a website (including a lawyer's or a law firm's blog) applies to a website when the lawyer or the lawyer's law firm controls the URL (Uniform Record Locator) of the site. It does not apply to a website if the URL is controlled by an independent referral or networking service. "Clear and conspicuous notice" means disclosure in a font type and size easy to read and at least as large as the font used to convey the majority of content in the written client communication, ~~on the letterhead~~, or in the solicitation. . Written communications include electronic communications, such as email. See Rule 1.0A(n). The notice to a client or possible client is not required in an electronic communication whereif inclusion of the notice language would be impracticable, such as in brief text messages or "tweets."

[11] Whether the disclosure and notice obligations of paragraph (c) apply to a Washington-licensed lawyer practicing in another jurisdiction is determined by the choice of law provisions of Rule 8.5(b).

[12] In addition to complying with paragraph (c), every active member of the bar must comply with the reporting requirements of APR 26, under which lawyers in the private practice of law are required to annually report their insurance coverage to the Washington State Bar Association.

[13] Withdrawal from a representation under paragraph (c)(1) is a circumstance where withdrawal is obligatory under Rule 1.16(a)(1) because the representation would violate the Rules of Professional Conduct. The withdrawal shall be accomplished in conformity with the requirements of Rule 1.16(c) and (d).

[14] In an emergency where the health, safety, or a financial interest of a person is threatened with imminent and irreparable harm, a lawyer not covered by lawyer professional liability insurance in the amounts specified in paragraph (c)(5) may take legal action on behalf of such a person even though the person cannot receive or evaluate the notice required by paragraph (c)(1) or there is insufficient time to provide it. A lawyer who represents a person in such an exigent situation shall provide the notice required by paragraph (c)(1) as soon as reasonably practicable.



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**MEMO**

**To:** Board of Governors

**From:** Daryl Rodrigues, Chair, Council on Public Defense  
Professor Robert Boruchowitz, Chair, Standards and Guidelines Committee

**Date:** September 11, 2020

**Re:** Updated *Performance Guidelines for Criminal Defense Representation*

**ACTION:** Adopt the updated *Performance Guidelines for Criminal Defense Representation*, which includes additional information on persistent offenders.

In 2019, the Standards Committee (Committee) of the Council on Public Defense (Council) began a robust process to update the *Performance Guidelines for Criminal Defense* (Guidelines) to include representation of clients charged with being persistent offenders. There also is a small addition regarding requiring familiarity with the court rules relating to discrimination in exercising peremptory challenges.

The Committee met regularly over the past year to draft the updated Guidelines, regularly seeking feedback from the Council and practitioners from across the state. The Council approved the updated Guidelines at its September 11, 2020, meeting.

Standard 14.1 “Qualifications of Attorneys” requires attorneys providing defense services shall be familiar with the *Performance Guidelines for Criminal Defense Representation*. Once the updated Guidelines are adopted by the BOG, the Council will share them with the Court and distribute widely to the public defense community.

The Guidelines are on the BOG agenda at its September 2020 meeting. Councilmember Professor Robert Boruchowitz will be in attendance to present the updated Guidelines and address questions.

We look forward to presenting the updated Guidelines at the September Board meeting.



# Washington State Bar Association

## PERFORMANCE GUIDELINES FOR CRIMINAL DEFENSE REPRESENTATION

APPROVED JUNE 3, 2011

Proposed Amendments Under Consideration 2020

## PREFACE

These guidelines are intended to be used as a guide to professional conduct and performance.

The object of these guidelines is to alert the attorney to the courses of action that may be necessary, advisable, or appropriate, and thereby to assist the attorney in deciding upon the particular actions that must be taken in a case to ensure that the client receives the best representation possible.

All of the steps covered in these guidelines are not meant to be undertaken automatically in every case. Instead, the steps actually taken should be tailored to the requirements of a particular case. The guidelines recognize that representation in criminal and juvenile offender cases is a difficult and complex responsibility. Attorneys must have the flexibility to choose a strategy and course of action that ethically “fits” the case, the client and the court proceeding.

These guidelines may or may not be relevant in judicial evaluation about alleged misconduct of defense counsel to determine the validity of a conviction. They may be considered with other evidence concerning the effective assistance of counsel.<sup>1</sup>

As used in these Guidelines, “must” and “shall” are intended to describe mandatory requirements. “Should” is not mandatory but is used when providing guidance about what attorneys can and are encouraged to do in the interest of providing quality representation.

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<sup>1</sup> See *State v. A.N.J.*, 168 Wn.2d 91,110 (2010).

**Guideline 1.**

**1.1 Role of Defense Counsel**

- a. The paramount obligation of criminal defense counsel is to provide conscientious, ardent, and quality representation to their clients at all stages of the criminal<sup>2</sup> process. Attorneys also have an obligation to abide by ethical requirements and act in accordance with the rules of the court.

The basic duty defense counsel owes to the administration of justice and as an officer of the court is to serve as the client’s counselor and advocate with courage and devotion and to render effective, quality representation. Defense counsel, in common with all members of the bar, are subject to standards of conduct stated in statutes, rules, decisions of courts, and codes, or other standards of professional conduct. Defense counsel has no duty to execute any directive of the client which does not comport with law or such standards.

- b. It is the duty of defense counsel to know and be guided by the standards of professional conduct as defined in codes of the legal profession applicable in Washington. Once representation has been undertaken, the functions and duties of defense counsel are the same whether defense counsel is assigned, privately retained, or serving in a legal aid or defender program.

- c. In “two strikes” and “three strikes” cases, counsel must defend a client against not only the current charge, but also against prior “strike” convictions that expose the client to a life sentence as a persistent offender. Counsel must also contest the potential life sentence through factual investigation, legal research and development of mitigation information.

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**1.2 Education, Training and Experience of Defense Counsel**

- a. To provide quality representation, counsel must be familiar with the substantive criminal law and the law of criminal procedure and its application in the particular jurisdiction. Counsel has a continuing obligation to stay abreast of changes and developments in the law. Counsel should also be informed of the practices of the specific judge before whom a case is pending.
- b. Prior to handling a criminal matter, counsel should have sufficient experience or training to provide quality representation.

<sup>2</sup> These Performance Guidelines also apply to the juvenile offender adjudication process.



### 1.3 General Duties of Defense Counsel

Before agreeing to act as counsel or accepting appointment by a court, counsel has an obligation to make sure that they have available sufficient time, resources, knowledge and experience to offer quality representation to a defendant in a particular matter. It is useful for counsel to keep time records to assess the number and types of other public defense or private cases counsel may accept and to support requests for additional compensation or appointment of mental health and other experts.

Counsel must be alert to all potential and actual conflicts of interest that would impair their ability to represent a client. Where appropriate, counsel should seek an advisory opinion on any potential conflicts.

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In complex cases or in types of cases in which counsel is not experienced, counsel should consider requesting appointment of co-counsel. If it appears that counsel is unable to offer quality representation in any case, counsel shall move to withdraw.

Persistent offender cases, for example, require an assessment of the time, resources and expertise to not only challenge predicate “strike” convictions but also, as outlined below in Section 1.4, to build and maintain a relationship of trust and confidence with the client and experts in order to fully develop mitigation evidence.

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Counsel has the obligation to keep the client informed of the progress of the case.

- a. Counsel should respond promptly to client complaints.
- b. Counsel should continue representation of the client until replaced.
- c. Counsel has a duty to cooperate with successor counsel.
- d. Counsel has a duty to identify and address systemic and individual race bias that may affect the client. Counsel should be informed about racial disproportionality in the criminal legal system and affirmatively represent the client to prevent adverse consequences of institutional bias. Counsel should identify when other personal factors presented by a client, such as gender identity and/or sexual orientation, risk triggering institutional and/or individual biases and affirmatively represent the client to prevent adverse consequences associated with them. Counsel should consider using empirical data to advocate for clients in pre-trial release hearings, motion practice, trial, and sentencing and any other hearings. Counsel should also be aware of their personal and implicit biases and the potential impact these may have on the representation and the discharge of ethical duties to the client.

e.

#### 1.4 Relationship with Client

- a. **Early Contact.** The attorney shall make contact with the client at the earliest possible time. If the client is in custody, contact should be within 24 hours of appointment and shall be within no more than 48 hours unless there is an unavoidable extenuating circumstance. The lawyer should send a representative to see the client within 24 hours if the lawyer is not able to see the client within 24 hours.
- b. **Barriers to Communication.** Counsel should ensure at this and all successive interviews and proceedings that barriers to communication, such as differences in language or literacy, be overcome. Counsel should ensure access to and use of appropriate interpreter services when necessary for client communication.
- c. **Establishment of the Relationship.** Defense counsel should seek to establish a relationship of trust and confidence with the client and should discuss the objectives of the representation. Defense counsel should explain counsel's obligation of confidentiality, the attorney-client privilege and the limits of the privilege. In cases where a client may be facing a mandatory life sentence, such as persistent offender cases, counsel and appropriate team members, such as social workers, shall meet regularly with clients. A strong attorney-client relationship supports a client facing a mandatory life sentence, builds trust needed to share often-traumatic social history, and gives a client confidence in counsel's recommendation about how to resolve the case.
- d. **Interviewing the Client.** As soon as practicable, defense counsel should seek to determine all relevant facts known to the client.
- e. **Prompt Action to Protect the Client.** Many important rights of the client can be protected and preserved only by prompt legal action. Defense counsel should inform the client of his or her rights at the earliest opportunity and take all necessary action to vindicate such rights. Defense counsel should consider all procedural steps which in good faith may be taken, including, for example, motions seeking pretrial release of the client, obtaining psychiatric examination of the client when a need appears, moving for change of venue or continuance, moving to suppress illegally obtained evidence, moving for severance from jointly charged defendants, and seeking dismissal of the charges. Early in the representation, counsel should evaluate whether the client may be sentenced as a persistent offender if convicted. Counsel must not wait for the State to give notice it will seek a life sentence or to provide a client's criminal history in such cases.
- f. **Duty to Keep Client Informed.** Defense counsel should keep the client informed of the developments in the case and the progress of preparing the defense and should promptly comply with reasonable requests for information. Defense counsel should explain developments in the case to the extent

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reasonably necessary to permit the client to make informed decisions regarding the representation.

g. **Advising the Client.**

1. After informing himself or herself fully on the facts and the law, defense counsel should advise the [client](#) with complete candor concerning all aspects of the case, including a candid evaluation of the probable outcome.
2. Defense counsel should not intentionally understate or overstate the risks, hazards, or prospects of the case to exert undue influence on the client's decision as to his or her plea.

h. **Control and Direction of the Case.**

1. Certain decisions relating to the conduct of the case are ultimately for the client and others are ultimately for defense counsel. The decisions which are to be made by the client after full consultation with counsel include:
  - (a) what pleas to enter;
  - (b) whether to accept a plea agreement;
  - (c) whether to waive jury trial;
  - (d) whether to testify in his or her own behalf; and
  - (e) whether to appeal.
2. Strategic and tactical decisions should be made by defense counsel after consultation with the client where feasible and appropriate. Such decisions include what witnesses to call, whether and how to conduct cross-examination, what jurors to accept or strike, what trial motions should be made, and what evidence should be introduced.

**Guideline 2.**

**2.1 General Obligations of Counsel Regarding Pretrial Release**

The attorney has an obligation to attempt to secure the pretrial release of the client under the conditions most favorable and acceptable to the client.

## 2.2 Pretrial Release Interview

### a. Preparation:

Prior to conducting the interview the attorney, should, where possible:

1. Be familiar with the elements of the offense and the potential punishment, where the charges against the client are already known;
2. Obtain copies of any relevant documents which are available, including copies of any charging documents, recommendations and reports made by bail agencies concerning pretrial release, and law enforcement reports that might be available;
3. Be familiar with the legal criteria for determining pretrial release and the procedures that will be followed in setting those conditions;
4. Be familiar with the different types of pretrial release conditions the court may set and whether private or public agencies are available to act as a custodian for the client's release;
5. Be familiar with any procedures available for reviewing the trial judge's setting of bail.

### b. The Interview:

1. The purpose of the interview is both to acquire information from the client concerning pretrial release and also to provide the client with information concerning the case, including diversion and alternative court options.
2. Information that should be acquired includes, but is not limited to:
  - (a) the client's ties to the community, including the length of time he or she has lived at the current and former addresses, family relationships, immigration status, employment history;
  - (b) the client's citizenship status; for clients who are not United States citizens, identify necessary information to determine immigration consequences of possible resolutions (e.g. plea agreement, trial), including, but not limited to country of origin, date and manner of entry into U.S., and current immigration status; when the client is not a citizen the lawyer should obtain information that will permit counsel to determine the immigration consequences of the conviction and sentence, not limited to country of origin, and date and manner of entry into the United States.

- (c) the client's physical and mental health, education, and military service;
  - (d) the client's immediate medical needs;
  - (e) the client's past criminal record, if any, including arrests and convictions for adult and juvenile offenses and prior record of court appearances or failure to appear in court; counsel should also determine whether the client has any pending charges and also whether he or she is on probation or parole and the client's past or present performance under supervision;
  - (f) the ability of the client to meet any financial conditions of release;
  - (g) the names of individuals or other sources that counsel can contact to verify the information provided by the client; counsel should obtain the permission of the client before contacting these individuals;
3. Information to be provided the client includes, but is not limited to:
- (a) an explanation of the procedures that will be followed in setting the conditions of pretrial release;
  - (b) an explanation of the type of information that will be requested in any interview that may be conducted by a pretrial release agency and also an explanation that the client should not make statements concerning the offense;
  - (c) an explanation of the attorney-client privilege and instructions not to talk to anyone about the facts of the case without first consulting with the attorney;
  - (d) the charges and the potential penalties and consequences of conviction or adjudication;
  - (e) a general procedural overview of the progression of the case, where possible.
- c. Supplemental Information

Whenever possible, counsel should use the interview to gather additional information relevant to preparation of the defense. Such information may include exculpatory and mitigating factors, and is not limited to:

1. the facts surrounding the charges against the client;

2. any evidence of improper police investigative practices or prosecutorial conduct which affects the client's rights;
3. any possible witnesses who should be located;
4. any evidence that should be preserved;
5. where appropriate, evidence of the client's competence to stand trial and/or mental state at the time of the offense.

### **2.3 Pretrial Release Proceedings**

- a. Counsel should be prepared to present to the appropriate judicial officer a statement of the factual circumstances and the legal criteria supporting release and where appropriate, to make a proposal concerning conditions of release. Counsel should be familiar with the criminal rules of release of a client, CrR 3.2 and CrRLJ 3.2 and discuss issues likely to be argued at pretrial release motions with the client prior to the hearing. Counsel should be prepared where appropriate to present evidence to the judicial officer at the pretrial release hearing.
- b. Where the client is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of the conditions of release under the procedures available.
- c. If the court sets conditions of release which require the posting of a monetary bond or the posting of real property as collateral for release, counsel should make sure the client understands the available options and the procedures that must be followed in posting such assets. Where appropriate, counsel should advise the client and others acting in his or her behalf how to properly post such assets.
- d. Where the client is incarcerated and unable to obtain pretrial release, counsel should, consistent with confidentiality requirements, alert the court to any special medical or psychiatric and security needs of the client and request that the court direct the appropriate officials to take steps to meet such special needs.

### **Guideline 3.**

#### **3.1 Presentment and Arraignment**

The attorney should preserve the client's rights at the initial appearance on the charges by:

- a. Entering a plea of not guilty in all but the most extraordinary circumstances where a sound tactical reason exists for not doing so;

- b. Requesting a trial by jury, if failure to do so may result in the client being precluded from later obtaining a trial by jury;
- c. Seeking a determination of whether there is probable cause to support the charges alleged and, if there is not probable cause, or other grounds exist for dismissal, requesting that the court dismiss the charge or charges;
- d. Preserving the client's rights to diversion and/or alternative court processing.

### **3.2 Preliminary Hearing**

- a. Where the client is entitled to a preliminary hearing, the attorney should take steps to see that the hearing is conducted timely unless there are strategic reasons for not doing so.
- b. In preparing for the preliminary hearing, the attorney should become familiar with:
  - 1. the elements of each of the offenses alleged;
  - 2. the law of the jurisdiction for establishing probable cause;
  - 3. factual information which is available concerning probable cause.

### **3.3 Prosecution Requests for Non-Testimonial Evidence**

The attorney should be familiar with the law governing the prosecution's power to require a defendant to provide non-testimonial evidence (such as handwriting exemplars and physical specimens), the circumstances in which a defendant may refuse to do so, the extent to which counsel may participate in the proceedings, and the record of the proceedings required to be maintained. Counsel shall address issues of probable cause where applicable prior to the prosecution's obtaining of non-testimonial evidence.

## **Guideline 4.**

### **4.1 Investigation**

- a. Counsel has a duty to conduct an independent investigation regardless of the client's admissions or statements to the lawyer of facts constituting guilt. The investigation should be conducted as promptly as possible.

In all cases, appointed counsel shall inquire into and analyze evidence relevant to the case including the prosecutor's evidence relevant to the legal elements of the charges and additional evidence that might support possible defenses, and counsel shall obtain investigator and/or expert services when necessary for an adequate defense.

b. Sources of investigative information may include the following:

1. Charging documents

Copies of all charging documents in the case should be obtained and examined to determine the specific charges that have been brought against the client. The relevant statutes and precedents should be examined to identify:

- (a) the elements of the offense(s) with which the client is charged;
- (b) the defenses, ordinary and affirmative, that may be available;
- (c) any defects in the charging documents, constitutional or otherwise, such as statute of limitations or double jeopardy.

2. Criminal history. Counsel should research the client's prior criminal history. In persistent offender cases, counsel must thoroughly investigate challenges to each potential "strike" before plea negotiations. Counsel should obtain original court documents and other evidence for all possible prior "strike" convictions, including probable cause statements, complaints/indictments and any amendments, verdict forms, statements on plea of guilty, judgments and sentences. Review of these documents is necessary to determine if there were constitutional deficiencies, such as absence of counsel, ineffective assistance of counsel, misidentification issues in a prior conviction, whether a prior conviction followed an inappropriate decline from juvenile court, or whether the prior convictions should have been vacated after a pre-Sentencing Reform Act conviction was dismissed upon completion of probation. Reviewing documents from out-of-state convictions the prosecution contends are comparable to Washington offenses is critical to the comparability analysis counsel must conduct. Obtaining these documents can be time-consuming but counsel should not rely solely upon criminal history information drawn from state and federal databases.

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3. The client

If not previously conducted, an in-depth interview of the client should be conducted as soon as possible and appropriate after appointment or retention of counsel. The interview with the client should be used to:

- (a) seek information concerning the incident or events giving rise to the charge(s) or improper police investigative practices or prosecutorial conduct which affects the client's rights;
- (b) explore the existence of other potential sources of information relating to the offense;



- (c) collect information relevant to sentencing and the consequences of conviction and adjudication.

4. Potential witnesses

Counsel should consider whether to interview the potential witnesses, including any complaining witnesses and others adverse to the client. If the attorney conducts such interviews of potential witnesses, he or she should attempt to do so in the presence of a third person who will be available, if necessary, to testify as a defense witness at trial. Alternatively, counsel should have an investigator conduct such interviews or consider recording the interview.

5. The police and prosecution

Counsel should make efforts to secure information in the possession of the prosecution or law enforcement authorities, including police reports. Where necessary, counsel should pursue such efforts through formal and informal discovery unless a sound tactical reason exists for not doing so.

6. Physical evidence

Where appropriate, counsel should make a prompt request to the police or investigative agency for any physical evidence or expert reports relevant to the offense or sentencing.

7. The scene

Where appropriate, counsel should attempt to view the scene of the alleged offense. This should be done under circumstances as similar as possible to those existing at the time of the alleged incident (e.g., weather, time of day, and lighting conditions).

8. Expert assistance

Counsel should secure the assistance of experts where it is necessary or appropriate to:

- (a) the preparation of the defense;
- (b) adequate understanding of the prosecution's case;
- (c) rebut the prosecution's case.

## 4.2 Formal and Informal Discovery

- a. Counsel has a duty to pursue as soon as practicable discovery procedures provided by the rules of the jurisdiction and to pursue such informal discovery methods as may be available to supplement the factual investigation of the case. In considering discovery requests, counsel should take into account that such requests may trigger reciprocal discovery obligations.
- b. Counsel should consider seeking discovery of the following items including, but not limited to:
  1. Potential exculpatory information;
  2. The names and addresses of all prosecution witnesses, their prior statements, and criminal record, if any;
  3. All oral and/ or written statements by the client, and the details of the circumstances under which the statements were made;
  4. The prior criminal record of the client and any evidence of other misconduct that the government may intend to use against the client;
  5. Electronic posts;
  6. Books, papers, documents, photographs, tangible objects, access to buildings or places, or copies, descriptions, or other representations, or portions thereof, relevant to the case;
  7. All results or reports of relevant physical or mental examinations, and of scientific tests or experiments, or copies thereof;
  8. Statements of co-defendants;
  9. All 911 records, police videos, bank videos, commercial establishment videos, or other digital records relevant to the case;
  10. Statements and reports of experts, including data and documents upon which they are based;
  11. Inspection of physical evidence;
  12. Reports of notes of searches or seizures and the circumstances of any searches or seizures;
  13. Law enforcement notes (field notes), investigation notes, and when relevant internal affairs files and investigation records;
  14. Client, victim, or witness records, such as school, mental health, and drug and alcohol and criminal records.

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### 4.3 Theory of the Case

During investigation and trial preparation, counsel should develop and continually reassess a theory of the case.

#### Guideline 5.

##### 5.1 The Decision to File Pretrial Motions

- a. Counsel should consider filing an appropriate motion whenever there exists a good-faith reason to believe that the applicable law may entitle the client to relief.
- b. The decision to file pretrial motions should be made after thorough investigation, and after considering the applicable law in light of the circumstances of each case. Among the issues that counsel should consider addressing in a pretrial motion are:

1. The pretrial custody of the client;
2. the constitutionality of the implicated statute or statutes;
3. the potential defects in the charging process;
4. the sufficiency of the charging document;
5. the propriety and prejudice of any joinder of charges or defendants in the charging document;
6. the discovery obligations of the prosecution and the reciprocal discovery obligations of the defense;
7. the suppression of evidence gathered as the result of violations of the Fourth, Fifth or Sixth Amendments to the United States

Constitution, or corresponding or additional state constitutional provisions, including;

- i. the fruits of illegal searches or seizures;
- ii. involuntary statements or confessions;
- iii. statements or confessions obtained in violation of the client's right to counsel, or privilege against self-incrimination;
- iv. unreliable identification evidence which would give rise to a substantial likelihood of irreparable misidentification.

8. suppression of evidence gathered in violation of any right, duty or privilege arising out of state or local law;
  9. access to resources which or experts who may be denied to an client because of his or her indigence;
  10. the client's right to a speedy trial;
  11. the client's right to a continuance in order to adequately prepare his or her case;
  12. matters of trial evidence which may be appropriately litigated by means of a pretrial motion in limine;
  13. matters of trial or courtroom procedure.
- c. Counsel should withdraw the motion or decide not to file a motion only after careful consideration, and only after determining whether the filing of a motion may be necessary to protect the client's rights against later claims of waiver or procedural default. In making this decision, counsel should remember that a motion may have many objectives in addition to the ultimate relief requested by the motion. Counsel thus should consider whether:
1. The time deadline for filing pretrial motions warrants filing a motion to preserve the client's rights, pending the results of further investigation;
  2. changes in the governing law might occur after the filing deadline which could enhance the likelihood that relief ought to be granted;
  3. later changes in the strategic and tactical posture of the defense case may occur which affect the significance of potential pretrial motions.

## **5.2 Filing and Arguing Pretrial Motions**

- a. Motions should be filed in a timely manner, should comport with the formal requirements of the court rules and should succinctly inform the court of the authority relied upon. In filing a pretrial motion, counsel should be aware of the effect it might have upon the client's speedy trial rights.
- b. When a hearing on a motion requires the taking of evidence, counsel's preparation for the evidentiary hearing should include:
  1. Investigation, discovery and research relevant to the claim advanced;
  2. The subpoenaing of all helpful evidence and the subpoenaing and preparation of all helpful witnesses;

3. Full understanding of the burdens of proof, evidentiary principles and trial court procedures applying to the hearing, including the benefits and costs of having the client testify.

### 5.3 Subsequent Filing of Pretrial Motions

Counsel should be prepared to raise during the subsequent proceedings any issue which is appropriately raised pretrial, but could not have been so raised because the facts supporting the motion were unknown or not reasonably available. Further, counsel should be prepared to renew a pretrial motion if new supporting information is disclosed in later proceedings.

### 5.4 Responding to Prosecution Motion

Counsel should respond to the prosecution's motions as appropriate.

## Guideline 6.

### 6.1 The Plea Negotiation Process and the Duties of Counsel

- a. Counsel should explore with the client the possibility and desirability of reaching a negotiated disposition of the charges rather than proceeding to a trial and in doing so should fully explain the rights that would be waived by a decision to enter a plea and not to proceed to trial. Counsel should discuss possible alternative charges with the client before beginning plea negotiations.

- b. Counsel should learn the client's social history. In persistent offender and other complex cases, felony or misdemeanor, counsel must learn the client's social history. Thorough investigation of mental health issues, victims' attitudes about punishment and a comprehensive understanding of the client's medical, social and family histories are extremely valuable. Counsel should consider whether to seek additional resources, including those of a social worker/mitigation specialist, to assist with review of court files and other records and the client's family for mitigating evidence. Counsel should evaluate mitigation evidence to determine whether it provides a possible defense, such as insanity, to the current charge. Counsel should evaluate mitigation evidence to determine whether and how best to present the evidence to the prosecutor for purposes of negotiation to alternative charge(s).

- c. \_\_\_\_\_

Defense counsel may engage in plea discussions with the prosecutor. Under no circumstances should defense counsel recommend to a client acceptance of a plea unless appropriate investigation and study of the case has been completed, including an analysis of controlling law and the evidence likely to be introduced at trial.

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- d. Counsel shall keep the client fully informed of any continued plea discussion and negotiations and convey to the client any offers made by the prosecution for a negotiated settlement.
- e. Counsel shall not accept any plea agreement without the client's express authorization.
- f. The existence of ongoing plea negotiations with the prosecution should not prevent counsel from taking steps necessary to preserve a defense.

## **6.2 The Contents of the Negotiations**

- a. In order to develop an overall negotiation plan, counsel should be fully aware of, and make sure the client is fully aware of:
  - 1. The maximum term of imprisonment and fine or restitution that may be ordered, and any mandatory punishment or sentencing guideline system and parole or sentencing review process and any registration requirements and;
  - 2. the possibility of forfeiture of assets;
  - 3. other consequences of conviction such as the impact of the conviction on non-citizen rights, including deportation and ineligibility for avenues to immigration relief and future immigration benefits, civil disabilities including loss of the right to vote, family rights, firearm rights and the right to serve in the military;
  - 4. any possible and likely sentence enhancements or parole supervision consequences;
  - 5. the possible and likely place and manner of confinement;
  - 6. the effect of good-time credits on the sentence of the client and the general range of sentences for similar offenses committed by defendants with similar backgrounds.
- b. In developing a negotiation strategy, counsel should be completely familiar with:
  - 1. Concessions that the client might offer the prosecution as part of a negotiated settlement, including, but not limited to:
    - (a) Not to proceed to trial on the merits of the charges;

- (b) To decline from asserting or litigating any particular pretrial motions;
  - (c) an agreement to fulfill specified restitution conditions and/or participation in community work or service programs, or in rehabilitation or other programs.
  - (d) providing the prosecution with assistance in prosecuting or investigating the present case or other alleged criminal activity.
2. Benefits the client might obtain from a negotiated settlement, including, but not limited to an agreement:
- (a) That the prosecution will not oppose the client's release on bail pending sentencing or appeal;
  - (b) To dismiss or reduce one or more of the charged offenses either immediately, or upon completion of a deferred prosecution agreement;
  - (c) That the client will not be subject to further investigation or prosecution for uncharged alleged criminal conduct;
  - (d) That the client will receive, with the agreement of the court, a specified sentence or sanction or a sentence or sanction within a specified range;
  - (e) That the prosecution will take, or refrain from taking, at the time of sentencing and/or in communications with the preparer of the official presentence report, a specified position with respect to the sanction to be imposed on the client by the court.
  - (f) That the client will receive, or the prosecution will recommend, specific benefits concerning the client's place and/or manner of confinement and/or release on supervision and the information concerning the client's offense and alleged behavior that may be considered in determining the client's date of release from incarceration.
  - (g) That the negotiated settlement can minimize the impact of the conviction on consequences that are an integral part of the penalty, including immigration, military service, registration, housing, employment, driving rights and familial rights.
  - (h) In conducting plea negotiations, counsel should be familiar with:

a. The various types of pleas that may be agreed to, including a plea of guilty, a conditional plea of guilty, and a plea in which the defendant is not required to personally acknowledge his or her guilt (Alford plea);

b. The advantages and disadvantages of each available plea according to the circumstances of the case;

c. Whether the plea agreement is binding on the court and prison and parole supervision authorities.

4. In conducting plea negotiations, counsel should attempt to become familiar with the practices and policies of the particular jurisdiction, judge and prosecuting authority which may affect the content and likely results of negotiated plea bargains.

### **6.3 The Decision to Enter a Plea of Guilty**

- a. Counsel shall inform the client of any tentative negotiated agreement reached with the prosecution, and explain to the client the full content of the agreement, and the advantages and disadvantages and the potential consequences of the agreement.
- b. The decision to enter a plea of guilty rests solely with the client, and counsel shall not attempt to unduly influence that decision.

### **6.4 Entry of the Plea Before the Court**

- a. Prior to the entry of the plea, counsel should:
  1. Make certain that the client understands the rights he or she will waive by entering the plea and that the client's decision to waive those rights is knowing, voluntary and intelligent;
  2. Make certain that the client fully and completely understands the conditions and limits of the plea agreement and the maximum punishment, sanctions and other consequences, including but not limited to those listed in Guideline 8.2, the client will be exposed to by entering a plea;
  3. Explain to the client the nature of the plea hearing and prepare the client for the role he or she will play in the hearing, including answering questions of the judge and providing a statement concerning the offense.
- b. When entering the plea, counsel should make sure that the full content and conditions of the plea agreement are placed on the record before the court.
- c. After entry of the plea, counsel should be prepared to address the issue of release pending sentencing.



- d. Where the client has been released pretrial, counsel should be prepared to argue and persuade the court that the client's continued release is warranted and appropriate.
- e. Where the client is in custody prior to the entry of the plea, counsel should, where practicable, advocate for and present to the court all reasons warranting the client's release on bail pending sentencing.

**Guideline 7.**

**7.1 General Trial Preparation**

- a. The decision to proceed to trial with or without a jury rests solely with the client. Counsel should discuss the relevant strategic considerations of this decision with the client.
- b. Where appropriate, counsel should have the following materials available at the time of trial:
  - 1. Copies of all relevant documents filed in the case;
  - 2. Relevant documents prepared by investigators;
  - 3. Voir dire questions;
  - 4. Outline or draft of opening statement;
  - 5. Cross-examination plans for all possible prosecution witnesses;
  - 6. Direct examination plans for all prospective defense witnesses;
  - 7. Copies of defense subpoenas;
  - 8. Prior statements of all prosecution witnesses (e.g., transcripts, police reports);
  - 9. Prior statements of all defense witnesses;
  - 10. Reports from defense experts;
  - 11. A list of all defense exhibits, and the witnesses through whom they will be introduced;
  - 12. Originals and copies of all documentary exhibits;
  - 13. Proposed jury instructions with supporting case citations;
  - 14. Copies of all relevant statutes and cases;

15. Outline or draft of closing argument.
  16. Copies of investigator notes, if prepared, or transcripts and copies of recordings, interviews with the state's witnesses, if interviews are recorded.
- c. Counsel should be fully informed as to the rules of evidence, and the law relating to all stages of the trial process, [including whether and how the jury can be advised of the possible sentence](#), and should be familiar with legal and evidentiary issues that can reasonably be anticipated to arise in the trial.
  - d. Counsel should decide if it is beneficial to secure an advance ruling on issues likely to arise at trial (e.g., use of prior convictions to impeach the defendant) and, where appropriate, counsel should prepare motions and memoranda for such advance rulings.
  - e. Throughout the trial process counsel should endeavor to establish a proper record for appellate review. As part of this effort, counsel should request, whenever necessary, that all trial proceedings be recorded. Where appropriate, counsel should advise the client as to suitable courtroom dress and demeanor. If the client is incarcerated, counsel should be alert to the possible prejudicial effects of the client appearing before the jury in jail or other inappropriate clothing or in shackles or restraints.
  - f. Counsel should plan with the client the most convenient system for conferring throughout the trial. Where necessary, counsel should seek a court order to have the client available for conferences.
  - g. Throughout preparation and trial, counsel should consider the potential effects that particular actions may have upon sentencing if there is a finding of guilt.

## 7.2 Voir Dire and Jury Selection

- a. Preparation
  1. Counsel should be familiar with the procedures by which a jury venire is selected in the particular jurisdiction and should be alert to any potential legal challenges to the composition or selection of the venire.
  2. Counsel should be familiar with the local practices and the individual trial court procedures for selecting a jury from a panel of the venire, and should be alert to any potential legal challenges to these procedures.
  3. Prior to jury selection, counsel should seek to obtain a prospective juror list.

4. Where appropriate, counsel may develop voir dire questions in advance of trial. Counsel should tailor voir dire questions to the specific case. This includes confidential questionnaires.
  5. The primary purpose of voir dire is to obtain information for the intelligent exercise of challenges. Voir dire questions may be designed to accomplish the following:
    - (a) To elicit information about the attitudes of individual jurors, which will inform about peremptory strikes and challenges for cause;
    - (b) To outline and expose the panel to certain legal principles which are relevant to the defense case;
    - (c) To preview the case so as to lessen the impact of damaging information which is likely to come to their attention during the trial;
    - (d) To present the client and the defense in a favorable light, without prematurely disclosing information about the defense case to the prosecutor.
    - (e) To establish credibility with the jury
  6. Counsel should be familiar with the law concerning voir dire inquiries so as to be able to defend any request to ask particular questions of prospective jurors.
  7. Counsel should be familiar with the law concerning challenges for cause and peremptory strikes, [including court rules relating to discrimination in exercising peremptory challenges](#).
  8. Counsel should also be aware of the law concerning whether peremptory challenges need to be exhausted in order to preserve for appeal any challenges for cause which have been denied.
  9. Where appropriate, counsel should consider whether to seek expert assistance in the jury selection process.
- b. Examining the Prospective Jurors
1. Counsel should personally voir dire the panel. If the court conducts voir dire, counsel should consider submitting proposed questions to be incorporated into the court's voir dire.

2. Counsel should take all steps necessary to protect the voir dire record for appeal, including, where appropriate, filing a copy of the proposed voir dire questions or reading proposed questions into the record.

c. Challenges

Counsel should consider challenging for cause all persons about whom a legitimate argument can be made for actual prejudice or bias relevant to the case when it is likely to benefit the client.

### 7.3 Opening Statement

- a. Prior to delivering an opening statement, counsel should ask for exclusion of witnesses from the courtroom, unless a strategic reason exists for not doing so.
- b. Counsel should be familiar with the law of the jurisdiction and the individual trial judge's rules regarding the permissible content of an opening statement.
- c. Counsel should not waive or defer opening statement and should provide the jury with the defense theory of the case, so the jury is able to view the evidence from the defense viewpoint. Counsel should consider the strategic advantages and disadvantages of disclosure of particular information during opening statement. In rare instances, counsel may consider a strategic advantage of deferring the opening statement until the beginning of the defense case, but this should be weighed against the significant disadvantage of the jury viewing the prosecution evidence without benefit of the defense theory.
- d. Counsel's objective in making an opening statement is to inform the jury of the defense theory of the case and to provide an overview of the expected evidence. Opening statement may be designed to accomplish the following:
  1. to identify the weaknesses of the prosecution's case;
  2. to emphasize the prosecution's burden of proof;
  3. to summarize the testimony of witnesses, and the role of each in relationship to the entire case;
  4. to describe the exhibits which will be introduced and the role of each in relationship to the entire case;
  5. to clarify the jurors' responsibilities;
  6. to state the ultimate inferences which counsel wishes the jury to draw.
- e. Counsel should consider incorporating the promises of proof the prosecutor makes to the jury during opening statement in the defense summation.

- f. Whenever the prosecutor oversteps the bounds of a proper opening statement, counsel should consider objecting, requesting a mistrial, or seeking cautionary instructions, unless tactical considerations weigh against any such objections or requests. Such tactical considerations may include, but are not limited to:
  - 1. The significance of the prosecutor's error;
  - 2. The possibility that an objection might enhance the significance of the information in the jury's mind;
  - 3. Whether there are any rules made by the judge against objecting during the other attorney's opening argument.

#### **7.4 Confronting the Prosecution's Case**

- a. Counsel should attempt to anticipate weaknesses in the prosecution's proof and consider researching and preparing corresponding motions for judgment of acquittal.
- b. Counsel should consider the advantages and disadvantages of entering into stipulations concerning the prosecution's case.
- c. In preparing for cross-examination, counsel should be familiar with the applicable law and procedures concerning cross-examinations and impeachment of witnesses. In order to develop material for impeachment or to discover documents subject to disclosure, counsel should be prepared to question witnesses as to the existence of prior statements which they may have made or adopted.
- d. In preparing for cross-examination, counsel should:
  - 1. Consider the need to integrate cross-examination, the theory of the defense and closing argument;
  - 2. Consider whether cross-examination of each individual witness is likely to generate helpful information;
  - 3. Anticipate those witnesses the prosecutor might call in its case-in-chief or in rebuttal;
  - 4. Consider a cross-examination plan for each of the anticipated witnesses;
  - 5. Be alert to inconsistencies in a witness' testimony;
  - 6. Be alert to possible variations in witnesses' testimony;
  - 7. Review all prior statements of the witnesses and any prior relevant testimony of the prospective witnesses;

8. Where appropriate, review relevant statutes and local police regulations for possible use in cross-examining police witnesses;
  9. Be alert to issues relating to witness credibility, including bias and motive for testifying.
- e. Counsel should consider conducting a voir dire examination of potential prosecution witnesses who may not be competent to give particular testimony, including expert witnesses whom the prosecutor may call. Counsel should be aware of the applicable law of the jurisdiction concerning competency of witnesses in general and admission of expert testimony in particular in order to be able to raise appropriate objections.
  - f. Before beginning cross-examination, counsel should ascertain whether the prosecutor has provided copies of all prior statements of the witnesses as required by applicable law. If counsel does not receive prior statements of prosecution witnesses until they have completed direct examination, counsel should request adequate time to review these documents before commencing cross-examination.
  - g. Where appropriate, at the close of the prosecution's case and out of the presence of the jury, counsel should move for a judgment of acquittal on each count charged. Counsel should request, when necessary, that the court immediately rule on the motion, in order that counsel may make an informed decision about whether to present a defense case.

## **7.5 Presenting the Defense Case**

- a. Counsel should develop, in consultation with the client, an overall defense strategy. In deciding on defense strategy, counsel should consider whether the client's interests are best served by not putting on a defense case, and instead relying on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt.
- b. Counsel should discuss with the client all of the considerations relevant to the client's decision to testify. As with choosing whether to go forward with a jury, the decision to testify is solely that of the client. Counsel's obligation is to provide the client with all of the advice necessary for the client to make an informed decision on whether to testify.
- c. Counsel should be aware of the elements of any affirmative defense and know whether, under the applicable law of the jurisdiction, the client bears a burden of persuasion or a burden of production.
- d. In preparing for presentation of a defense case, counsel should, where appropriate:
  1. Develop a plan for direct examination of each potential defense witness;

2. Determine the implications that the order of witnesses may have on the defense case;
  3. Consider the possible benefits and risks of use of character witnesses;
  4. Consider the need for expert witnesses.
- e. In developing and presenting the defense case, counsel should consider the implications it may have for a rebuttal by the prosecutor.
- f. Counsel should prepare all witnesses for direct and possible cross-examination. Where appropriate, counsel should also advise witnesses of suitable courtroom dress and demeanor.
- g. Counsel should conduct redirect examination as appropriate.
- h. At the close of the defense case, counsel should renew the motion for judgment of acquittal on each charged count.

#### **7.6 Closing Argument**

- a. Counsel should be familiar with the substantive limits on both prosecution and defense summation.
- b. Counsel should be familiar with the local rules and the individual judge's practice concerning time limits and objections during closing argument, and provisions for rebuttal argument by the prosecution.
- c. In developing closing argument, counsel should review the proceedings to determine what aspects can be used in support of defense summation and, where appropriate, should consider:
  1. Highlighting weaknesses in the prosecution's case;
  2. Describing favorable inferences to be drawn from the evidence;
  3. Incorporating into the argument:
    - (a) helpful testimony from direct and cross-examinations;
    - (b) verbatim instructions drawn from the jury charge;
    - (c) responses to anticipated prosecution arguments;
    - (d) the effects of the defense argument on the prosecutor's rebuttal argument.
  4. Whenever the prosecutor exceeds the scope of permissible argument, counsel should consider objecting, requesting a mistrial, or seeking

cautionary instructions unless tactical considerations suggest otherwise. Such tactical considerations may include, but are not limited to:

- (a) Whether counsel believes that the case will result in a favorable verdict for the client;
- (b) The need to preserve the objection for a double jeopardy motion;
- (c) The possibility that an objection might enhance the significance of the information in the jury's mind.
- (d) The need to preserve the objection for appeal.

### **7.7 Jury Instructions**

- a. Counsel should be familiar with the local rules and the individual judge's practices concerning ruling on proposed instructions, charging the jury, use of standard charges and preserving objections to the instructions.
- b. Where appropriate, counsel should submit modifications of the standard jury instructions in light of the particular circumstances of the case, including the desirability of seeking a verdict on a lesser included offense. Where possible, counsel should provide case law in support of the proposed instructions.
- c. Where appropriate, counsel should object to and argue against improper instructions proposed by the prosecution.
- d. If the court refuses to adopt instructions requested by counsel, or gives instructions over counsel's objection, counsel should take all steps necessary to preserve the record, including, where appropriate, filing a copy of proposed instructions or reading proposed instructions into the record.
- e. During delivery of the charge, counsel should be alert to any deviations from the judge's planned instructions, object to deviations unfavorable to the client, and, if necessary, request additional or curative instructions.
- f. If the court proposes giving supplemental instructions to the jury, either upon request of the jurors or upon their failure to reach a verdict, counsel should request that the judge state the proposed charge to counsel before it is delivered to the jury.

### **Guideline 8.**

#### **8.1 Obligations of Counsel in Sentencing**

Among counsel's obligations in the sentencing process are:



- a. Where a client chooses not to proceed to trial, to ensure that a plea agreement is negotiated with consideration of the sentencing, correctional, and financial implications and other consequences of the conviction, including the impact upon citizenship and residency rights, civil rights including the loss of the right to vote, and familial rights;
- b. To ensure the client is not harmed by inaccurate information or information that is not properly before the court in determining the sentence to be imposed;
- c. To provide affirmative advice with respect to the consequences of the conviction on the citizenship and or residency status of the client;
- d. To ensure all reasonably available mitigating and favorable information, which is likely to benefit the client, is presented to the court;
- e. To develop a plan which seeks to achieve the least restrictive and burdensome sentencing alternative that is most acceptable to the client, and which can reasonably be obtained based on the facts and circumstances of the offense, the client's background, the applicable sentencing provisions, and other information pertinent to the sentencing decision;
- f. To ensure all information presented to the court which may harm the client and which is not shown to be accurate and truthful or is otherwise improper is stricken from the text of the presentence investigation report before distribution of the report;
- g. To consider the need for and availability of sentencing specialists, and to seek the assistance of such specialists whenever possible and warranted.

## **8.2 Sentencing Options, Consequences and Procedures**

- a. Counsel should be familiar with the sentencing provisions and options applicable to the case, including:
  - 1. Any sentencing guideline structure;
  - 2. Deferred sentence, judgment without a finding, and diversionary programs or the availability of alternative resolutions, including suspended sentences and specialty courts;
  - 3. Vacation of conviction and sealing of records;
  - 4. Probation or suspension of sentence and permissible conditions of probation;
  - 5. Restitution;
  - 6. Fines;

7. Court costs;
  8. Imprisonment including any mandatory minimum requirements;
  9. Confinement in mental institution;
  10. Forfeiture.
- b. Counsel should be familiar with the consequences of the sentence and judgment, including:
1. credit for pre-trial detention;
  2. post confinement supervision;
  3. effect of good-time credits on the client's release date and how those credits are earned and calculated;
  4. place of confinement and level of security and classification;
  5. self-surrender to place of custody;
  6. eligibility for correctional programs and furloughs;
  7. available drug rehabilitation programs, psychiatric treatment, and health care;
  8. deportation;
  9. use of the conviction for sentence enhancement in future proceedings;
  10. loss of civil rights and the right to possess a firearm;
  11. impact of a fine or restitution and any resulting civil liability;
  12. restrictions on or loss of license;
  13. the impact of the conviction on the rights of a non-citizen;
  14. other consequences of the conviction, such as immigration rights, military service, registration, housing, employment, driving, and familial rights.
- c. Counsel should be familiar with the sentencing procedures, including:
1. The effect that plea negotiations may have upon the sentencing discretion of the court;
  2. The procedural operation of any sentencing guideline system;

3. Sentencing structure to preserve the rights of non-citizen clients;
4. The practices of the officials who prepare the presentence report and defendants' rights in that process;
5. The access to the presentence report by counsel and the client; the prosecution's or probation department's practice in preparing a memorandum on punishment;
6. The use of a sentencing memorandum by the defense;
7. The opportunity to challenge information presented to the court for sentencing purposes;
8. The availability of an evidentiary hearing to challenge information and the applicable rules of evidence and burdens of proof at such a hearing;
9. The participation that victims and prosecution or defense witnesses may have in the sentencing proceedings.

### **8.3 Preparation for Sentencing**

- a. In preparing for sentencing, counsel should consider the need to:
  1. Inform the client of the applicable sentencing requirements, options, and alternatives, and the likely and possible consequences of the sentencing alternatives;
  2. Maintain regular contact with the client prior to the sentencing hearing, and inform the client of the steps being taken in preparation for sentencing;
  3. Obtain from the client relevant information concerning such subjects as his or her background and personal history, prior criminal record, employment history and skills, education, medical history and condition, citizenship and immigration status if the client is not a citizen of the United States, and financial status, and obtain from the client sources through which the information provided can be corroborated;
  4. Ensure the client has adequate time to examine the presentence report;
  5. Inform the client of his or her right to speak at the sentencing proceeding and assist the client in preparing the statement, if any, to be made to the court, considering the possible consequences that any admission of guilt may have upon an appeal, subsequent retrial or trial on other offenses;

6. Prepare the client to be interviewed by the official preparing the presentence report;
7. Inform the client of the effects that admissions and other statements may have upon an appeal, retrial, parole proceedings, or other judicial or immigration or citizenship proceedings, including forfeiture or restitution proceedings;
8. Inform the client of the sentence or range of sentences and options available under the law and confer with the client about the sentencing plan and advocate for the client's position;
9. Collect documents and affidavits to support the defense position and, where relevant, prepare witnesses to testify at the sentencing hearing; where necessary, counsel should specifically request the opportunity to present tangible and testimonial evidence.

#### 8.4 The Official Presentence Report

- a. Counsel should be familiar with the procedures concerning the preparation, submission, and verification of the presentence investigation report or similar document. In addition, counsel should:
  1. Determine whether a presentence report will be prepared and submitted to the court prior to sentencing; where preparation of the report is optional, counsel should consider the strategic implications of requesting that a report be prepared;
  2. Provide to the official preparing the report relevant information favorable to the client, including, where appropriate, the [client's](#) version of the offense;
  3. Review the completed report;
  4. Take appropriate steps to ensure that erroneous or misleading information which may harm the client is deleted from the report;
  5. Take appropriate steps to preserve and protect the client's interests where the defense challenges information in the presentence report as being erroneous or misleading and:
    - (a) the court refuses to hold a hearing on a disputed allegation adverse to the [client](#);
    - (b) the prosecution fails to prove an allegation;
    - (c) the court finds an allegation not proved.

- b. Such steps include requesting that a new report be prepared with the challenged or unproved information deleted before the report or memorandum is distributed to correctional officials.
- c. Counsel should review the report to be distributed to be sure that the information challenged has actually been removed from the report or memorandum.

#### **8.5 The Prosecution's Sentencing Position**

- a. Counsel should attempt to determine, unless there is a sound tactical reason for not doing so, whether the prosecution will advocate that a particular type or length of sentence be imposed.
- b. If a written sentencing memorandum is submitted by the prosecution, counsel should review the memorandum and verify that the information presented is accurate; if the memorandum contains erroneous or misleading information, counsel should take appropriate steps to correct the information unless there is a sound strategic reason for not doing so.
- c. If the defense request to see the prosecution memorandum is denied, an application to examine the document should be made to the court or a motion made to exclude consideration of the report by the court and to prevent distribution of the memorandum to correctional officials.

#### **8.6 The Defense Sentencing Memorandum**

- a. Counsel should prepare and present to the court a defense sentencing memorandum where there is a strategic reason for doing so. Among the topics counsel may wish to include in the memorandum are:
  - 1. Challenges to incorrect or incomplete information in the official presentence report and any prosecution sentencing memorandum;
  - 2. Challenges to improperly drawn inferences and inappropriate characterizations in the official presentence report and any prosecution sentencing memorandum;
  - 3. Information contrary to that before the court which is supported by affidavits, letters, and public records;
  - 4. Information favorable to the [client](#) concerning such matters as the offense, mitigating factors and relative culpability, prior offenses, personal background, employment record and opportunities, education background, and family and financial status;

5. Information which would support a sentencing disposition other than incarceration, such as the potential for rehabilitation or the nonviolent nature of the crime;
6. Information concerning the availability of treatment programs, community treatment facilities, and community service work opportunities;
7. Presentation of a sentencing proposal;
8. Where appropriate, counsel should engage an expert to assist in preparing the sentence memorandum;
9. A complete memorandum may require counsel to conduct an independent investigation regarding mitigating evidence and why particular proposals are appropriate.

#### **8.7 The Sentencing Process**

- a. Counsel should be prepared at the sentencing proceeding to take the steps necessary to advocate fully for the requested sentence and to protect the client's interest.
- b. Counsel should be familiar with the procedures available for obtaining an evidentiary hearing before the court in connection with the imposition of sentence.
- c. In the event there will be disputed facts before the court at sentencing, counsel should consider requesting an evidentiary hearing. Where a sentencing hearing will be held, counsel should ascertain who has the burden of proving a fact unfavorable to the client, be prepared to object if the burden is placed on the defense, and be prepared to present evidence, including testimony of witnesses, to contradict erroneous or misleading information unfavorable to the client.
- d. Where information favorable to the client will be disputed or challenged, counsel should be prepared to present supporting evidence, including testimony of witnesses, to establish the facts favorable to the client.
- e. Where the court has the authority to do so, counsel should request specific orders or recommendations from the court concerning the place of confinement, eligibility for supervised release, psychiatric treatment or drug rehabilitation, permission for the client to surrender directly to the place of confinement and against deportation of the client.
- f. Where appropriate, counsel should prepare the client to personally address the court.

## Guideline 9.

### 9.1 Motion for a New Trial

- a. Counsel should be familiar with the procedures available to request a new trial including the time period for filing such a motion, the effect it has upon the time to file a notice of appeal, and the grounds that can be raised.
- b. When a judgment of guilty has been entered against the client after trial, counsel should consider whether it is appropriate to file a motion for a new trial with the trial court. In deciding whether to file such a motion, the factors counsel should consider to include:
  1. The likelihood of success of the motion, given the nature of the error or errors that can be raised;
  2. The effect that such a motion might have upon the client's appellate rights, including whether the filing of such a motion is necessary to, or will assist in, preserving the client's right to raise on appeal the issues that might be raised in the new trial motion.

### 9.2 Right to Appeal

- a. Counsel should inform the client of his or her right to appeal the judgment of the court and the action that must be taken to perfect an appeal. In circumstances where the client wants to file an appeal the attorney shall file the notice in accordance with the rules of the court and take such other steps as are necessary to preserve the client's right to appeal.
- b. Counsel's advice to the client should include an explanation of the right to appeal the judgment of guilty and the right to appeal the sentence imposed by the court and have counsel appointed at state expense, and that the substantially prevailing party may be entitled to recover the costs of appeal pursuant to statute or court rule.
- c. Where the client takes an appeal, trial counsel must cooperate in providing information to the client's appellate counsel concerning the proceedings in the trial court and their work on behalf of the client.
- d. When there is a post-conviction challenge brought on behalf of the client, trial and appellate counsel must cooperate in providing information to the client's post-conviction counsel concerning proceedings in the trial and appellate courts and their work on behalf of the client.

### **9.3 Bail Pending Appeal**

- a. Where a client indicates a desire to appeal the judgment and/or sentence of the court, counsel should inform the client of any right that may exist to be released on bail pending the disposition of the appeal.
- b. Where an appeal is taken and the client requests bail pending appeal, trial counsel should cooperate with appellate counsel in providing information to pursue the request for bail.

### **9.4 Self-Surrender**

Where a custodial sentence has been imposed, counsel should consider requesting a stay of execution of the judgment to permit the client to report directly to the place of confinement.

### **9.5 Sentence Reduction**

Counsel should inform the client of procedures available for requesting a discretionary review of, or reduction in, the sentence imposed by the trial court, including any time limitations that apply to such a request.

### **9.6 Vacation or Sealing of Record of Conviction**

Counsel should inform the client of any procedures available for requesting that the record of conviction be vacated or sealed.



**MEMO**

**To:** Board of Governors

**From:** Daryl Rodrigues, Chair, Council on Public Defense  
Travis Stearns, Incoming Chair, Council on Public Defense  
Prof. Robert Boruchowitz, Chair, Standards and Guidelines Committee

**Date:** September 11, 2020

**Re:** Adoption of the *Advisory Notice by WSBA Council on Public Defense: Implementation of the Standards for Indigent Defense During the Coronavirus Emergency*

**ACTION:** Approve the *Advisory Notice by WSBA Council on Public Defense: Implementation of the Standards for Indigent Defense during the Coronavirus Emergency* for broad distribution to Washington State public defenders.

The Council on Public Defense is working to support best practices for defenders in Washington during the pandemic. The Council drafted the attached *Implementation of the Standards for Indigent Defense during the Coronavirus Emergency* as a tool for public defenders to use when determining how to comply with the *Standards for Indigent Defense* (Standards) while navigating social distancing and health guidelines.

The Council devoted time during its monthly meetings to hear from practitioners and administrators from around the state about how local courts and public defense offices are responding to the pandemic. The Council identified several obstacles to the administration of justice as the court systems adhere to stay at home orders and public health needs. A workgroup met to draft the attached document, which identifies the impacts the pandemic has had on public defense and guidance on how to apply the Standards as the environment changes. Before submitting this request to the BOG, the Council shared the draft guidance broadly with the Washington Defenders Association, the Criminal Law Section, the Washington State Association of Criminal Defense Lawyers, and others to request feedback.

The Council's request is on the Board's agenda at the September 2020 meeting. Councilmember Prof. Robert Boruchowitz will attend the meeting to present the document and answer questions.

We look forward to presenting the proposed document at the September Board meeting.

## Advisory Notice by WSBA Council on Public Defense

### Implementation of the Standards for Indigent Defense During the Coronavirus Emergency

- **Coronavirus impact on public defense attorney workloads.**

COVID-19 and the restrictions imposed to limit exposure to the virus have dramatically altered how public defense attorneys can hold confidential meetings with clients, go to court safely, investigate, and prepare cases. Attorneys must ensure that their clients' due process rights are protected, but also must protect their clients, themselves, their staff, and their families from exposure to the novel Coronavirus.

As courts begin to resume hearings and trials, and as prosecutors start to file a backlog of cases, public defense attorneys face an increased volume of cases and an increased complexity in their work. For example, the public defense workload becomes more complicated when attorneys must utilize time-consuming telephone/video conferences for client meetings and court appearances, or when social distancing requirements hamper an attorney-client communication during in-person court activities.

These new conditions require courts and public defense attorneys to pay close attention to the Standards for Indigent Defense adopted by the Washington Supreme Court, which establish minimum requirements for public defense representation. *See* CrR 3.1 Stds, CrRLJ 3.1 Stds, and JuCR 9.2 Stds. Attorneys who represent persons in other assigned cases will also be impacted by the current crisis, including involuntary treatment commitment, 71.09 commitment, family defense, status cases, support enforcement, and appeals.

The purpose of this notice is to assist public defense agencies, contract and list appointed attorneys, courts, and local contracting authorities in interpreting and applying the Standards for Indigent Defense during the Coronavirus emergency and ongoing recovery efforts. Additional guidance can be found in the WSBA performance guidelines, WSBA Standards for Indigent Defense, Washington Defender Association Standards for Public Defense Services, and the pending involuntary treatment guidelines.

- **Applying the standards during the coronavirus emergency and recovery.**

The Standards for Indigent Defense identify numeric caseload limits and require that caseloads must be reduced to accommodate unusual circumstances or increased workload.

Consistent with obligations under these Standards, public defense agencies, courts, and contracting authorities, in consultation with public defense attorneys, should reconsider the number of cases assigned to ensure adequate time to work on each case during this emergency.

- **Reduced caseloads may be necessary to maintain compliance with the standards.**

**Standard 3.2** establishes that public defense attorneys may not accept cases beyond their ability to provide quality representation to all their clients.

The caseload of public defense attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys, nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. As used in this Standard, “quality representation” is intended to describe the minimum level of attention, care, and skill that Washington citizens would expect of their state’s criminal justice system.

**Standard 3.3** limits the number of cases lawyers can handle and recognizes that if there is a “surge” of cases beyond normal expectations or if the cases assigned become more complex, the caseload must be reduced. The standards state that:

Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases of average complexity and effort.

Caseload limits assume a reasonably even distribution of cases throughout the year.

Reasonably even distribution of cases throughout the year means that lawyers will not be assigned more than 1/12 of their annual maximum caseload in any given month. For felonies, this is 12 cases per month. For misdemeanors, it should be no more than 33 misdemeanor cases per month.

Standard 3.3 also requires that when the public defense workload becomes more difficult or time-consuming due to work circumstances, per-attorney caseloads should be reduced.

The increased complexity of practice in many areas will require lower caseload limits. The maximum caseload limit should be adjusted downward when the mix of case assignments is weighted toward offenses or case types that demand more investigation, legal research and writing, use of experts, use of social workers, or other expenditures of time and resources.

- **Attorneys should determine ability to handle caseload.**

Each attorney should evaluate and determine their capacity to provide quality representation to all clients within the typical numeric caseload limits. If an attorney determines that they are not able to provide quality representation within the typical caseload, they should be presumed to be correct, and the caseload should be adjusted.

In 2019, the Washington Supreme Court held that a lower court had abused its discretion when it sanctioned a public defender for seeking a time accommodation that the defender determined was necessary to comply with “his constitutional obligations and the Standards of Indigent Defense.” *State v. Graham*, 194 Wn.2d 965, 968, 454 P.3d 114 (2019). The Court credited the defender’s assessment of his own caseload and recognized that:

...where counsel needs an extension of time to fulfill his obligations of representation, it is appropriate to grant an extension without the imposition of sanctions. Recent cases have highlighted the constitutional importance of maintaining proper caseloads in indigent defense cases. *See, e.g., Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122, 1124 (W.D. Wash. 2013); *State v. A.N.J.*, 168 Wn.2d 91, 102, 225 P.3d 956 (2010).

*Graham*, 194 Wn.2d at 970.

The Court emphasized the importance of adhering to the Standards:

The Standards for Indigent Defense provide that the caseload of public defenders must allow each lawyer to give each client the time and effort necessary to ensure effective representation.

*Graham*, 194 Wn.2d at 969.

Options to address increased workload may include adjusting case assignments, increasing resources including additional public defenders and staff, as well as other systemic approaches, as presented in the appendix.

Some attorney contracts pay based on each case assigned or pay a flat monthly fee for a specific number of cases. In these situations, as courts resume hearings and trials, the contracted number of cases may exceed a reasonable workload because of a surge in cases and the backlog of pending cases. Defenders are also less able to resolve cases, complete investigations, and meet with clients in the way they would have before the coronavirus crisis. If the workload required to provide quality representation increases, because of delays and barriers in investigating cases and meeting with clients, the caseload should be adjusted downward. Basic contract principles require that when circumstances change significantly, the parties should be open to renegotiation and amendment of contracts. Public defense providers should accept fewer cases or be compensated additionally to hire more staff. Additional resources for public defender services may also be necessary to re-open courts for trial and disposition hearings.

- **Coronavirus funding and resources should be directed to public defense.**

Many local governments are receiving significant emergency funding from federal and state Coronavirus mitigation sources. These emergency resources can and should be used to support public defense services.

For example, CARES Act funding may be used to increase the number of public defense attorneys and staff to address surging workloads, as well as to provide personal protective equipment for public defense attorneys, staff, and clients. Emergency funding may also be used to provide new technology to public defense attorneys, their clients, and jails to facilitate effective participation in court-conducted hearings, permit confidential attorney-client communications and to allow for timely electronic filing of pleadings.

- **Appendix One**

In considering how to address the emergency, the American Bar Association's *Eight Guidelines of Public Defense Related to Excessive Workloads* (2009) should guide public defense providers, local governments, and the courts.

**Possible systemic options to address coronavirus impacts on public defense workload.**

- Contract with additional attorneys to spread out new case assignments more equitably.
- Charge low level, non-violent adult felony offenses as gross misdemeanors.
- Charge low level, non-violent misdemeanor and gross misdemeanor offenses as infractions.
- Increase the use of pre-filing diversion for adult criminal and juvenile offender cases.
- Enhance prosecutorial review of cases filed by law enforcement officers, to minimize the number of cases that might otherwise result in early dismissal.
- Continue to minimize the number of in-custody defendants.
- Reduce status hearings for pre-trial and compliance hearings.
- Allow counsel to waive their client's appearances for non-essential hearings.
- Expand diversion alternatives.
- Reduce the issuance of warrants for failures to appear and allow defendants and youth to appear for hearings remotely.
- Reserve show cause and probation review hearings for the most serious allegations.
- Encourage courts to accept ex-parte orders with electronic signatures in all non-testimonial matters.
- Request that courts that have not initiated remote hearings begin doing so to reduce backlog.
- Consult with the Washington State Office of Public Defense or experienced practitioners in how to implement the Standards.

To: The President, President-elect, Immediate Past-president, and Board of Governors  
From: Renata de Carvalho Garcia, Interim Associate Director for Regulatory Services, Katherine Skinner, Innovative Licensing Analyst, Benjamin Phillabaum, Law Clerk Board Chair  
Date: September 1, 2020  
Re: **Request for Authorization of Two New Members for the Law Clerk Board**

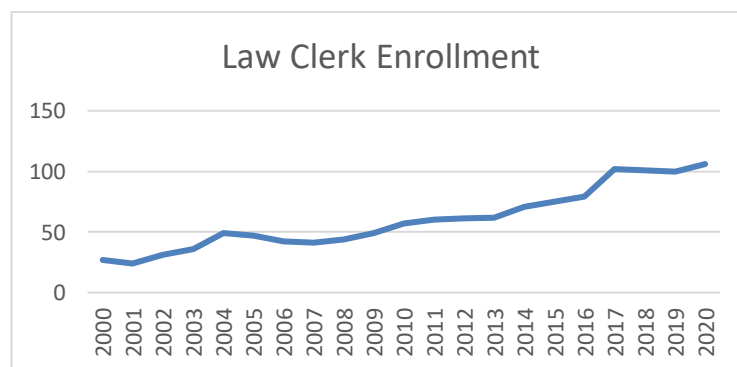
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**Action Requested:** Increase the number of members of the Law Clerk Board from nine to eleven.

**Discussion:**

The Law Clerk Board (Board) is a regulatory board composed of nine lawyers appointed by the Board of Governors (BOG) for the purposes of assisting the Bar in supervising the Law Clerk Program (program). In addition to meeting on a quarterly basis and making decisions as a body, Board members also serve as liaisons to individual law clerks and tutors enrolled in the program. As liaisons, they interview applicants for the program, review monthly exams, and assess the law clerks' progress. They also answer questions from tutors and law clerks, and provide guidance about the program and performance in the program, as needed. In addition, liaisons make recommendations to the Board on petitions of enrolled law clerks and on the approval of new law clerks and tutors to the program, as well as other issues. The time commitment is generally 8-10 hours per month with the current workload of one liaison to about twelve law clerks. This average is in addition to the quarterly six-hour meetings and special meetings and projects.

Enrollment in the program has increased in the last five years from around 75 to more than 100 whereas the Board size has remained the same for the past nine years<sup>1</sup>.



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<sup>1</sup> The Law Clerk Board sought to increase the Board size from 7 to 9 lawyers in December 2011 due to an increase in enrollment. The Board of Governors approved the Board's request effective FY 2012.



The number of law clerks assigned to each Board member/liaison had generally been around ten, it is now at 13-14. At its last Board meeting, liaisons discussed the increased number of law clerks assigned to them in light of the program's growth, and identified the need to increase the Board size in order to maintain their ability to be effective liaisons. Ideally, the Board would like to maintain the liaison to clerk/tutor ratio at no more than 1:10.

The Board therefore requests that two additional Board member positions be approved beginning October 2020. The number of members of the Law Clerk Board is not specified by APR 6 or by the program regulations; rather, it is set by the BOG's Committee and Board Policy. See attached proposed amendment to the BOG's Committees and Boards Policy. Members are appointed with consideration for the geographic distribution of the law clerks in the in the program although appointments do not correspond to the legislative districts. The Board can be composed of both law school graduates and those who completed the Law Clerk Program; a balance of experience is sought for this and other factors of diversity. The proposed new positions would have a three-year term from 10/1/2020 through 9/30/2023.

The budget impact of such an increase would be very minimal and would be related only to the cost of having two additional members travel to attend the quarterly meetings, likely less than an additional \$2,000.00 in Board expenses for a total Law Clerk Board budget of \$7,000 for FY21.

Attachment: Proposed amendment to the BOG's Committees and Boards Policy







Washington State Bar Association  
Board of Governors  
**Committees and Boards Policy**

(Effective with 1993-94 Committee Appointments)

(Amended July 19, 1996; Amended March 28, 1997; Amended February 13, 1999, Amended May 19, 2000, Amended January 19, 2002, Amended October 2002, Amended April 2003, Amended February 2004, Amended March 11, 2005, Amended January 2012, Amended September 2012, Amended January 2013, Amended July 2013, Amended September 2015)

1. **Diversity:** To further the WSBA policy of advancing and promoting diversity, equality, and cultural understanding, the Board of Governors shall take into consideration the makeup of a committee or board in terms of diversity when considering appointments to it. (Committee Membership Selection Advisory Policy.) To assist the Board in fulfilling this policy, all applicants and appointees to committees and boards will be required to complete the Committee/Board/Panel Application Form. This form shall, on a voluntary basis, solicit information including, but not limited to, the person's ethnicity, gender, sexual orientation, disability status, area of practice, years of practice, employer, and number of lawyers in law firm.
  
2. **Size of Committees and Boards:**
  - a) Committees:
    - Amicus Curiae Brief Committee: 14
    - Committee on Professional Ethics: 9
    - Continuing Legal Education Committee: 18
    - Court Rules and Procedures Committee: 28
    - Editorial Advisory Committee: 14
    - Judicial Recommendation Committee: 22
    - Legislative Committee: 33
    - Pro Bono and Public Service Committee: 18
    - Professionalism Committee: 18
    - Washington Young Lawyers Committee: 18
    - WSBA Diversity Committee: 18
  
  - b) Boards:
    - Board of Bar Examiners: 50 maximum
    - Character and Fitness Board: 10 lawyers minimum (at least one from each district) and 3 non-lawyers (APR 20(a))
    - Law Clerk Board: ~~9~~ 11 lawyers
    - Lawyers' Fund for Client Protection Board: 11 lawyers and 2 non-lawyers (APR 15(3)(a))

3. **Membership Requirements:** All members of WSBA committees and boards must be active members of the WSBA, with the following exceptions: (a) Up to two Emeritus/Pro Bono members are permitted to serve on the Pro Bono and Public Service Committee and may be appointed to serve as the Chair, Co-Chair or Vice-Chair. (WSBA Bylaws IX.B.1.a.) (b) Members of the Character and Fitness Board must have been members of the WSBA for seven years before their term begins. (APR20(b), ELC2.3(b)(2).) (c) Members of the Washington Young Lawyers Committee must meet the WSBA young lawyer criteria on the start date of their term (WSBA Bylaws XIIB). (d) Faculty of Washington state law schools who are not active members of the WSBA are permitted to serve on the Committee on Professional Ethics (WSBA Bylaws IX.B.1.a.) No WSBA staff member will be appointed to serve as a WSBA committee or board member. (e) The WSBA Diversity Committee includes both general WSBA members and members of the Board of Governors.
4. **Selection of Members:** Nominations for open positions on each standing committee and board will be made by a nomination team comprising the chair, vice-chair or chair-elect, staff liaison and BOG liaison, in consultation with WSBA diversity and inclusion staff. In addition, each district-based BOG member may nominate one applicant from his or her district to any committee or board that does not have a continuing member from that district. At large BOG members may, as a group, nominate one applicant to each committee or board. If this process results in more nominations than there are open positions on a committee or board, nominations from BOG members will take priority over nominations from the nomination teams. If nominations from BOG members alone exceed the number of open positions, the nomination teams will make recommendations to the BOG as a whole. Exceptions: The Judicial Recommendation Committee, Washington Young Lawyers Committee, Legislative Committee and Committee on Professional Ethics have unique member selection procedures which are described in separate policy documents. The nomination teams will make recommendations for non-lawyer appointments, as these nominations are made by the BOG as a whole and forwarded to the Supreme Court for appointment. (APR 20(a), ELC 2.3(b)(1).) The Board of Governors will make most committee and board appointments (and nominations of non-lawyers to the two boards cited above) at the July Board of Governors meeting. At the same time, the Board of Governors will approve a list of alternate appointees for each committee and board. The alternate lists will be effective for one year. If any committee or board member positions remain open after the July Board of Governors meeting, they will be filled as soon as possible.
5. **Definition of Membership:** Although WSBA committees operate under an "open meeting" policy that allows any member of the WSBA or public to attend a meeting (See (12) below), in order to be recognized as a member of a committee or board an individual must be appointed to the committee or board.
6. **Selection of Chair and Vice-Chair:** The President-elect shall nominate committee and board Chairs, Co-Chairs, and Vice-Chairs for appointment by the Board of Governors for the year in which the President-elect will serve as President. (WSBA Bylaws, IX.B.1.c.) Committee chairs are generally limited to a single year term, except in unusual circumstances, in which they may be appointed for an additional year. If an individual is appointed as committee Chair but is not a new or returning member of the committee, he or she will also be appointed as a member for one year, which may temporarily increase the size of the committee. Exception: The Washington Young Lawyers Committee has a member position set aside for leadership described in a separate policy document. Note: The WSBA Diversity Committee has two co-chairs, one drawn from the general membership and one drawn from the Board of Governors.

The President-elect shall commit to diversity in nominating Chairs, Co-Chairs and Vice-Chairs, taking into consideration the makeup of a committee or board and the potential impact of appointing a particular individual as Chair.

7. **Expenses:** Committee and board member expenses shall be reimbursed in accordance with the WSBA Expense Reimbursement Policy as adopted by the Board of Governors. Reimbursement of travel expenses for out-of-state committee or board members to attend committee or board meetings is limited to the approximate cost of in-state travel. Participation in meetings by telephone conference call or videoconferencing is encouraged when possible because it saves significant travel time and expense.
8. **Terms:** Except as indicated below, committee appointments shall be for 2-year terms. A member's service on any committee shall be limited to two consecutive terms, after which the member cannot be reappointed to that committee for three years, subject to individual exceptions as approved by the Board of Governors. Appointments to the WSBA Legislative Committee shall be made pursuant to the written Board of Governors policy for that committee. (WSBA Bylaws, IX.B.1.b.)

The following committees and boards shall have more than a 2-year term:

- Board of Bar Examiners: 4 years, no limit on number of terms (subject to Chair approval and completion of mandatory training)
  - Character and Fitness Board: 3 years (APR 20(i)) (one-term limit)
  - Committee on Professional Ethics: 3 years (two-term limit)
  - Continuing Legal Education Committee: 3 years
  - Judicial Recommendation Committee: 3 years (JRC Guidelines I(A)(1))
  - Law Clerk Board: 3 years (two-term limit)
  - Lawyers' Fund for Client Protection Board: 3 years, no limit on number of terms (APR 15)
  - Washington Young Lawyers Committee: 3 years
9. **Recommendations for Discipline-System Appointments:** Under ELC 2.2(c), a former WSBA officer, WSBA executive director, or Board of Governors member may not serve as a hearing officer, Disciplinary Board member, or Conflicts Review Officer until three years have expired after the former officer or member's departure from office. To ensure the proper implementation of the policy underlying ELC 2.2(c), the Board of Governors shall not recommend a former WSBA officer, WSBA Executive Director, or Board of Governors member for appointment as a hearing officer, Disciplinary Board member, or Conflicts Review Officer sooner than two years following such an individual's departure from office.
  10. **Vacancies and Removal:** In the event of the resignation, death or removal of the Chair of a committee, the Board of Governors may appoint a successor to serve for the unexpired term. (WSBA Bylaws, IX.B.1.d.) In the event of the resignation, death or removal of a member of a committee or board, the nomination team may appoint a replacement from the alternate list that has been pre-approved by the Board of Governors. If there is no candidate on the alternate list that meets the committee's or board's needs, the nomination team may recruit a new applicant to be appointed by the Board of Governors.

Any member who fails to attend two consecutive regularly called meetings of the committee may be removed by the Board of Governors, in the absence of an excuse approved by the Chair of the committee or board. (WSBA Bylaws, IX.B.3.g.2.)

11. **Notice of Vacancies:** The annual Committee/Board/Panel application form will be available in myWSBA and on the WSBA website starting in early January, and publicized via *NWLawyer* and broadcast email. Notice of non-lawyer committee and board openings also will be sent to non-lawyer organizations each winter. Mid-year vacancies will be publicized only if suitable applicants cannot be identified from the existing applicant pool.

12. **Exceptions:** These policies as a whole do not apply to the following entities, although individual provisions may apply: (a) WSBA panels; (b) The Supreme Court-created boards administered by the WSBA; (c) The Council on Public Defense; (d) discipline-system appointments, except as addressed in item (9); (e) WSBA state bar delegates to the ABA House of Delegates who are eligible for reappointment to three consecutive two-year terms; (f) Boards or commissions or other outside organizations to which the WSBA nominates or appoints members or representatives.
  
13. **Open Meetings:** The WSBA is committed to conducting the regular and special meetings of the WSBA, its Board of Governors, and its divisions, committees, boards, task forces, and sections in an open and public manner. Through such openness, the WSBA intends to make information available to the people of Washington that will allow them to become informed about matters regarding the provision of legal services and other matters falling under the WSBA's authority. Exceptions to the "open meeting" policy are stated in court rules and regulations and the WSBA Bylaws. (WSBA Bylaws, VII.B.) Meetings and materials related to boards generally are governed by court rules and regulations that in many cases require confidentiality of all or parts of the meetings and all or parts of the board materials.



To: WSBA Board of Governors  
From: Kristina Larry, President  
Re: 2020-21 Board of Trustees Appointments  
Date: August 27, 2020

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**ACTION REQUESTED:** Approve the appointment of the Trustees listed below to fill existing vacancies, as recommended by unanimous consent of the Foundation Board of Trustees.

The Washington State Bar Foundation Board of Trustees is pleased to present the proposed 2020-21 Board of Trustees roster.

The Washington State Bar Foundation is the fundraising arm of the WSBA. The current members of the WSBA Board of Governors constitute the membership of the Foundation. Per the Foundation's bylaws, the WSBA Executive Director serves as the Foundation's Secretary ex officio, the WSBA Past President serves as a trustee ex officio, and the WSBA President each year appoints a first year Governor to serve a 3-year term on the Foundation Board. The remaining seats are recommended by the Foundation Board and appointed by the Board of Governors, convened as the members of the Foundation.

The Foundation Board has unanimously approved appointing the following as Trustees of the Foundation (in addition to the continuing Trustees):

- Kristine Kuenzli – to serve the remainder of the term for the WSBA Member seat vacated by Brent Williams-Ruth, who has been appointed to the WSBA first year Governor seat by President-Elect Kyle Sciuchetti
- Susan Machler – to fill the vacant At Large position

Attachments:

- Candidate résumés



## 2020-2021 Board of Trustees, Recommendation

	POSITION	RECOMMENDATION	TERM, ending
1	WSBA 1 <sup>st</sup> Year Governor	<i>Appointed by 2020-2021 BOG President Brent Williams-Ruth</i>	September 2023
2	WSBA 2 <sup>nd</sup> Year Governor	<i>Appointed by 2019-2020 BOG President Thomas McBride</i>	September 2022
3	WSBA 3 <sup>rd</sup> Year Governor	<i>Appointed by 2018-2019 BOG President Sunitha Anjilvel</i>	September 2021
4	WSBA Past President or Governor	Tracy S. Flood	1 <sup>st</sup> Regular Term, September 2023
5	WSBA Member	Allie Sisson	Remainder, September 2021
6	WSBA Member	Peter Finch	1 <sup>st</sup> Regular Term, September 2023
7	WSBA Member	Kinnon Williams	2 <sup>nd</sup> Term, September 2023
8	WSBA Member	Kristine Kuenzli	Remainder, September 2022
9	Minority/ Specialty Bar Rep.	Deb Wechselblatt	Remainder, September 2021
10	Law Student	Maya Manus	Graduation
11	Public Member	<i>Vacant</i>	1 <sup>st</sup> Term, September 2023
12	Public Member	Richard C. Bird, Jr.	2 <sup>nd</sup> Term, September 2022
13	At Large	Gloria Ochoa-Bruck	1 <sup>st</sup> Term, September 2022
14	At Large	Kristina Larry	2 <sup>nd</sup> Term, September 2021
15	At Large	Susan Machler	1 <sup>st</sup> Term, September 2023
16	WSBA Immediate Past President	Rajeev Majumdar	September 2021
17	Secretary	Terra K. Nevitt	Executive Director serves Ex Officio

## COLONEL KRISTINE D. KUENZLI

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15972 Red Fox Lane  
Colorado Springs, CO 80921  
(813) 362-6544  
Kristine.kuenzli@yahoo.com

### TEACHING/ACADEMIC EXPERIENCE:

Current Position: October 2019 – present, Head, Department of Law, United States Air Force Academy, Colorado Springs, Colorado

- Leads a team of twenty five faculty and staff in the design and teaching of nineteen core and elective law courses, in scholarship across a variety of disciplines, in the legal support to the administration of the Cadet Honor System, and in the development of officers of character for the U.S. Air Force. Serves on several Dean of Faculty level committees, including Faculty Council, Curriculum Committee, the Leaders of Character Line of Effort and the COVID-19 specific Curriculum Line of Effort.

Assistant Professor of Law, United States Air Force Academy, Colorado Springs, CO

Courses taught:

- Law 220, Law for Air Force Officers (Spring 2015 – present) Instructed 400+ USAFA cadets in Law for Air Force Officers, a core course introducing cadets to the legal knowledge and skills they will need as Air Force officers and educated citizens. Delivered over 890 platform hours, developed course syllabus, exercises and assessments, including extensive legal research and writing. The course examines the nature of law and its role in American society and the military; provides an overview of the American and military justice legal systems; examines selected foundational constitutional rights, particularly as they apply in the armed forces; and introduces substantive areas of the law that military officers likely will encounter in their personal and official capacities, including criminal law, civil law, military administrative law, and the law of armed conflict.
- Soc Sci 420, Law and Economics (Spring 2016, 2017, 2020) Instructed 55 USAFA cadets in Law & Economics, an interdepartmental upper class course covering a variety of legal concepts, including property, contracts, torts and criminal law in light of economic principals. The course employs basic economic principles in an effort to understand the nature of legal rules, their effect on society and to suggest how these rules might be reformed. Delivered over 120 platform hours, developed course syllabus, exercises and assessments, all with a focus on legal research, writing and advocacy.
- Law 421, Law for Commanders (Fall 2018) Instructed 26 USAFA cadets in Law for Commanders, a upper class course for Legal Studies' majors in their final year at USAFA. Course focus is on real-world scenarios to help students think like a commander who has respect for the rule of law, knows how to evaluate basic legal advice about a problem, and appropriately uses it to make good decisions for the Air Force. Examines command authority over AF personnel, the extent of that authority to accomplish the mission and instill good order and discipline, the effective use of disciplinary tools, and common command/legal concerns facing leaders.

Chair, Curriculum Assessment Committee, USAFA/DFL (Fall 2017 – Spring 2019) Led the DFL curriculum assessment committee, integrating all core and upper level DFL courses into USAFA core curriculum program goals and the Critical Thinking and Clear Communication institutional outcomes. Required regular meetings, evaluation of all DFL course syllabi, and providing feedback to entire department on course goals and assessments.

Instructor, JAG IMA Senior Leadership Course, March 20 – 21, 2018, April 25 – 26, 2019  
Instructed 50+ senior reserve JAGs in Reserve OPRs, PRFs, and Award Writing. Performed 5 platform hours of instruction; created instructional materials and provided feedback on group led exercises.

Instructor, Individual Reserve Orientation Course, May 13 – 14, 2016, June 22 – 23, 2017, August 10 – 12, 2018, November 1 – 3, 2019  
Instructed 94 new reservists in Pay, Benefits & Retirement; Career Development/Management. Performed 8 platform hours of instruction. Continued to mentor reservists after course completion to facilitate a smooth transition into the Reserve Corps.

Instructor, Annual Survey of the Law, April 15 – 17, 2016; April 17 – 19, 2015  
Instructed 130+ attendees on the Uniformed Services Former Spouses Protection Act. Performed 4 platform hours of instruction on evolving issues in speciality area of law.

Instructor, Reserve Orientation Course, April 28 – 29, 2014, September 19 – 21, 2014, May 30 – 31, 2015; September 11 – 14, 2015  
Instructed 88 new reservists in Career Management; Additional Opportunities. Performed 8 platform hours of instruction.

Civil Law Instructor, Air Force Judge Advocate General School, January 2009 – April 2009  
Selected for guest instructor tour. Performed 2 platform hours of instruction & 14 hours of seminar instruction. Seamless integration as lecturer, seminar leader and evaluator for Judge Advocate Staff Officer Course. Developed and instructed brand new HIPAA module, including briefing, outline, seminar problems and instructor notes. Overhauled FOIA/PA module and instructed Critical Command Issues module. Served as Admin Discharge Exercise evaluator and Moot Court Judge. Excelled as SNCO Academy & SOS Seminar mentor. Chosen as AFJAGS Reserve Field Grade Officer of the Quarter.

Course Director & Instructor, Reserve Orientation Course, July 2006 – October 2009  
Restarted and rejuvenated three day semi-annual course after four year absence. Convinced senior reserve leadership to provide expanded mentoring and guidance to new reserve members, including direct accession applicants. Developed course materials for four different courses and instructed over 85 new reservists in reserve requirements, officership and career progression. Performed 8 platform hours of instruction. Interacted with students, both in and out of the classroom, as instructor and mentor. Continued to mentor reservists after course completion to facilitate a smooth transition into the Reserve Corps.

Course Co-director, Medical Law Short Course, June 2001 – October 2004  
Administrative and logistical support for annual course ensured more than 125 joint-service members trained on contemporary medical legal issues.

## **TRADITIONAL PUBLICATIONS:**

“Something to Believe In: Aligning the Principle of Honor with the Modern Battlefield,” co-wrote with Major Aaron Jackson, *George Mason University National Security Law Journal*, Issue 6:35, Fall 2018



“Is your Kidney for Sale? An Economic and Policy Perspective on the Legalization of a Living Kidney Vendor Program in the United States,” *University of Pittsburgh Journal of Law and Commerce*, Issue 36:2, Spring 2018

“Reserve Retirement and the Uniformed Services Former Spouses Protection Act: The Hypothetical Kuenzli v. Kuenzli Divorce,” *The Judges' Journal*, Spring 2017

“Uniformed Services Former Spouses’ Protection Act: Is There Too Much Protection for the Former Spouse?” *Air Force Law Review*, Issue 47:1, Fall 1999.

“Opportunity Wasted: The Supreme Court’s Failure to Clarify Religious Liberty Issues in *Rosenberger v. Rector and Visitors of the University of Virginia*,” *Gonzaga Law Review*, Issue 32:85, Fall 1996

## **ADDITIONAL PUBLICATIONS:**

Editor, *Law 220 Law for Air Force Officers Textbook*, Summer 2018 edition

Lead Author, Training of Air Reserve Component Judge Advocates and Paralegals, *Air Force Instruction 51-801*, April 2018

Lead Author, Management of the Judge Advocate General’s Corps Reserve, *Air Force Instruction 51-802*, April 2018

Contributor, Mobilization Authority; Total Force Resource and Guard; Uniformed Services Former Spouses Protection Act, *The Military Commander and the Law*, 2016 edition

Uniformed Services Former Spouses Protection Act, *Annual Survey of Law Materials*, Apr 16

Editor, *The Military Commander and the Law*, 2014 edition

Lead Author, Training of Air Reserve Component Judge Advocates and Paralegals, *Air Force Instruction 51-801*, Interim Change 3 June 2014

Lead Author, Management of the Judge Advocate General’s Corps Reserve, *Air Force Instruction 51-802*, Interim Change 3 June 2014

## **PROFESSIONAL/SERVICE ACCOMPLISHMENTS:**

Air Force Law Review Editorial Board, Member, July 2009 – October 2013, November 2019 - present  
Quarterly publication on law and legal practice areas of interest to judge advocates and military lawyers. Reviews manuscripts to determine suitability for publication. Edits articles for content, organization, style, and logic as well as grammar, spelling, punctuation, and citation.

Senior Mentor, Reserve Coordinator Training Program, June 2018 – present  
RCTP provides quarterly and baseline training to reserve coordinators on a variety of professional development issues in order to positively support the reserve members in their area of expertise.

Board convened to score and vector officers for career opportunities and to identify the best qualified for placement into select key assignments.

Harmon Award for Reserve Judge Advocate of the Year, Headquarters Air Force Nominee, 2016

USAFA Senior Military Faculty Selection Committee, October 2016

Information Technology Readiness Committee, Secretary, July 2011- August 2016  
Committee provides organized, multidimensional information technology expertise and capabilities in support of TJAGCR missions.

Donald C. Rasher Award for Reserve Legal Educator of the Year, USAFA Nominee, 2015

USAFA Moot Court Falcon Classic Tournament, Judge/Mentor, November 2014

USAFA Mock Trial Falcon Tournament, Judge, November 2013

CY2013 Judge Advocate Development Team, Recorder, August 2013  
Board convened to score and vector officers for career opportunities and to identify the best qualified for placement into select key assignments.

McGuire Officer Spouses Club, Grant Coordinator, September 2011 – August 2012  
Developed new grant program and awarded \$6,000 in grants to local schools with a minimum of 10% enrollment of military dependents. Provided funding to facilitate and enrich the learning environment of the entire student population of military impacted schools.

Junior Officer Council, AETC Representative & Secretary, July 2005 – October 2011  
Hand-selected by AETC Senior IMA to serve in advisory position to Senior Reserve Executive Council and TJAG. Fielded ARC recruitment and retention issues, serving as the focal point and mentoring AETC's AD and Reserve JAGs. Developed ARC wide survey to strengthen communication between ARC and JAG leadership.

Fishhawk Soccer Club, Lithia, Florida, President, January 2010 – June 2011  
Led Director of Soccer and 82 competitive & recreational soccer coaches in the development of over 1000 adult and youth soccer members. Managed \$300K budget, facilities, and coaching staff. Developed cooperative arrangement with University of South Florida Athletic Department and managed team of 13 NCAA Division I intercollegiate student-athletes & graduate students to provide professional training for youth members. Organized & led campaign to secure additional \$2.8M facility funding from city council; new facilities completed in Spring 2014.

61st Airlift Squadron Command Spouse, August 2006 – May 2008  
Mentored spouses for over 300 member squadron. Developed deployed spouse program to address unique deployment related issues. Secured over \$13,000 in donations including food, drink, door prizes & use of Arkansas Capital Building Congressional Reception area.

Gonzaga Law Review, Executive Editor, August 1995 – May 1996  
Supervised over 20 student editors in production of publication. Reviewed submissions for acceptance and edited articles for content, format and citation. Competitively selected for scholarship position to augment faculty support.

## **EDUCATION:**

***Gonzaga University School of Law***, Spokane, WA

J.D. awarded May 1996, *cum laude*

**Advocacy Activities:**

- Best Oralist, Northwest Region, 46th Annual National Moot Court Competition, 1995-96
- Second Place Team, Northwest Region, 46th Annual National Moot Court Competition, 1995-96
- Semi-Finalist, Linden Cup Appellate Advocacy Competition, 1995

***University of California at Davis***, Davis, CA

B.A. in Economics and Political Science awarded June 1992.

***Military Education***

Squadron Officer School, by correspondence, 1999

Air Command and Staff College, by correspondence, 2010

Air War College, by correspondence, 2014

**MILITARY EXPERIENCE:**

**Current Assignment:** Individual Mobilization Augmentee to the Staff Judge Advocate for Headquarters 9th Air Force at Shaw Air Force Base, South Carolina. The command comprises eight wings in the eastern United States and three direct reporting units with more than 350 aircraft, and 24,000 active-duty and civilian personnel. The command is also responsible for the operational readiness of fourteen 9th Air Force-gained National Guard and Air Force Reserve units.

**Most Recent Assignment:** July 2016 – July 2018

Individual Mobilization Augmentee to the Vice Commander, Air Force Legal Operations Agency (AFLOA), Joint Base Andrews. Integral part of the leadership team supporting the JAG Corps' only active duty commander. Provided oversight and mentorship for AFLOA's 143 reserve members and related programs. AFLOA assists The Judge Advocate General in the administration of military justice throughout the Air Force, and defending the Air Force in civil litigation before federal and state courts and administrative boards. AFLOA also supports the Department of Justice in all phases of litigation, civil and criminal, pertaining to the AF, and shares training responsibilities for AF and other DoD attorneys and paralegals.

**Additional Assignments:**

- April 1997 – October 1999, Assistant Staff Judge Advocate, Chief of Military Justice, Labor and Employment Litigation Attorney, Special Assistant United States Attorney, Kelly AFB, TX
- October 1999 – June 2001, Assistant Staff Judge Advocate, Chief of Claims, Scott AFB, IL
- June 2001 – October 2004, Medical Law Consultant (IMA), Travis AFB, CA
- October 2004 – April 2005, Assistant Staff Judge Advocate (IMA), Wright-Patterson AFB, OH
- April 2005 – August 2009, Reserve Coordinator (IMA), Little Rock AFB, AR
- August 2009 – September 2011, Assistant Staff Judge Advocate (IMA), MacDill AFB, FL
- September 2011 – May 2013, Assistant Staff Judge Advocate (IMA), United States Air Force Expeditionary Center, Joint Base McGuire-Dix-Lakehurst, NJ
- May 2013 – July 2016, Home Station Support Coordinator, Office of the Air Reserve Component Advisor to TJAG, Pentagon

**BAR ASSOCIATIONS:** Washington State Bar (#26314), Court of Appeals for the Armed Forces

**SUSAN MACHLER**  
Osborn Machler  
2025 First Avenue, Suite 1200  
Seattle, Washington 98121  
206-441-4110

Admitted to practice in the states of Washington and Montana, as well as the Eastern and Western Districts of the United States District Court of Washington. King County Superior Court, Settlement Guardian Ad Litem.

**PROFESSIONAL EXPERIENCE**

1997- Present Osborn Machler, Seattle, Washington, partner, practicing civil litigation, personal injury, family law, and administrative law.

1996-1997 Eisenhower & Carlson, Tacoma, Washington, associate attorney.

1993-1996 Kargianis Osborn, Seattle, Washington, associate attorney.

**PROFESSIONAL ASSOCIATIONS**

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| ◇ Washington State Bar Association  | ◇ WSBA, Board of Governors,         |
| ◇ State Bar of Montana              | 2010-2013                           |
| ◇ King County Bar Association       | ◇ Washington State Trial Lawyers    |
| ◇ Washington State Association for  | Association, Board of Governors,    |
| Justice                             | 2004-2007.                          |
| ◇ Montana Trial Lawyers Association | ◇ American Board of Trial Advocates |

**PROFESSIONAL RECOGNITION**

- ◇ WSBA, *Pro Bono Recognition, 2008-present*
- ◇ The Association of Trial Lawyers of America, *Award for service to 9/11 victims*
- ◇ Law & Politics, *SuperLawyers, 2008-2020*
- ◇ “Who’s Who in Personal Injury Law”
- ◇ National Trial Lawyers, *Top 100 Trial Lawyers*
- ◇ “Top Women Lawyers.”

**APPELLATE CASES**

- ◇ *Ruff v. County of King*, 125 Wn.2d 697 (1995)
- ◇ *Lacey Nursing v. Dep’t of Revenue*, 128 Wn.2d 40 (1995)
- ◇ *Safeco Ins. Co. v. Woodley*, 150 Wn.2d 765 (2004)
- ◇ *Ellwein v. Hartford Accident & Indem. Co.*, 142 Wn.2d 766 (2001)
- ◇ *Miller v. Likins*, 109 Wn. App. 140 (2001)
- ◇ *Blankenship v. Kaldor*, 114 Wn. App. 312 (2002)
- ◇ *French v. Uribe, Inc.*, 132 Wn. App. 1 (2006)
- ◇ *Armantrout v. Carlson*, 166 Wn.2d 931 (2009)
- ◇ *L.M. v. Hamilton*, 191 Wn.2d 1011 (2018)
- ◇ *Saunders v. Thore*, 2019 Wash. App. LEXIS 1531 (2019)

## **PUBLICATIONS**

- “Jury finds clinic negligent in death of 18-year-old”  
WSAJ Trial News (October 2006)
- “Justice at last for parents of adult children”  
WSAJ Trial News (November 2009)
- “Port of Seattle pays for lack of security”  
WSAJ Trial News (September 1999)
- “Products liability in the employment context”  
WSAJ Trial News (November 2007)
- “Win the battles - lose the war”  
WSAJ Trial News (November 2011)
- “Fighting the Good Fight,”  
King County Bar Bulletin (April 2012)
- “Failure to Warn”  
WSAJ Products Liability Deskbook (June 2014)
- “Breach of Warranty”  
WSAJ Products Liability Deskbook (June 2014)
- “The dangers of sitting” WSAJ Trial News (December 2014)
- “Trampoline parks: The fox guarding the henhouse” WSAJ Trial News (Dec. 2015)

## **SPEAKING ENGAGEMENTS**

- ABOTA Masters in Trial, November, 2016
- WSAJ Convention, 2016
- SGAL Seminar, October, 2015
- Products Liability Seminar, WSAJ, June 2014;
- Luvera Seminar, WSAJ Convention, 2013;
- “[Demonstrative Evidence: Get Yours In; Keep Theirs Out](#),” 4/7/2011;
- [Understanding Wrongful Death Causes of Action](#), 11/19/2009;
- WSBA Civil Procedure Seminar, August, 2008;
- [Amassing Proof: From Photographs to Tax Returns and Beyond](#), 5/19/2005;
- Early Years of Litigation, 2004;
- Discovery in Family Law Cases, 2001.

## **EDUCATION**

- Seattle University School of Law, J.D., 1993, *magna cum laude*.
- University of Idaho, B.A., English, 1980.

## **COMMUNITY INVOLVEMENT**

- Commissioner, City of Kent Arts Commission, 2008-present. Sponsor, City of Kent Summer Exhibition. Advisory Board, Lutheran Public Policy Office, 2008-2010. Oblate, OSB, St. Placid Priory. Sponsor, Calvary Lutheran sack lunch program. Award-winning artist. Contributing artist, St. Placid Priory Art Shop.

**GR 12**  
**REGULATION OF THE PRACTICE OF LAW**

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law in Washington. The legal profession serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system. The Court ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under the Supreme Court's authority.

*[Adopted effective September 1, 2017.]*

**GR 12.1**  
**REGULATORY OBJECTIVES**

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include: protection of the public; advancement of the administration of justice and the rule of law; meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;

- (a) transparency regarding the nature and scope of legal services To be provided, the credentials of those who provide them, and the availability of regulatory protections;
- (b) delivery of affordable and accessible legal services;
- (c) efficient, competent, and ethical delivery of legal services;
- (d) protection of privileged and confidential information;
- (e) independence of professional judgment;
- (f) Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;
- (g) Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

*[Adopted effective September 1, 2017.]*

**GR 12.2**  
**WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED  
ACTIVITIES, AND PROHIBITED ACTIVITIES**

In the exercise of its inherent and plenary authority to regulate the practice of law in Washington, the Supreme Court authorizes and supervises the Washington State Bar Association's activities. The Washington State Bar Association carries out the administrative responsibilities and functions expressly delegated to it by this rule and other Supreme Court rules and orders enacted or adopted to regulate the practice of law, including the purposes and authorized activities set forth below.

- (a) Purposes: In General. In general, the Washington State Bar Association strives to:

- (1) Promote independence of the judiciary and the legal profession.
- (2) Promote an effective legal system, accessible to all.
- (3) Provide services to its members and the public.
- (4) Foster and maintain high standards of competence, professionalism, and ethics among its members.
- (5) Foster collegiality among its members and goodwill between the legal profession and the public.
- (6) Promote diversity and equality in the courts and the legal profession.
- (7) Administer admission, regulation, and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.
- (8) Administer programs of legal education.
- (9) Promote understanding of and respect for our legal system and the law.
- (10) Operate a well-managed and financially sound association, with a positive work environment for its employees.
- (11) Serve as a statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the association and the legal profession.

(b) Specific Activities Authorized. In pursuit of these purposes, the Washington State Bar Association may:

- (1) Sponsor and maintain committees and sections, whose activities further these purposes;
- (2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;
- (3) Provide periodic reviews and recommendations concerning court rules and procedures;
- (4) Administer examinations and review applicants' character and fitness to practice law;
- (5) Inform and advise its members regarding their ethical obligations;
- (6) Administer an effective system of discipline of its members, including receiving and investigating complaints of misconduct by legal professionals, taking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;
- (7) Maintain a program, pursuant to court rule, requiring members to submit fee disputes to arbitration;
- (8) Maintain a program for mediation of disputes between members and others;
- (9) Maintain a program for legal professional practice assistance;
- (10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;

- (11) Maintain a system for accrediting programs of continuing legal education;
- (12) Conduct examinations of legal professionals' trust accounts;
- (13) Maintain a fund for client protection in accordance with the Admission and Practice Rules;
- (14) Maintain a program for the aid and rehabilitation of impaired members;
- (15) Disseminate information about the organization's activities, interests, and positions;
- (16) Monitor, report on, and advise public officials about matters of interest to the organization and the legal profession;
- (17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization's positions and concerns;
- (18) Encourage public service by members and support programs providing legal services to those in need;
- (19) Maintain and foster programs of public information and education about the law and the legal system;
- (20) Provide, sponsor, and participate in services to its members;
- (21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the organization's discretion, authorizing collective bargaining;
- (22) Establish the amount of all license, application, investigation, and other related fees, as well as charges for services provided by the Washington State Bar Association, and collect, allocate, invest, and disburse funds so that its mission, purposes, and activities may be effectively and efficiently discharged. The amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable;

(23) Administer Supreme-Court-created boards in accordance with General Rule 12.3.

(c) Activities Not Authorized. The Washington State Bar Association will not:

- (1) Take positions on issues concerning the politics or social positions of foreign nations;
- (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or
- (3) Support or oppose, in an election, candidates for public office.

*[Adopted effective July 17, 1987; amended effective December 10, 1993; September 1, 1997; September 1, 2007; September 1, 2013; September 1, 2017.]*



**GR 12.3**  
**WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION**  
**OF SUPREME COURT-CREATED BOARDS AND COMMITTEES**

The Supreme Court has delegated to the Washington State Bar Association the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.

*[Adopted effective September 1, 2007; amended effective September 1, 2017.]*

**GR 12.4**  
**WASHINGTON STATE BAR ASSOCIATION ACCESS TO**  
**RECORDS**

(a) Policy and Purpose. It is the policy of the Washington State Bar Association to facilitate access to Bar records. A presumption of public access exists for Bar records, but public access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.3 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a Bar record.

(2) "Bar record" means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the Bar and its staff or stored under Bar ownership and control in facilities or servers. Records solely in the possession of hearing officers, non-Bar staff members of boards, committees, task forces, commissions, sections, councils, or divisions that were prepared by the hearing officers or the members and in their sole possession, including private notes and working papers, are not Bar records and are not subject to public access under this rule. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital, or other format.

(d) Bar Records--Right of Access.

(1) The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule, or any other state statute (including the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be applied to a public agency, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules and associated regulations, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes, or orders, the Bar shall delete identifying details in a manner consistent with those rules, statutes, or orders when it makes available or publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

(2) In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may expressly be made public by court rule:

(A) Records of the personnel committee, and personal information in Bar records for employees, appointees, members, or volunteers of the Bar to the extent that disclosure would violate their right to privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. Membership class and status, bar number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Executive Director approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.

(B) Specific information and records regarding

(i) internal policies, guidelines, procedures, or techniques, the disclosure of which would reasonably be expected to compromise the conduct of disciplinary or regulatory functions, investigations, or examinations;

(ii) application, investigation, and hearing or proceeding records relating to lawyer, Limited Practice Officer, or Limited License Legal Technician admissions, licensing, or discipline, or that relate to the work of ELC 2.5 hearing officers, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law Board, or the Disciplinary Board in conducting investigations, hearings or proceedings; and

(iii) the work of the Judicial Recommendation Committee and the Hearing Officer selection panel, unless such records are expressly categorized as public information by court rule.

(C) Valuable formulae, designs, drawings, computer source code or object code, and research data created or obtained by the Bar.

(D) Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.

(E) Applications for licensure by the Bar and annual licensing forms and related records, including applications for license fee hardship waivers and any decision or determinations on the hardship waiver applications.

(F) Requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

Information covered by exemptions will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed.

### (3) Persons Who Are Subjects of Records.

(A) Unless otherwise required or prohibited by law, the Bar has the option to give notice of any records request to any member or third party whose records would be included in the Bar's response.

(B) Any person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker.

(C) If the Bar decides to allow access to a requested record, a person who is named in that record, or to whom the records specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. The deadlines that apply to a requester apply as well to a person who is a subject of a record.

### (e) Bar Records--Procedures for Access.

(1) General Procedures. The Bar Executive Director shall appoint a Bar staff member to serve as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the Bar public records officer, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and adopt and publish on its website the public records officer's work mailing address, telephone number, fax number, and e-mail address, and the procedures and fee schedules for accepting and responding to records requests by the effective date of this rule. The Bar shall acknowledge receipt of the request within 14 days of receipt, and shall communicate with the requester as necessary to clarify any ambiguities as to the records being requested. Records requests shall not be directed to other Bar staff or to volunteers serving on boards, committees, task forces, commissions, sections, councils, or divisions.

### (2) Charging of Fees.

(A) A fee may not be charged to view Bar records.

(B) A fee may be charged for the photocopying or scanning of Bar records according to the fee schedule established by the Bar and published on its web site.

(C) A fee not to exceed \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

(f) Extraordinary Requests Limited by Resource Constraints. If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on time, resources, and personnel, the Bar shall communicate this information to the requester along with a good faith estimate of the time needed to complete the Bar's response. The Bar must attempt to reach

agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable, clarify how and why the response differs from the request, and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial as well as a written summary of the procedures under which the requesting party may seek further review.

(h) Review of Records Decisions.

(1) Internal Review. A person who objects to a record decision or other action by the Bar's public records officer may request review by the Bar's Executive Director.

(A) A record requester's petition for internal review must be submitted within 90 days of the Bar's public records officer's decision, on such form as the Bar shall designate and make available.

(B) The review proceeding is informal, summary, and on the record.

(C) The review proceeding shall be held within five working days. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.

(2) External Review. A person who objects to a records review decision by the Bar's Executive Director may request review by the Records Request Appeals Officer (RRAO) for the Bar.

(A) The requesting party's request for review of the Executive Director's decision must be deposited in the mail and postmarked or delivered to the Bar not later than 30 days after the issuance of the decision, and must be on such form as the Bar shall designate and make available.

(B) The review will be informal and summary, but in the sole discretion of the RRAO may include the submission of briefs no more than 20 pages long and of oral arguments no more than 15 minutes long.

(C) Decisions of the RRAO are final unless, within 30 days of the issuance of the decision, a request for discretionary review of the decision is filed with the Supreme Court. If review is granted, review is conducted by the Chief Justice of the Washington Supreme Court or his or her designee in accordance with procedures established by the Supreme Court. A designee of the Chief Justice shall be a current or former elected judge. The review proceeding shall be on the record, without additional briefing or argument unless such is ordered by the Chief Justice or his or her designee.

(D) The RRAO shall be appointed by the Board of Governors. The Bar may reimburse the RRAO for all necessary and reasonable expenses incurred in the completion of these duties, and may provide compensation for the time necessary for these reviews at a level established by the Board of Governors.

(i) Monetary Awards Not Allowed. Attorney fees, costs, civil penalties, or fines may not be awarded under this rule.

(j) Effective Date of Rule.

(1) This rule goes into effect on July 1, 2014, and applies to records that are created on or after that date.

(2) Public access to records that are created before that date are to be analyzed according to other court rules, applicable statutes, and the common law balancing test; the Public Records Act, chapter 42.56 RCW, does not apply to such Bar records, but it may be used for nonbinding guidance.

*[Adopted effective July 1, 2014; amended effective September 1, 2017.]*

**GR 12.5  
IMMUNITY**

All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission and Practice Rules, the Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice officers and limited license legal technicians, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

*[Adopted effective January 2, 2008; amended effective September 1, 2017.]*

# WASHINGTON STATE BAR ASSOCIATION

## WSBA MISSION

The Washington State Bar Association’s mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

## WSBA GUIDING PRINCIPLES

The WSBA will operate a well-managed association that supports its members and advances and promotes:

- **Access to the justice system.**  
*Focus: Provide training and leverage community partnerships in order to enhance a culture of service for legal professionals to give back to their communities, with a particular focus on services to underserved low and moderate income people.*
- **Diversity, equality, and cultural understanding throughout the legal community.**  
*Focus: Work to understand the lay of the land of our legal community and provide tools to members and employers in order to enhance the retention of minority legal professionals in our community.*
- **The public’s understanding of the rule of law and its confidence in the legal system.**  
*Focus: Educate youth and adult audiences about the importance of the three branches of government and how they work together.*
- **A fair and impartial judiciary.**
- **The ethics, civility, professionalism, and competence of the Bar.**

## MISSION FOCUS AREAS

### Ensuring Competent and Qualified Legal Professionals

- Cradle to Grave
- Regulation and Assistance

### Promoting the Role of Legal Professionals in Society

- Service
- Professionalism

## PROGRAM CRITERIA

- Does the Program further either or both of WSBA’s mission-focus areas?
- Does WSBA have the competency to operate the Program?
- As the mandatory bar, how is WSBA uniquely positioned to successfully operate the Program?
- Is statewide leadership required in order to achieve the mission of the Program?
- Does the Program’s design optimize the expenditure of WSBA resources devoted to the Program, including the balance between volunteer and staff involvement, the number of people served, the cost per person, etc?

## 2016 – 2018 STRATEGIC GOALS

- **Equip members with skills for the changing profession**
- **Promote equitable conditions for members from historically marginalized or underrepresented backgrounds to enter, stay and thrive in the profession**
- **Explore and pursue regulatory innovation and advocate to enhance the public’s access to legal services**



# WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



**Rajeev Majumdar**  
President



**Kyle Sciuchetti**  
President-Elect



**Bill Pickett**  
Immediate Past  
President



**Terra Nevitt**  
Interim Exec. Dir.  
& Secretary

2019-2020



**Sunitha Anjilvel**  
Governor District 1



**Carla Higginson**  
Governor District 2



**Brian Tollefson**  
Governor District 6



**Paul Swegle**  
Governor District 7-North



**Jean Kang**  
Governor District 7-South



**Kim Hunter**  
Governor District 8



**Bryn Peterson**  
Governor District 9



**Thomas A. McBride**  
Governor District 10



**P.J. Grabicki**  
Governor District 5



**Dan Clark**  
Governor District 4



**Kyle Sciuchetti**  
Governor District 3



**Hunter Abell**  
Governor At-Large



**Alec Stephens**  
Governor At-Large



**Russell Knight**  
Governor At-Large

# **BASIC CHARACTERISTICS OF MOTIONS**

*From: The Complete Idiot's Guide to Robert's Rules  
The Guerilla Guide to Robert's Rules*

MOTION	PURPOSE	INTERRUPT SPEAKER?	SECOND NEEDED?	DEBATABLE?	AMENDABLE?	VOTE NEEDED
1. Fix the time to which to adjourn	Sets the time for a continued meeting	No	Yes	No <sup>1</sup>	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No <sup>2</sup>	Yes	Majority
4. Raise a Question of Privilege	Asks urgent question regarding to rights	Yes	No	No	No	Rules by Chair
5. Call for orders of the day	Requires that the meeting follow the agenda	Yes	No	No	No	One member
6. Lay on the table	Puts the motion aside for later consideration	No	Yes	No	No	Majority
7. Previous question	Ends debate and moves directly to the vote	No	Yes	No	No	Two-thirds
8. Limit or extend limits of debate	Changes the debate limits	No	Yes	No	Yes	Two-thirds
9. Postpone to a certain time	Puts off the motion to a specific time	No	Yes	Yes	Yes	Majority <sup>3</sup>
10. Commit or refer	Refers the motion to a committee	No	Yes	Yes	Yes	Majority
11. Amend an amendment (secondary amendment)	Proposes a change to an amendments	No	Yes	Yes <sup>4</sup>	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes <sup>4</sup>	Yes	Majority
13. Postpone indefinitely	Kills the motion	No	Yes	Yes	No	Majority
14. Main motion	Brings business before the assembly	No	Yes	Yes	Yes	Majority

*1 Is debatable when another meeting is scheduled for the same or next day, or if the motion is made while no question is pending*

*2 Unless no question is pending*

*3 Majority, unless it makes question a special order*

*4 If the motion it is being applied to is debatable*





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## Discussion Protocols Board of Governors Meetings

### Philosophical Statement:

"We take serious our representational responsibilities and will try to inform ourselves on the subject matter before us by contact with constituents, stakeholders, WSBA staff and committees when possible and appropriate. In all deliberations and actions we will be courageous and keep in mind the need to represent and lead our membership and safeguard the public. In our actions, we will be mindful of both the call to action and the constraints placed upon the WSBA by GR 12 and other standards."

### Governor's Commitments:

1. Tackle the problems presented; don't make up new ones.
2. Keep perspective on long-term goals.
3. Actively listen to understand the issues and perspective of others before making the final decision or lobbying for an absolute.
4. Respect the speaker, the input and the Board's decision.
5. Collect your thoughts and speak to the point – sparingly!
6. Foster interpersonal relationships between Board members outside Board events.
7. Listen and be courteous to speakers.
8. Speak only if you can shed light on the subject, don't be repetitive.
9. Consider, respect and trust committee work but exercise the Board's obligation to establish policy and insure that the committee work is consistent with that policy and the Board's responsibility to the WSBA's mission.
10. Seek the best decision through quality discussion and ample time (listen, don't make assumptions, avoid sidebars, speak frankly, allow time before and during meetings to discuss important matters).
11. Don't repeat points already made.
12. Everyone should have a chance to weigh in on discussion topics before persons are given a second opportunity.
13. No governor should commit the board to actions, opinions, or projects without consultation with the whole Board.
14. Use caution with e-mail: it can be a useful tool for debating, but e-mail is not confidential and does not easily involve all interests.
15. Maintain the strict confidentiality of executive session discussions and matters.



## **BOARD OF GOVERNORS**

### **WSBA VALUES**

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information



## BOARD OF GOVERNORS

Anthony David Gipe  
President

phone: 206.386.4721  
e-mail: [adgipeWSBA@gmail.com](mailto:adgipeWSBA@gmail.com)

November 2014

## BEST PRACTICES AND EXPECTATIONS

### ❖ Attributes of the Board

- Competence
- Respect
- Trust
- Commitment
- Humor

### ❖ Accountability by Individual Governors

- Assume Good Intent
- Participation/Preparation
- Communication
- Relevancy and Reporting

### ❖ Team of Professionals

- Foster an atmosphere of teamwork
  - Between Board Members
  - The Board with the Officers
  - The Board and Officers with the Staff
  - The Board, Officers, and Staff with the Volunteers
  
- We all have common loyalty to the success of WSBA

### ❖ Work Hard and Have Fun Doing It



## BOARD OF GOVERNORS

### GUIDING COMMUNICATION PRINCIPLES

In each communication, I will assume the good intent of my fellow colleagues; earnestly and actively listen; encourage the expression of and seek to affirm the value of their differing perspectives, even where I may disagree; share my ideas and thoughts with compassion, clarity, and where appropriate confidentiality; and commit myself to the unwavering recognition, appreciation, and celebration of the humanity, skills, and talents that each of my fellow colleagues bring in the spirit and effort to work for the mission of the WSBA. Therefore, I commit myself to operating with the following norms:

- ◆ I will treat each person with courtesy and respect, valuing each individual.
- ◆ I will strive to be nonjudgmental, open-minded, and receptive to the ideas of others.
- ◆ I will assume the good intent of others.
- ◆ I will speak in ways that encourage others to speak.
- ◆ I will respect others' time, workload, and priorities.
- ◆ I will aspire to be honest and open in all communications.
- ◆ I will aim for clarity; be complete, yet concise.
- ◆ I will practice "active" listening and ask questions if I don't understand.
- ◆ I will use the appropriate communication method (face-to-face, email, phone, voicemail) for the message and situation.
- ◆ When dealing with material of a sensitive or confidential nature, I will seek and confirm that there is mutual agreement to the ground rules of confidentiality at the outset of the communication.
- ◆ I will avoid triangulation and go directly to the person with whom I need to communicate. (If there is a problem, I will go to the source for resolution rather than discussing it with or complaining to others.)
- ◆ I will focus on reaching understanding and finding solutions to problems.
- ◆ I will be mindful of information that affects, or might be of interest or value to, others, and pass it along; err on the side of over-communication.
- ◆ I will maintain a sense of perspective and respectful humor.

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

# Financial Reports

(Unaudited)

## Year to Date July 31, 2020

Prepared by Maggie Yu, Controller  
Submitted by  
Jorge Perez, Chief Financial Officer  
August 14, 2020

**Washington State Bar Association Financial Summary**  
**Compared to Fiscal Year 2020 Budget**  
**For the Period from July 1, 2020 to July 31, 2020**

Category	Actual Revenues	Budgeted Revenues	Actual Indirect Expenses	Budgeted Indirect Expenses	Actual Direct Expenses	Budgeted Direct Expenses	Actual Total Expenses	Budgeted Total Expenses	Actual Net Result	Budgeted Net Result
Access to Justice	-	0	216,633	318,984	9,104	39,820	225,736	358,804	(225,736)	(358,804)
Administration	131,006	100,000	938,536	1,152,675	3,621	5,429	942,157	1,158,104	(811,151)	(1,058,104)
Admissions/Bar Exam	1,152,345	1,383,550	753,303	926,423	172,402	364,765	925,705	1,291,188	226,640	92,362
Board of Governors	-	0	103,563	114,010	148,435	434,500	251,998	548,510	(251,998)	(548,510)
Communications Strategies	2,643	2,893	436,510	537,768	41,126	78,728	477,636	616,496	(474,993)	(613,603)
Conference & Broadcast Services	-	0	648,814	763,124	4,432	9,000	653,246	772,124	(653,246)	(772,124)
COVID 19	-	0	0	0	13,267	25,000	13,267	25,000	(13,267)	(25,000)
Discipline	108,341	106,500	4,876,903	5,811,951	121,956	168,765	4,998,859	5,980,716	(4,890,519)	(5,874,216)
Diversity	125,000	135,187	349,039	374,489	7,788	26,090	356,827	400,579	(231,827)	(265,392)
Foundation	-	0	115,487	130,553	2,539	12,150	118,026	142,703	(118,026)	(142,703)
Human Resources	-	0	352,295	207,110	-	0	352,295	207,110	(352,295)	(207,110)
Law Clerk Program	183,515	194,562	136,299	170,298	9,330	12,750	145,630	183,048	37,885	11,514
Legislative	-	0	120,928	151,806	16,164	29,700	137,092	181,506	(137,092)	(181,506)
Licensing and Membership Records	301,872	350,350	535,937	583,723	32,331	35,603	568,268	619,326	(266,396)	(268,976)
Licensing Fees	13,797,216	16,317,618	-	0	-	0	-	-	13,797,216	16,317,618
Limited License Legal Technician	20,740	17,260	148,975	180,117	12,388	31,873	161,363	211,990	(140,623)	(194,730)
Limited Practice Officers	171,993	205,205	123,941	146,059	7,071	20,391	131,012	166,450	40,981	38,755
Mandatory CLE	940,100	1,038,450	579,792	777,053	211,374	255,167	791,167	1,032,220	148,934	6,231
Member Assistance Program	8,610	6,750	118,750	133,696	1,002	1,275	119,752	134,971	(111,142)	(128,221)
Member Benefits	22,070	28,000	100,364	125,243	173,905	186,496	274,269	311,739	(252,199)	(283,739)
Member Services & Engagement	119,926	154,250	483,661	590,332	7,733	25,545	491,394	615,877	(371,469)	(461,627)
NW Lawyer	457,096	602,566	298,688	372,334	353,409	482,115	652,097	854,449	(195,001)	(251,883)
Office of the Executive Director	-	0	413,530	540,521	1,960	12,379	0	0	(415,490)	(552,900)
Office of General Counsel	4	4	688,259.44	779,723	16,334.73	25,987.42	704,594.17	805,710	(704,590)	(805,706)
OGC-Disciplinary Board	-	0	157,234	354,294	65,049	97,216	222,283	451,510	(222,283)	(451,510)
Outreach and Engagement	-	0	296,669	352,063	7,657	31,525	304,325	383,588	(304,325)	(383,588)
Practice of Law Board	-	0	53,064	63,624	2,746	12,000	55,810	75,624	(55,810)	(75,624)
Professional Responsibility Program	-	0	218,018	258,034	3,805	9,279	221,824	267,313	(221,824)	(267,313)
Public Service Programs	135,099	135,200	160,353	179,798	135,359	240,188	295,712	419,986	(160,613)	(284,786)
Publication and Design Services	-	0	108,374	134,021	4,280	5,572	112,654	139,593	(112,654)	(139,593)
Sections Administration	286,894	300,000	353,648	347,346	6,871	9,335	360,519	356,681	(73,625)	(56,681)
Technology	-	0	1,503,112	1,725,971	-	0	1,503,112	1,753,552	(1,503,112)	(1,725,971)
<b>Subtotal General Fund</b>	<b>17,964,468</b>	<b>21,078,344</b>	<b>15,390,679</b>	<b>18,303,143</b>	<b>1,593,439</b>	<b>2,688,641</b>	<b>16,984,119</b>	<b>20,991,783</b>	<b>980,350</b>	<b>86,560</b>
Expenses using reserve funds							<b>16,984,119</b>			
<b>Total General Fund - Net Result from Operations</b>									<b>980,350</b>	<b>86,560</b>
<b>Percentage of Budget</b>	<b>85.23%</b>		<b>84.09%</b>		<b>59.27%</b>		<b>80.91%</b>			
CLE-Seminars and Products	1,247,035	1,793,079	944,390	1,093,999	125,383	506,372	1,069,772	1,600,371	177,262	192,707
CLE - Deskbooks	145,301	176,000	185,417	216,525	77,580	99,043	262,997	315,568	(117,696)	(139,568)
Total CLE	1,392,336	1,969,079	1,129,807	1,310,524	202,963	605,415	1,332,770	1,915,939	59,566	53,140
<b>Percentage of Budget</b>	<b>70.71%</b>		<b>86.21%</b>		<b>33.52%</b>		<b>69.56%</b>			
Total All Sections	541,030	606,544	-	-	427,702	860,784	427,702	860,784	113,328	(254,240)
Client Protection Fund-Restricted	1,095,743	1,024,000	119,912	139,911	73,269	502,400	193,180	642,311	902,563	381,689
<b>Totals</b>	<b>20,993,577</b>	<b>24,677,966</b>	<b>16,640,398.50</b>	<b>19,753,578</b>	<b>2,297,372.16</b>	<b>4,657,239.56</b>	<b>18,937,771</b>	<b>24,410,817</b>	<b>2,055,806</b>	<b>267,149</b>
<b>Percentage of Budget</b>	<b>85.07%</b>		<b>84.24%</b>		<b>49.33%</b>		<b>77.58%</b>			

Summary of Fund Balances:	Fund Balances Sept. 30, 2019	2020 Budgeted Fund Balances	Fund Balances Year to date
<b>Restricted Funds:</b>			
Client Protection Fund	3,816,143	4,197,832	4,718,706
<b>Board-Designated Funds (Non-General Fund):</b>			
CLE Fund Balance	526,285	579,425	585,851
Section Funds	1,121,224	866,984	1,234,552
<b>Board-Designated Funds (General Fund):</b>			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	550,000	550,000	550,000
<b>Unrestricted Funds (General Fund):</b>			
Unrestricted General Fund	2,686,537	2,773,097	3,666,886
<b>Total General Fund Balance</b>	<b>4,736,537</b>	<b>4,823,097</b>	<b>5,716,886.45</b>
<b>Net Change in general Fund Balance</b>		<b>86,560</b>	<b>980,350</b>
<b>Total Fund Balance</b>	<b>10,200,189</b>	<b>10,467,338</b>	<b>12,255,995</b>
<b>Net Change In Fund Balance</b>		<b>267,149</b>	<b>2,055,806</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	<b>FISCAL 2020 REFORECAST</b>	<b>CURRENT MONTH</b>	<b>YEAR TO DATE</b>	<b>REMAINING BALANCE</b>	<b>% USED OF BUDGET</b>
<b>LICENSE FEES</b>					
<b>REVENUE:</b>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
LICENSE FEES	16,317,618.00	1,376,431.48	13,797,216.49	2,520,401.51	84.55%
<b>TOTAL REVENUE:</b>	<u><b>16,317,618.00</b></u>	<u><b>1,376,431.48</b></u>	<u><b>13,797,216.49</b></u>	<u><b>2,520,401.51</b></u>	<u><b>84.55%</b></u>

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>ACCESS TO JUSTICE</b>					
<b>REVENUE:</b>					
	_____	_____	_____	_____	_____
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
	_____	_____	_____	_____	_____
ATJ BOARD RETREAT	2,000.00	-	-	2,000.00	0.00%
LEADERSHIP TRAINING	2,000.00	-	-	2,000.00	0.00%
ATJ BOARD EXPENSE	24,000.00	56.29	4,829.88	19,170.12	20.12%
STAFF TRAVEL/PARKING	2,700.00	-	242.88	2,457.12	9.00%
STAFF MEMBERSHIP DUES	120.00	-	-	120.00	0.00%
PUBLIC DEFENSE	7,000.00	70.16	2,145.28	4,854.72	30.65%
RECEPTION/FORUM EXPENSE	2,000.00	-	1,885.80	114.20	94.29%
<b>TOTAL DIRECT EXPENSES:</b>	<b>39,820.00</b>	<b>126.45</b>	<b>9,103.84</b>	<b>30,716.16</b>	<b>22.86%</b>
<b>INDIRECT EXPENSES:</b>					
	_____	_____	_____	_____	_____
SALARY EXPENSE (1.92 FTE)	185,736.00	11,730.76	129,287.94	56,448.06	69.61%
BENEFITS EXPENSE	80,467.00	3,885.52	41,214.76	39,252.24	51.22%
OTHER INDIRECT EXPENSE	52,781.00	6,395.91	46,129.81	6,651.19	87.40%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>318,984.00</b>	<b>22,012.19</b>	<b>216,632.51</b>	<b>102,351.49</b>	<b>67.91%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>358,804.00</b>	<b>22,138.64</b>	<b>225,736.35</b>	<b>133,067.65</b>	<b>62.91%</b>
<b>NET INCOME (LOSS):</b>	<b>(358,804.00)</b>	<b>(22,138.64)</b>	<b>(225,736.35)</b>		



## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>ADMINISTRATION</b>					
<b>REVENUE:</b>					
INTEREST INCOME	100,000.00	3,093.86	131,005.84	(31,005.84)	131.01%
<b>TOTAL REVENUE:</b>	<b>100,000.00</b>	<b>3,093.86</b>	<b>131,005.84</b>	<b>(31,005.84)</b>	<b>131.01%</b>
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	4,200.00	350.00	3,548.00	652.00	84.48%
STAFF MEMBERSHIP DUES	950.00	-	-	950.00	0.00%
LAW LIBRARY	279.00	10.48	73.36	205.64	26.29%
<b>TOTAL DIRECT EXPENSES:</b>	<b>5,429.00</b>	<b>360.48</b>	<b>3,621.36</b>	<b>1,807.64</b>	<b>66.70%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE ( 7.98 FTE)	702,386.00	45,521.06	559,700.03	142,685.97	79.69%
BENEFITS EXPENSE	230,920.00	18,637.84	186,514.92	44,405.08	80.77%
OTHER INDIRECT EXPENSE	219,369.00	26,665.44	192,320.71	27,048.29	87.67%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>1,152,675.00</b>	<b>90,824.34</b>	<b>938,535.66</b>	<b>214,139.34</b>	<b>81.42%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>1,158,104.00</b>	<b>91,184.82</b>	<b>942,157.02</b>	<b>215,946.98</b>	<b>81.35%</b>
<b>NET INCOME (LOSS):</b>	<b>(1,058,104.00)</b>	<b>(88,090.96)</b>	<b>(811,151.18)</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>ADMISSIONS</b>					
<b>REVENUE:</b>					
EXAM SOFT REVENUE	33,000.00	-	10,395.00	22,605.00	31.50%
BAR EXAM FEES	1,300,000.00	36,205.00	1,096,075.00	203,925.00	84.31%
RULE 9/LEGAL INTERN FEES	13,350.00	700.00	10,250.00	3,100.00	76.78%
SPECIAL ADMISSIONS	37,200.00	2,160.00	35,625.00	1,575.00	95.77%
<b>TOTAL REVENUE:</b>	<b>1,383,550.00</b>	<b>39,065.00</b>	<b>1,152,345.00</b>	<b>231,205.00</b>	<b>83.29%</b>
<b>DIRECT EXPENSES:</b>					
POSTAGE	3,570.00	53.03	1,651.26	1,918.74	46.25%
STAFF TRAVEL/PARKING	14,900.00	1,027.98	5,870.64	9,029.36	39.40%
STAFF MEMBERSHIP DUES	650.00	-	450.00	200.00	69.23%
SUPPLIES	2,000.00	404.31	1,233.87	766.13	61.69%
FACILITY, PARKING, FOOD	85,000.00	37,250.49	76,118.41	8,881.59	89.55%
EXAMINER FEES	26,000.00	7,000.00	17,000.00	9,000.00	65.38%
UBE EXMINATIONS	120,000.00	-	34,520.00	85,480.00	28.77%
BOARD OF BAR EXAMINERS	28,500.00	-	1,326.89	27,173.11	4.66%
BAR EXAM PROCTORS	30,000.00	-	13,077.25	16,922.75	43.59%
CHARACTER & FITNESS BOARD	15,000.00	-	3,930.80	11,069.20	26.21%
DISABILITY ACCOMMODATIONS	17,250.00	-	11,991.57	5,258.43	69.52%
CHARACTER & FITNESS INVESTIGATIONS	500.00	-	-	500.00	0.00%
LAW SCHOOL VISITS	1,600.00	-	612.14	987.86	38.26%
COURT REPORTERS	15,000.00	-	2,221.10	12,778.90	14.81%
CONFERENCE CALLS	3.79	-	16.00	(12.21)	422.16%
ONLINE LEGAL RESEARCH	3,675.00	-	2,085.65	1,589.35	56.75%
LAW LIBRARY	1,116.00	42.39	296.73	819.27	26.59%
<b>TOTAL DIRECT EXPENSES:</b>	<b>364,764.79</b>	<b>45,778.20</b>	<b>172,402.31</b>	<b>192,362.48</b>	<b>47.26%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (6.80 FTE)	534,949.00	40,231.87	432,389.20	102,559.80	80.83%
BENEFITS EXPENSE	204,543.00	14,341.63	157,084.91	47,458.09	76.80%
OTHER INDIRECT EXPENSE	186,931.00	22,715.01	163,828.72	23,102.28	87.64%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>926,423.00</b>	<b>77,288.51</b>	<b>753,302.83</b>	<b>173,120.17</b>	<b>81.31%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>1,291,187.79</b>	<b>123,066.71</b>	<b>925,705.14</b>	<b>365,482.65</b>	<b>71.69%</b>
<b>NET INCOME (LOSS):</b>	<b>92,362.21</b>	<b>(84,001.71)</b>	<b>226,639.86</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>BOARD OF GOVERNOR</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
WASHINGTON LEADERSHIP INSTITUTE	100,000.00	-	80,000.00	20,000.00	80.00%
BOG MEETINGS	210,500.00	(239.47)	47,156.60	163,343.40	22.40%
BOG COMMITTEES' EXPENSES	30,000.00	100.02	7,166.37	22,833.63	23.89%
BOG RETREAT	15,000.00	-	-	15,000.00	0.00%
BOG CONFERENCE ATTENDANCE	44,000.00	-	6,879.29	37,120.71	15.63%
BOG TRAVEL & OUTREACH	30,000.00	-	7,233.02	22,766.98	24.11%
CONSULTING SERVICES	5,000.00	-	-	5,000.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>434,500.00</b>	<b>(139.45)</b>	<b>148,435.28</b>	<b>286,064.72</b>	<b>34.16%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.00 FTE)	66,113.00	6,147.60	58,563.13	7,549.87	88.58%
BENEFITS EXPENSE	20,407.00	1,832.17	20,917.22	(510.22)	102.50%
OTHER INDIRECT EXPENSE	27,490.00	3,339.09	24,082.57	3,407.43	87.60%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>114,010.00</b>	<b>11,318.86</b>	<b>103,562.92</b>	<b>10,447.08</b>	<b>90.84%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>548,510.00</b>	<b>11,179.41</b>	<b>251,998.20</b>	<b>296,511.80</b>	<b>45.94%</b>
<b>NET INCOME (LOSS):</b>	<b>(548,510.00)</b>	<b>(11,179.41)</b>	<b>(251,998.20)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>COMMUNICATION STRATEGIES</b>					
<b>REVENUE:</b>					
APEX LUNCH/DINNER	2,250.00	-	2,250.00	-	100.00%
50 YEAR MEMBER TRIBUTE LUNCH	300.00	-	50.00	250.00	16.67%
WSBA LOGO MERCHANDISE SALES	342.59	-	342.59	-	100.00%
<b>TOTAL REVENUE:</b>	<b>2,892.59</b>	<b>-</b>	<b>2,642.59</b>	<b>250.00</b>	<b>91.36%</b>
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	4,700.00	350.00	3,573.53	1,126.47	76.03%
STAFF MEMBERSHIP DUES	1,515.00	135.00	765.00	750.00	50.50%
SUBSCRIPTIONS	3,000.00	202.08	2,652.80	347.20	88.43%
DIGITAL/ONLINE DEVELOPMENT	1,450.00	-	32.87	1,417.13	2.27%
APEX DINNER	23,000.00	-	3,515.63	19,484.37	15.29%
50 YEAR MEMBER TRIBUTE LUNCH	10,707.57	-	10,707.57	-	100.00%
COMMUNICATIONS OUTREACH	34,000.00	60.00	19,335.20	14,664.80	56.87%
TELEPHONE	325.00	64.28	430.27	(105.27)	132.39%
CONFERENCE CALLS	30.00	-	112.70	(82.70)	375.67%
MISCELLANEOUS	-	(88.51)	-	-	
<b>TOTAL DIRECT EXPENSES:</b>	<b>78,727.57</b>	<b>722.85</b>	<b>41,125.57</b>	<b>37,602.00</b>	<b>52.24%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (4.44 FTE)	297,765.00	23,711.16	241,232.94	56,532.06	81.01%
BENEFITS EXPENSE	117,948.00	8,118.52	88,432.76	29,515.24	74.98%
OTHER INDIRECT EXPENSE	122,055.00	14,814.12	106,844.71	15,210.29	87.54%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>537,768.00</b>	<b>46,643.80</b>	<b>436,510.41</b>	<b>101,257.59</b>	<b>81.17%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>616,495.57</b>	<b>47,366.65</b>	<b>477,635.98</b>	<b>138,859.59</b>	<b>77.48%</b>
<b>NET INCOME (LOSS):</b>	<b>(613,602.98)</b>	<b>(47,366.65)</b>	<b>(474,993.39)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>CONFERENCE &amp; BROADCAST SERVICES</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
TRANSLATION SERVICES	9,000.00	-	4,431.90	4,568.10	49.24%
<b>TOTAL DIRECT EXPENSES:</b>	<b>9,000.00</b>	<b>-</b>	<b>4,431.90</b>	<b>4,568.10</b>	<b>49.24%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (7.11 FTE)	407,873.00	32,055.06	345,885.69	61,987.31	84.80%
BENEFITS EXPENSE	159,798.00	11,403.82	131,637.10	28,160.90	82.38%
OTHER INDIRECT EXPENSE	195,453.00	23,749.62	171,290.81	24,162.19	87.64%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>763,124.00</b>	<b>67,208.50</b>	<b>648,813.60</b>	<b>114,310.40</b>	<b>85.02%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>772,124.00</b>	<b>67,208.50</b>	<b>653,245.50</b>	<b>118,878.50</b>	<b>84.60%</b>
<b>NET INCOME (LOSS):</b>	<b>(772,124.00)</b>	<b>(67,208.50)</b>	<b>(653,245.50)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>DISCIPLINE</b>					
<b>REVENUE:</b>					
DIVERSIONS	-	-	375.00	(375.00)	
AUDIT REVENUE	2,500.00	276.25	1,822.25	677.75	72.89%
RECOVERY OF DISCIPLINE COSTS	90,000.00	18,840.10	91,549.13	(1,549.13)	101.72%
DISCIPLINE HISTORY SUMMARY	14,000.00	1,372.06	14,594.39	(594.39)	104.25%
<b>TOTAL REVENUE:</b>	<b>106,500.00</b>	<b>20,488.41</b>	<b>108,340.77</b>	<b>(1,840.77)</b>	<b>101.73%</b>
<b>DIRECT EXPENSES:</b>					
DEPRECIATION-SOFTWARE	2,300.00	-	2,292.20	7.80	99.66%
PUBLICATIONS PRODUCTION	250.00	-	48.53	201.47	19.41%
STAFF TRAVEL/PARKING	35,000.00	2,192.00	26,031.07	8,968.93	74.37%
STAFF MEMBERSHIP DUES	4,877.00	-	3,642.25	1,234.75	74.68%
TELEPHONE	2,849.40	184.26	2,162.70	686.70	75.90%
COURT REPORTERS	30,000.00	936.65	13,536.45	16,463.55	45.12%
OUTSIDE COUNSEL/AIC	1,000.00	-	566.50	433.50	56.65%
LITIGATION EXPENSES	35,000.00	586.64	25,935.68	9,064.32	74.10%
DISABILITY EXPENSES	7,500.00	-	6,737.28	762.72	89.83%
ONLINE LEGAL RESEARCH	43,188.20	236.70	35,062.49	8,125.71	81.19%
LAW LIBRARY	5,800.00	255.24	5,316.02	483.98	91.66%
TRANSLATION SERVICES	1,000.00	-	625.00	375.00	62.50%
<b>TOTAL DIRECT EXPENSES:</b>	<b>168,764.60</b>	<b>4,391.49</b>	<b>121,956.17</b>	<b>46,808.43</b>	<b>72.26%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (36.93 FTE)	3,599,769.00	292,286.08	3,022,762.05	577,006.95	83.97%
BENEFITS EXPENSE	1,196,980.00	94,168.41	964,106.87	232,873.13	80.54%
OTHER INDIRECT EXPENSE	1,015,202.00	123,404.05	890,034.40	125,167.60	87.67%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>5,811,951.00</b>	<b>509,858.54</b>	<b>4,876,903.32</b>	<b>935,047.68</b>	<b>83.91%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>5,980,715.60</b>	<b>514,250.03</b>	<b>4,998,859.49</b>	<b>981,856.11</b>	<b>83.58%</b>
<b>NET INCOME (LOSS):</b>	<b>(5,874,215.60)</b>	<b>(493,761.62)</b>	<b>(4,890,518.72)</b>		

# Washington State Bar Association

## Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>DIVERSITY</b>					
<b>REVENUE:</b>					
DONATIONS	130,000.00	-	125,000.00	5,000.00	96.15%
WORK STUDY GRANTS	5,187.00	-	-	5,187.00	0.00%
<b>TOTAL REVENUE:</b>	<b>135,187.00</b>	<b>-</b>	<b>125,000.00</b>	<b>10,187.00</b>	<b>92.46%</b>
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	4,000.00	(102.00)	964.09	3,035.91	24.10%
STAFF MEMBERSHIP DUES	640.00	-	-	640.00	0.00%
COMMITTEE FOR DIVERSITY	6,000.00	(113.06)	2,368.71	3,631.29	39.48%
DIVERSITY EVENTS & PROJECTS	15,250.00	-	4,454.84	10,795.16	29.21%
INTERNAL DIVERSITY OUTREACH	200.00	-	-	200.00	0.00%
<b>TOTAL DIRECT EXPENSE:</b>	<b>26,090.00</b>	<b>(215.06)</b>	<b>7,787.64</b>	<b>18,302.36</b>	<b>29.85%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (3.87 FTE)	187,061.00	18,259.16	172,709.88	14,351.12	92.33%
BENEFITS EXPENSE	81,042.00	8,465.98	82,957.79	(1,915.79)	102.36%
OTHER INDIRECT EXPENSE	106,386.00	13,027.64	93,371.81	13,014.19	87.77%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>374,489.00</b>	<b>39,752.78</b>	<b>349,039.48</b>	<b>25,449.52</b>	<b>93.20%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>400,579.00</b>	<b>39,537.72</b>	<b>356,827.12</b>	<b>43,751.88</b>	<b>89.08%</b>
<b>NET INCOME (LOSS):</b>	<b>(265,392.00)</b>	<b>(39,537.72)</b>	<b>(231,827.12)</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>FOUNDATION</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
CONSULTING SERVICES	3,000.00	-	2,000.00	1,000.00	66.67%
PRINTING & COPYING	900.00	-	-	900.00	0.00%
STAFF TRAVEL/PARKING	500.00	-	37.76	462.24	7.55%
SUPPLIES	250.00	-	-	250.00	0.00%
SPECIAL EVENTS	5,000.00	-	-	5,000.00	0.00%
BOARD OF TRUSTEES	2,000.00	81.25	438.64	1,561.36	21.93%
POSTAGE	500.00	-	62.28	437.72	12.46%
<b>TOTAL DIRECT EXPENSES:</b>	<b>12,150.00</b>	<b>81.25</b>	<b>2,538.68</b>	<b>9,611.32</b>	<b>20.89%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.05 FTE)	70,951.00	6,420.56	65,517.84	5,433.16	92.34%
BENEFITS EXPENSE	30,738.00	2,337.62	24,529.76	6,208.24	79.80%
OTHER INDIRECT EXPENSE	28,864.00	3,527.17	25,439.31	3,424.69	88.14%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>130,553.00</b>	<b>12,285.35</b>	<b>115,486.91</b>	<b>15,066.09</b>	<b>88.46%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>142,703.00</b>	<b>12,366.60</b>	<b>118,025.59</b>	<b>24,677.41</b>	<b>82.71%</b>
<b>NET INCOME (LOSS):</b>	<b>(142,703.00)</b>	<b>(12,366.60)</b>	<b>(118,025.59)</b>		



# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>HUMAN RESOURCES</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	250.00	198.00	836.00	(586.00)	334.40%
STAFF MEMBERSHIP DUES	385.00	-	-	385.00	0.00%
SUBSCRIPTIONS	2,239.10	-	2,524.50	(285.40)	112.75%
STAFF TRAINING- GENERAL	25,000.00	9,437.50	11,424.89	13,575.11	45.70%
RECRUITING AND ADVERTISING	7,000.00	119.51	2,761.02	4,238.98	39.44%
PAYROLL PROCESSING	49,000.00	3,678.46	36,368.18	12,631.82	74.22%
SALARY SURVEYS	2,900.00	-	765.20	2,134.80	26.39%
CONSULTING SERVICES	75,000.00	4,083.33	4,083.33	70,916.67	5.44%
TRANSFER TO INDIRECT EXPENSE	(161,774.10)	(17,516.80)	(58,763.12)	(103,010.98)	36.32%
<b>TOTAL DIRECT EXPENSES:</b>	-	-	-	-	
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (2.45 FTE)	267,155.00	35,170.43	220,436.68	46,718.32	82.51%
ALLOWANCE FOR OPEN POSITIONS	(212,871.50)	-	-	(212,871.50)	0.00%
BENEFITS EXPENSE	85,476.00	6,981.30	72,839.53	12,636.47	85.22%
OTHER INDIRECT EXPENSE	67,350.00	8,183.06	59,019.08	8,330.92	87.63%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>207,109.50</b>	<b>50,334.79</b>	<b>352,295.29</b>	<b>(145,185.79)</b>	<b>170.10%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>207,109.50</b>	<b>50,334.79</b>	<b>352,295.29</b>	<b>(145,185.79)</b>	<b>170.10%</b>
<b>NET INCOME (LOSS):</b>	<b>(207,109.50)</b>	<b>(50,334.79)</b>	<b>(352,295.29)</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>LAW CLERK PROGRAM</b>					
<b>REVENUE:</b>					
LAW CLERK FEES	191,362.00	830.00	180,714.67	10,647.33	94.44%
LAW CLERK APPLICATION FEES	3,200.00	100.00	2,800.00	400.00	87.50%
<b>TOTAL REVENUE:</b>	<b>194,562.00</b>	<b>930.00</b>	<b>183,514.67</b>	<b>11,047.33</b>	<b>94.32%</b>
<b>DIRECT EXPENSES:</b>					
SUBSCRIPTIONS	250.00	-	250.00	-	100.00%
CHARACTER & FITNESS INVESTIGATIONS	100.00	-	-	100.00	0.00%
LAW CLERK BOARD EXPENSE	6,000.00	-	4,196.05	1,803.95	69.93%
STAFF TRAVEL/PARKING	400.00	-	37.95	362.05	9.49%
LAW CLERK OUTREACH	6,000.00	-	4,846.37	1,153.63	80.77%
<b>TOTAL DIRECT EXPENSES:</b>	<b>12,750.00</b>	<b>-</b>	<b>9,330.37</b>	<b>3,419.63</b>	<b>73.18%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.25 FTE)	98,336.00	7,911.01	79,451.01	18,884.99	80.80%
BENEFITS EXPENSE	37,600.00	2,400.81	26,660.46	10,939.54	70.91%
OTHER INDIRECT EXPENSE	34,362.00	4,185.58	30,187.93	4,174.07	87.85%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>170,298.00</b>	<b>14,497.40</b>	<b>136,299.40</b>	<b>33,998.60</b>	<b>80.04%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>183,048.00</b>	<b>14,497.40</b>	<b>145,629.77</b>	<b>37,418.23</b>	<b>79.56%</b>
<b>NET INCOME (LOSS):</b>	<b>11,514.00</b>	<b>(13,567.40)</b>	<b>37,884.90</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>LEGISLATIVE</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	2,500.00	-	1,825.10	674.90	73.00%
STAFF MEMBERSHIP DUES	450.00	-	-	450.00	0.00%
SUBSCRIPTIONS	2,000.00	-	1,981.80	18.20	99.09%
OLYMPIA RENT	1,500.00	-	1,293.76	206.24	86.25%
CONTRACT LOBBYIST	20,000.00	-	9,999.96	10,000.04	50.00%
LEGISLATIVE COMMITTEE	3,000.00	-	1,063.67	1,936.33	35.46%
BOG LEGISLATIVE COMMITTEE	250.00	-	-	250.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>29,700.00</b>	<b>-</b>	<b>16,164.29</b>	<b>13,535.71</b>	<b>54.43%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.10 FTE)	87,076.00	6,933.90	70,495.96	16,580.04	80.96%
BENEFITS EXPENSE	34,491.00	2,179.66	23,975.09	10,515.91	69.51%
OTHER INDIRECT EXPENSE	30,239.00	3,668.28	26,456.97	3,782.03	87.49%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>151,806.00</b>	<b>12,781.84</b>	<b>120,928.02</b>	<b>30,877.98</b>	<b>79.66%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>181,506.00</b>	<b>12,781.84</b>	<b>137,092.31</b>	<b>44,413.69</b>	<b>75.53%</b>
<b>NET INCOME (LOSS):</b>	<b>(181,506.00)</b>	<b>(12,781.84)</b>	<b>(137,092.31)</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>LICENSING &amp; MEMBERSHIP RECORDS</b>					
<b>REVENUE:</b>					
STATUS CERTIFICATE FEES	25,000.00	2,822.52	25,269.55	(269.55)	101.08%
INVESTIGATION FEES	24,000.00	2,300.00	19,200.00	4,800.00	80.00%
PRO HAC VICE	290,000.00	20,152.00	248,399.00	41,601.00	85.65%
MEMBER CONTACT INFORMATION	11,000.00	950.00	8,715.55	2,284.45	79.23%
PHOTO BAR CARD SALES	350.00	36.00	288.00	62.00	82.29%
<b>TOTAL REVENUE:</b>	<b>350,350.00</b>	<b>26,260.52</b>	<b>301,872.10</b>	<b>48,477.90</b>	<b>86.16%</b>
<b>DIRECT EXPENSES:</b>					
DEPRECIATION	13,850.00	1,150.00	11,505.00	2,345.00	83.07%
POSTAGE	19,500.00	1,023.80	18,573.15	926.85	95.25%
LICENSING FORMS	2,253.10	-	2,253.10	-	100.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>35,603.10</b>	<b>2,173.80</b>	<b>32,331.25</b>	<b>3,271.85</b>	<b>90.81%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (4.20 FTE)	341,930.00	31,224.26	331,460.80	10,469.20	96.94%
BENEFITS EXPENSE	126,335.00	9,824.36	103,397.43	22,937.57	81.84%
OTHER INDIRECT EXPENSE	115,458.00	14,014.62	101,078.51	14,379.49	87.55%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>583,723.00</b>	<b>55,063.24</b>	<b>535,936.74</b>	<b>47,786.26</b>	<b>91.81%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>619,326.10</b>	<b>57,237.04</b>	<b>568,267.99</b>	<b>51,058.11</b>	<b>91.76%</b>
<b>NET INCOME (LOSS):</b>	<b>(268,976.10)</b>	<b>(30,976.52)</b>	<b>(266,395.89)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>LIMITED LICENSE LEGAL TECHNICIAN PROGRAM</b>					
<b>REVENUE:</b>					
SEMINAR REGISTRATIONS	4,344.00	-	9,182.00	(4,838.00)	211.37%
LLLT LICENSE FEES	5,735.66	691.70	5,607.50	128.16	97.77%
LLLT LATE LICENSE FEES	300.00	-	300.00	-	100.00%
INVESTIGATION FEES	300.00	100.00	200.00	100.00	66.67%
LLLT EXAM FEES	6,280.00	-	5,150.00	1,130.00	82.01%
LLLT WAIVER FEES	150.00	150.00	150.00	-	100.00%
MEMBER LATE FEES	150.00	-	150.00	-	100.00%
<b>TOTAL REVENUE:</b>	<b>17,259.66</b>	<b>941.70</b>	<b>20,739.50</b>	<b>(3,479.84)</b>	<b>120.16%</b>
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	600.00	-	101.80	498.20	16.97%
LLLT BOARD	14,000.00	24.21	5,403.99	8,596.01	38.60%
LLLT OUTREACH	4,000.00	-	1,507.27	2,492.73	37.68%
LLLT EDUCATION	2,500.00	-	-	2,500.00	0.00%
POSTAGE	20.00	-	-	20.00	0.00%
LLLT EXAM WRITING	10,750.00	-	5,375.00	5,375.00	50.00%
LICENSING FORMS	2.50	-	-	2.50	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>31,872.50</b>	<b>24.21</b>	<b>12,388.06</b>	<b>19,484.44</b>	<b>38.87%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.34 FTE)	103,650.00	9,014.04	87,097.06	16,552.94	84.03%
BENEFITS EXPENSE	39,631.00	2,685.11	29,315.64	10,315.36	73.97%
OTHER INDIRECT EXPENSE	36,836.00	4,514.78	32,562.19	4,273.81	88.40%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>180,117.00</b>	<b>16,213.93</b>	<b>148,974.89</b>	<b>31,142.11</b>	<b>82.71%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>211,989.50</b>	<b>16,238.14</b>	<b>161,362.95</b>	<b>50,626.55</b>	<b>76.12%</b>
<b>NET INCOME (LOSS):</b>	<b>(194,729.84)</b>	<b>(15,296.44)</b>	<b>(140,623.45)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>LIMITED PRACTICE OFFICERS</b>					
<b>REVENUE:</b>					
INVESTIGATION FEES	1,000.00	200.00	500.00	500.00	50.00%
MEMBER LATE FEES	1,800.00	150.00	2,700.00	(900.00)	150.00%
LPO EXAMINATION FEES	26,800.00	-	22,300.00	4,500.00	83.21%
LPO LICENSE FEES	172,516.60	14,227.21	146,092.79	26,423.81	84.68%
LPO LATE LICENSE FEES	3,088.00	-	400.00	2,688.00	12.95%
<b>TOTAL REVENUE:</b>	<b>205,204.60</b>	<b>14,577.21</b>	<b>171,992.79</b>	<b>33,211.81</b>	<b>83.82%</b>
<b>DIRECT EXPENSES:</b>					
FACILITY, PARKING, FOOD	24.00	-	-	24.00	0.00%
EXAM WRITING	9,750.00	-	4,875.00	4,875.00	50.00%
ONLINE LEGAL RESEARCH	1,837.50	-	1,042.79	794.71	56.75%
LAW LIBRARY	279.00	10.48	73.36	205.64	26.29%
LPO BOARD	3,000.00	12.41	896.13	2,103.87	29.87%
LPO OUTREACH	5,000.00	-	26.64	4,973.36	0.53%
PRINTING & COPYING	-	41.60	112.10	(112.10)	
STAFF TRAVEL/PARKING	500.00	-	44.51	455.49	8.90%
<b>TOTAL DIRECT EXPENSES:</b>	<b>20,390.50</b>	<b>64.49</b>	<b>7,070.53</b>	<b>13,319.97</b>	<b>34.68%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.09 FTE)	83,983.00	7,326.03	72,986.39	10,996.61	86.91%
BENEFITS EXPENSE	32,112.00	2,274.44	24,497.87	7,614.13	76.29%
OTHER INDIRECT EXPENSE	29,964.00	3,668.27	26,456.91	3,507.09	88.30%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>146,059.00</b>	<b>13,268.74</b>	<b>123,941.17</b>	<b>22,117.83</b>	<b>84.86%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>166,449.50</b>	<b>13,333.23</b>	<b>131,011.70</b>	<b>35,437.80</b>	<b>78.71%</b>
<b>NET INCOME (LOSS):</b>	<b>38,755.10</b>	<b>1,243.98</b>	<b>40,981.09</b>		

# Washington State Bar Association

## Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>MANDATORY CONTINUING LEGAL EDUCATION</b>					
<b>REVENUE:</b>					
ACCREDITED PROGRAM FEES	516,700.00	44,200.00	418,400.00	98,300.00	80.98%
FORM 1 LATE FEES	170,000.00	21,000.00	182,700.00	(12,700.00)	107.47%
MEMBER LATE FEES	191,000.00	4,075.00	188,400.00	2,600.00	98.64%
ANNUAL ACCREDITED SPONSOR FEES	41,750.00	-	41,750.00	-	100.00%
ATTENDANCE LATE FEES	90,000.00	11,550.00	79,400.00	10,600.00	88.22%
COMITY CERTIFICATES	29,000.00	100.00	29,450.18	(450.18)	101.55%
<b>TOTAL REVENUE:</b>	<b>1,038,450.00</b>	<b>80,925.00</b>	<b>940,100.18</b>	<b>98,349.82</b>	<b>90.53%</b>
<b>DIRECT EXPENSES:</b>					
DEPRECIATION	250,000.00	20,867.00	208,659.00	41,341.00	83.46%
STAFF MEMBERSHIP DUES	500.00	-	500.00	-	100.00%
ONLINE LEGAL RESEARCH	1,837.50	-	1,042.79	794.71	56.75%
LAW LIBRARY	279.00	10.48	73.36	205.64	26.29%
MCLE BOARD	2,500.00	-	1,089.95	1,410.05	43.60%
STAFF TRAVEL/PARKING	50.00	-	9.26	40.74	18.52%
<b>TOTAL DIRECT EXPENSES:</b>	<b>255,166.50</b>	<b>20,877.48</b>	<b>211,374.36</b>	<b>43,792.14</b>	<b>82.84%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (4.65 FTE)	509,354.00	26,499.10	375,215.97	134,138.03	73.67%
BENEFITS EXPENSE	139,871.00	8,434.41	92,643.74	47,227.26	66.24%
OTHER INDIRECT EXPENSE	127,828.00	15,519.57	111,932.60	15,895.40	87.57%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>777,053.00</b>	<b>50,453.08</b>	<b>579,792.31</b>	<b>197,260.69</b>	<b>74.61%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>1,032,219.50</b>	<b>71,330.56</b>	<b>791,166.67</b>	<b>241,052.83</b>	<b>76.65%</b>
<b>NET INCOME (LOSS):</b>	<b>6,230.50</b>	<b>9,594.44</b>	<b>148,933.51</b>		

**Washington State Bar Association**  
Statement of Activities  
For the Period from July 1, 2020 to July 31, 2020  
**83.33% OF YEAR COMPLETE**

	<b>FISCAL 2020 REFORECAST</b>	<b>CURRENT MONTH</b>	<b>YEAR TO DATE</b>	<b>REMAINING BALANCE</b>	<b>% USED OF BUDGET</b>
<b>MEMBER ASSISTANCE PROGRAM</b>					
<b>REVENUE:</b>					
DIVERSIONS	6,750.00	750.00	8,250.00	(1,500.00)	122.22%
LAP GROUPS REVENUE	-	-	360.00	(360.00)	
<b>TOTAL REVENUE:</b>	<b>6,750.00</b>	<b>750.00</b>	<b>8,610.00</b>	<b>(1,860.00)</b>	<b>127.56%</b>
<b>DIRECT EXPENSES:</b>					
PUBLICATIONS PRODUCTION	200.00	-	-	200.00	0.00%
STAFF MEMBERSHIP DUES	225.00	-	226.00	(1.00)	100.44%
PROF LIAB INSURANCE	850.00	-	775.50	74.50	91.24%
<b>TOTAL DIRECT EXPENSES:</b>	<b>1,275.00</b>	<b>-</b>	<b>1,001.50</b>	<b>273.50</b>	<b>78.55%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (0.90 FTE)	82,545.00	10,562.65	70,809.46	11,735.54	85.78%
BENEFITS EXPENSE	26,410.00	2,306.04	26,232.92	177.08	99.33%
OTHER INDIRECT EXPENSE	24,741.00	3,009.82	21,707.91	3,033.09	87.74%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>133,696.00</b>	<b>15,878.51</b>	<b>118,750.29</b>	<b>14,945.71</b>	<b>88.82%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>134,971.00</b>	<b>15,878.51</b>	<b>119,751.79</b>	<b>15,219.21</b>	<b>88.72%</b>
<b>NET INCOME (LOSS):</b>	<b>(128,221.00)</b>	<b>(15,128.51)</b>	<b>(111,141.79)</b>		



## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>MEMBER SERVICES &amp; ENGAGEMENT</b>					
<b>REVENUE:</b>					
ROYALTIES	49,250.00	1,025.30	43,628.63	5,621.37	88.59%
NMP PRODUCT SALES	80,000.00	2,312.00	69,403.00	10,597.00	86.75%
SEMINAR REGISTRATIONS	15,000.00	-	6,894.00	8,106.00	45.96%
TRIAL ADVOCACY PROGRAM	10,000.00	-	-	10,000.00	0.00%
<b>TOTAL REVENUE:</b>	<b>154,250.00</b>	<b>3,337.30</b>	<b>119,925.63</b>	<b>34,324.37</b>	<b>77.75%</b>
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	2,500.00	-	98.88	2,401.12	3.96%
SUBSCRIPTIONS	500.00	15.00	170.00	330.00	34.00%
CONFERENCE CALLS	300.00	1.06	61.91	238.09	20.64%
YLL SECTION PROGRAM	1,100.00	-	520.00	580.00	47.27%
WYLC CLE COMPS	1,000.00	-	-	1,000.00	0.00%
WYLC OUTREACH EVENTS	2,500.00	(4.52)	96.51	2,403.49	3.86%
WYL COMMITTEE	1,500.00	-	1,424.59	75.41	94.97%
TRIAL ADVOCACY EXPENSES	2,500.00	-	0.05	2,499.95	0.00%
RECEPTION/FORUM EXPENSE	3,000.00	-	947.12	2,052.88	31.57%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	2,500.00	-	500.00	2,000.00	20.00%
STAFF MEMBERSHIP DUES	445.00	-	100.00	345.00	22.47%
LENDING LIBRARY	6,200.00	10.00	3,348.25	2,851.75	54.00%
NMP SPEAKERS & PROGRAM DEVELOPMENT	1,500.00	9.97	466.06	1,033.94	31.07%
<b>TOTAL DIRECT EXPENSES:</b>	<b>25,545.00</b>	<b>31.51</b>	<b>7,733.37</b>	<b>17,811.63</b>	<b>30.27%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (4.24 FTE)	330,563.00	18,881.58	285,870.60	44,692.40	86.48%
BENEFITS EXPENSE	143,212.00	8,560.77	95,694.11	47,517.89	66.82%
OTHER INDIRECT EXPENSE	116,557.00	14,155.70	102,096.13	14,460.87	87.59%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>590,332.00</b>	<b>41,598.05</b>	<b>483,660.84</b>	<b>106,671.16</b>	<b>81.93%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>615,877.00</b>	<b>41,629.56</b>	<b>491,394.21</b>	<b>124,482.79</b>	<b>79.79%</b>
<b>NET INCOME (LOSS):</b>	<b>(461,627.00)</b>	<b>(38,292.26)</b>	<b>(371,468.58)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>MEMBERSHIP BENEFITS</b>					
<b>REVENUE:</b>					
SPONSORSHIPS	9,000.00	-	1,000.00	8,000.00	11.11%
INTERNET SALES	19,000.00	1,078.00	21,070.00	(2,070.00)	110.89%
<b>TOTAL REVENUE:</b>	<b>28,000.00</b>	<b>1,078.00</b>	<b>22,070.00</b>	<b>5,930.00</b>	<b>78.82%</b>
<b>DIRECT EXPENSES:</b>					
TRANSCRIPTION SERVICES	1,500.00	-	-	1,500.00	0.00%
LEGAL LUNCHBOX SPEAKERS & PROGRAM	2,000.00	440.00	440.00	1,560.00	22.00%
WSBA CONNECTS	46,560.00	-	42,680.00	3,880.00	91.67%
CASEMAKER & FASTCASE	136,436.00	5,416.00	130,779.69	5,656.31	95.85%
CONFERENCE CALLS	-	-	5.30	(5.30)	
<b>TOTAL DIRECT EXPENSES:</b>	<b>186,496.00</b>	<b>5,856.00</b>	<b>173,904.99</b>	<b>12,591.01</b>	<b>93.25%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (0.69 FTE)	74,151.00	5,639.23	65,558.22	8,592.78	88.41%
BENEFITS EXPENSE	32,124.00	1,389.93	18,185.48	13,938.52	56.61%
OTHER INDIRECT EXPENSE	18,968.00	2,304.45	16,620.43	2,347.57	87.62%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>125,243.00</b>	<b>9,333.61</b>	<b>100,364.13</b>	<b>24,878.87</b>	<b>80.14%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>311,739.00</b>	<b>15,189.61</b>	<b>274,269.12</b>	<b>37,469.88</b>	<b>87.98%</b>
<b>NET INCOME (LOSS):</b>	<b>(283,739.00)</b>	<b>(14,111.61)</b>	<b>(252,199.12)</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>BAR NEWS</b>					
<b>REVENUE:</b>					
ROYALTIES	1,215.86	-	1,581.14	(365.28)	130.04%
DISPLAY ADVERTISING	423,500.00	-	305,169.00	118,331.00	72.06%
SUBSCRIPT/SINGLE ISSUES	350.00	-	107.82	242.18	30.81%
CLASSIFIED ADVERTISING	12,500.00	312.00	6,617.65	5,882.35	52.94%
GEN ANNOUNCEMENTS	20,000.00	-	7,615.00	12,385.00	38.08%
PROF ANNOUNCEMENTS	25,000.00	-	18,328.00	6,672.00	73.31%
JOB TARGET ADVERTISING	120,000.00	9,600.32	117,677.46	2,322.54	98.06%
<b>TOTAL REVENUE:</b>	<b>602,565.86</b>	<b>9,912.32</b>	<b>457,096.07</b>	<b>145,469.79</b>	<b>75.86%</b>
<b>DIRECT EXPENSES:</b>					
BAD DEBT EXPENSE	2,000.00	-	-	2,000.00	0.00%
POSTAGE	95,000.00	-	72,012.84	22,987.16	75.80%
PRINTING, COPYING & MAILING	250,000.00	-	171,230.61	78,769.39	68.49%
DIGITAL/ONLINE DEVELOPMENT	13,200.00	850.00	10,300.00	2,900.00	78.03%
GRAPHICS/ARTWORK	2,000.00	-	-	2,000.00	0.00%
OUTSIDE SALES EXPENSE	118,500.00	-	99,333.60	19,166.40	83.83%
EDITORIAL ADVISORY COMMITTEE	800.00	-	532.31	267.69	66.54%
STAFF MEMBERSHIP DUES	615.00	-	-	615.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>482,115.00</b>	<b>850.00</b>	<b>353,409.36</b>	<b>128,705.64</b>	<b>73.30%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (2.55 FTE)	216,483.00	17,238.64	175,772.72	40,710.28	81.19%
BENEFITS EXPENSE	85,752.00	5,401.82	61,521.66	24,230.34	71.74%
OTHER INDIRECT EXPENSE	70,099.00	8,512.23	61,393.26	8,705.74	87.58%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>372,334.00</b>	<b>31,152.69</b>	<b>298,687.64</b>	<b>73,646.36</b>	<b>80.22%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>854,449.00</b>	<b>32,002.69</b>	<b>652,097.00</b>	<b>202,352.00</b>	<b>76.32%</b>
<b>NET INCOME (LOSS):</b>	<b>(251,883.14)</b>	<b>(22,090.37)</b>	<b>(195,000.93)</b>		

# Washington State Bar Association

## Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>OFFICE OF THE EXECUTIVE DIRECTOR</b>					
<b>REVENUE:</b>					
<hr/>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<hr/>					
<b>DIRECT EXPENSES:</b>					
<hr/>					
ED TRAVEL & OUTREACH	5,000.00	-	1,603.83	3,396.17	32.08%
LAW LIBRARY	279.00	10.48	123.33	155.67	44.20%
STAFF TRAVEL/PARKING	5,400.00	30.00	233.00	5,167.00	4.31%
STAFF MEMBERSHIP DUES	1,700.00	-	-	1,700.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>12,379.00</b>	<b>40.48</b>	<b>1,960.16</b>	<b>10,418.84</b>	<b>15.83%</b>
<hr/>					
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.45 FTE)	382,572.00	40,380.53	311,072.40	71,499.60	81.31%
BENEFITS EXPENSE	118,089.00	6,475.86	67,520.81	50,568.19	57.18%
OTHER INDIRECT EXPENSE	39,860.00	4,843.98	34,936.53	4,923.47	87.65%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>540,521.00</b>	<b>51,700.37</b>	<b>413,529.74</b>	<b>126,991.26</b>	<b>76.51%</b>
<hr/>					
<b>TOTAL ALL EXPENSES:</b>	<b>552,900.00</b>	<b>51,740.85</b>	<b>415,489.90</b>	<b>137,410.10</b>	<b>75.15%</b>
<hr/>					
<b>NET INCOME (LOSS):</b>	<b>(552,900.00)</b>	<b>(51,740.85)</b>	<b>(415,489.90)</b>		
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## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>OFFICE OF GENERAL COUNSEL</b>					
<b>REVENUE:</b>					
COPY FEES	3.96	-	3.96	-	100.00%
<b>TOTAL REVENUE:</b>	<b>3.96</b>	<b>-</b>	<b>3.96</b>	<b>-</b>	<b>100.00%</b>
<b>DIRECT EXPENSES:</b>					
DEPRECIATION	3,336.00	-	-	3,336.00	0.00%
STAFF TRAVEL/PARKING	300.00	-	-	300.00	0.00%
STAFF MEMBERSHIP DUES	2,725.00	-	300.00	2,425.00	11.01%
ONLINE LEGAL RESEARCH	11,205.00	-	6,598.21	4,606.79	58.89%
LAW LIBRARY	2,921.42	63.36	1,692.24	1,229.18	57.93%
COURT RULES COMMITTEE	3,000.00	0.96	951.41	2,048.59	31.71%
DISCIPLINE ADVISORY ROUNDTABLE	500.00	-	-	500.00	0.00%
CUSTODIANSHIPS	1,500.00	4,551.74	6,752.69	(5,252.69)	450.18%
LITIGATION EXPENSES	500.00	-	40.18	459.82	8.04%
<b>TOTAL DIRECT EXPENSES:</b>	<b>25,987.42</b>	<b>4,616.06</b>	<b>16,334.73</b>	<b>9,652.69</b>	<b>62.86%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (5.82 FTE)	460,618.00	39,355.72	395,041.33	65,576.67	85.76%
BENEFITS EXPENSE	159,114.00	15,573.64	153,132.72	5,981.28	96.24%
OTHER INDIRECT EXPENSE	159,991.00	19,422.97	140,085.39	19,905.61	87.56%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>779,723.00</b>	<b>74,352.33</b>	<b>688,259.44</b>	<b>91,463.56</b>	<b>88.27%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>805,710.42</b>	<b>78,968.39</b>	<b>704,594.17</b>	<b>101,116.25</b>	<b>87.45%</b>
<b>NET INCOME (LOSS):</b>	<b>(805,706.46)</b>	<b>(78,968.39)</b>	<b>(704,590.21)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSE:</b>					
STAFF MEMBERSHIP DUES	100.00	-	-	100.00	0.00%
LAW LIBRARY	1,116.00	42.39	296.73	819.27	26.59%
DISCIPLINARY BOARD EXPENSES	4,000.00	47.31	849.87	3,150.13	21.25%
CHIEF HEARING OFFICER	33,000.00	-	25,000.00	8,000.00	75.76%
HEARING OFFICER EXPENSES	2,000.00	-	(1,858.63)	3,858.63	-92.93%
HEARING OFFICER TRAINING	2,000.00	-	526.93	1,473.07	26.35%
OUTSIDE COUNSEL	55,000.00	-	40,234.36	14,765.64	73.15%
<b>TOTAL DIRECT EXPENSES:</b>	<b>97,216.00</b>	<b>89.70</b>	<b>65,049.26</b>	<b>32,166.74</b>	<b>66.91%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.55 FTE)	231,661.00	8,717.62	88,634.98	143,026.02	38.26%
BENEFITS EXPENSE	80,024.00	2,748.29	31,287.92	48,736.08	39.10%
OTHER INDIRECT EXPENSE	42,609.00	5,173.17	37,310.88	5,298.12	87.57%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>354,294.00</b>	<b>16,639.08</b>	<b>157,233.78</b>	<b>197,060.22</b>	<b>44.38%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>451,510.00</b>	<b>16,728.78</b>	<b>222,283.04</b>	<b>229,226.96</b>	<b>49.23%</b>
<b>NET INCOME (LOSS):</b>	<b>(451,510.00)</b>	<b>(16,728.78)</b>	<b>(222,283.04)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>OUTREACH &amp; ENGAGEMENT</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSE:</b>					
STAFF MEMBERSHIP DUES	825.00	-	-	825.00	0.00%
ABA DELEGATES	5,000.00	-	1,765.78	3,234.22	35.32%
ANNUAL CHAIR MEETINGS	600.00	-	510.31	89.69	85.05%
JUDICIAL RECOMMENDATIONS COMMITTEE	2,000.00	-	207.10	1,792.90	10.36%
BOG ELECTIONS	6,500.00	-	4,946.63	1,553.37	76.10%
BAR OUTREACH	16,600.00	-	226.83	16,373.17	1.37%
<b>TOTAL DIRECT EXPENSES:</b>	<b>31,525.00</b>	<b>-</b>	<b>7,656.65</b>	<b>23,868.35</b>	<b>24.29%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (2.73 FTE)	198,420.00	15,800.24	168,099.60	30,320.40	84.72%
BENEFITS EXPENSE	78,596.00	6,065.21	62,765.89	15,830.11	79.86%
OTHER INDIRECT EXPENSE	75,047.00	9,123.66	65,803.02	9,243.98	87.68%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>352,063.00</b>	<b>30,989.11</b>	<b>296,668.51</b>	<b>55,394.49</b>	<b>84.27%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>383,588.00</b>	<b>30,989.11</b>	<b>304,325.16</b>	<b>79,262.84</b>	<b>79.34%</b>
<b>NET INCOME (LOSS):</b>	<b>(383,588.00)</b>	<b>(30,989.11)</b>	<b>(304,325.16)</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>PRACTICE OF LAW BOARD</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
PRACTICE OF LAW BOARD	12,000.00	148.29	2,746.08	9,253.92	22.88%
<b>TOTAL DIRECT EXPENSES:</b>	<b>12,000.00</b>	<b>148.29</b>	<b>2,746.08</b>	<b>9,253.92</b>	<b>22.88%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (0.40 FTE)	39,116.00	3,259.68	33,133.35	5,982.65	84.71%
BENEFITS EXPENSE	13,512.00	1,010.87	10,433.50	3,078.50	77.22%
OTHER INDIRECT EXPENSE	10,996.00	1,316.81	9,497.26	1,498.74	86.37%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>63,624.00</b>	<b>5,587.36</b>	<b>53,064.11</b>	<b>10,559.89</b>	<b>83.40%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>75,624.00</b>	<b>5,735.65</b>	<b>55,810.19</b>	<b>19,813.81</b>	<b>73.80%</b>
<b>NET INCOME (LOSS):</b>	<b>(75,624.00)</b>	<b>(5,735.65)</b>	<b>(55,810.19)</b>		



## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>PROFESSIONAL RESPONSIBILITY PROGRAM</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	4,000.00	-	1,459.40	2,540.60	36.49%
LAW LIBRARY	279.00	10.48	73.36	205.64	26.29%
CPE COMMITTEE	5,000.00	-	2,272.52	2,727.48	45.45%
<b>TOTAL DIRECT EXPENSES:</b>	<b>9,279.00</b>	<b>10.48</b>	<b>3,805.28</b>	<b>5,473.72</b>	<b>41.01%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.55 FTE)	160,115.00	13,342.90	135,659.08	24,455.92	84.73%
BENEFITS EXPENSE	55,310.00	4,201.39	45,048.43	10,261.57	81.45%
OTHER INDIRECT EXPENSE	42,609.00	5,173.22	37,310.91	5,298.09	87.57%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>258,034.00</b>	<b>22,717.51</b>	<b>218,018.42</b>	<b>40,015.58</b>	<b>84.49%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>267,313.00</b>	<b>22,727.99</b>	<b>221,823.70</b>	<b>45,489.30</b>	<b>82.98%</b>
<b>NET INCOME (LOSS):</b>	<b>(267,313.00)</b>	<b>(22,727.99)</b>	<b>(221,823.70)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>PUBLIC SERVICE PROGRAMS</b>					
<b>REVENUE:</b>					
DONATIONS & GRANTS	135,000.00	-	135,000.00	-	100.00%
PSP PRODUCT SALES	200.00	-	99.00	101.00	49.50%
<b>TOTAL REVENUE:</b>	<b>135,200.00</b>	<b>-</b>	<b>135,099.00</b>	<b>101.00</b>	<b>99.93%</b>
<b>DIRECT EXPENSES:</b>					
DONATIONS/SPONSORSHIPS/GRANTS	205,687.98	45,633.50	131,209.38	74,478.60	63.79%
STAFF TRAVEL/PARKING	2,000.00	-	69.00	1,931.00	3.45%
PRO BONO & PUBLIC SERVICE COMMITTEE	2,000.00	37.98	1,330.78	669.22	66.54%
PUBLIC SERVICE EVENTS AND PROJECTS	30,500.00	2,750.00	2,750.00	27,750.00	9.02%
<b>TOTAL DIRECT EXPENSES:</b>	<b>240,187.98</b>	<b>48,421.48</b>	<b>135,359.16</b>	<b>104,828.82</b>	<b>56.36%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.54 FTE)	95,912.00	8,595.98	90,810.46	5,101.54	94.68%
BENEFITS EXPENSE	41,552.00	3,001.01	32,570.71	8,981.29	78.39%
OTHER INDIRECT EXPENSE	42,334.00	5,126.14	36,971.82	5,362.18	87.33%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>179,798.00</b>	<b>16,723.13</b>	<b>160,352.99</b>	<b>19,445.01</b>	<b>89.19%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>419,985.98</b>	<b>65,144.61</b>	<b>295,712.15</b>	<b>124,273.83</b>	<b>70.41%</b>
<b>NET INCOME (LOSS):</b>	<b>(284,785.98)</b>	<b>(65,144.61)</b>	<b>(160,613.15)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>PUBLICATION &amp; DESIGN SERVICES</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
EQUIPMENT, HARDWARE & SOFTWARE	330.00	-	-	330.00	0.00%
SUBSCRIPTIONS	262.00	-	179.98	82.02	68.69%
SUPPLIES	300.00	-	-	300.00	0.00%
IMAGE LIBRARY	4,680.00	-	4,100.00	580.00	87.61%
<b>TOTAL DIRECT EXPENSES:</b>	<b>5,572.00</b>	<b>-</b>	<b>4,279.98</b>	<b>1,292.02</b>	<b>76.81%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.09 FTE)	74,534.00	5,935.18	60,694.13	13,839.87	81.43%
BENEFITS EXPENSE	29,523.00	1,958.54	21,562.49	7,960.51	73.04%
OTHER INDIRECT EXPENSE	29,964.00	3,621.20	26,117.47	3,846.53	87.16%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>134,021.00</b>	<b>11,514.92</b>	<b>108,374.09</b>	<b>25,646.91</b>	<b>80.86%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>139,593.00</b>	<b>11,514.92</b>	<b>112,654.07</b>	<b>26,938.93</b>	<b>80.70%</b>
<b>NET INCOME (LOSS):</b>	<b>(139,593.00)</b>	<b>(11,514.92)</b>	<b>(112,654.07)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>SECTIONS ADMINISTRATION</b>					
<b>REVENUE:</b>					
REIMBURSEMENTS FROM SECTIONS	300,000.00	825.00	286,893.75	13,106.25	95.63%
<b>TOTAL REVENUE:</b>	<b>300,000.00</b>	<b>825.00</b>	<b>286,893.75</b>	<b>13,106.25</b>	<b>95.63%</b>
<b>DIRECT EXPENSES:</b>					
STAFF TRAVEL/PARKING	1,200.00	-	285.03	914.97	23.75%
SUBSCRIPTIONS	410.00	-	409.57	0.43	99.90%
CONFERENCE CALLS	300.00	3.88	43.59	256.41	14.53%
MISCELLANEOUS	300.00	-	-	300.00	0.00%
SECTION/COMMITTEE CHAIR MTGS	1,000.00	-	344.39	655.61	34.44%
DUES STATEMENTS	6,000.00	-	5,788.00	212.00	96.47%
STAFF MEMBERSHIP DUES	125.00	-	-	125.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>9,335.00</b>	<b>3.88</b>	<b>6,870.58</b>	<b>2,464.42</b>	<b>73.60%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (4.24 FTE)	161,026.00	13,737.72	172,494.40	(11,468.40)	107.12%
BENEFITS EXPENSE	69,763.00	7,960.57	79,057.56	(9,294.56)	113.32%
OTHER INDIRECT EXPENSE	116,557.00	14,155.75	102,096.26	14,460.74	87.59%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>347,346.00</b>	<b>35,854.04</b>	<b>353,648.22</b>	<b>(6,302.22)</b>	<b>101.81%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>356,681.00</b>	<b>35,857.92</b>	<b>360,518.80</b>	<b>(3,837.80)</b>	<b>101.08%</b>
<b>NET INCOME (LOSS):</b>	<b>(56,681.00)</b>	<b>(35,032.92)</b>	<b>(73,625.05)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>TECHNOLOGY</b>					
<b>REVENUE:</b>					
<b>TOTAL REVENUE:</b>	-	-	-	-	
<b>DIRECT EXPENSES:</b>					
CONSULTING SERVICES	110,000.00	8,836.00	78,112.67	31,887.33	71.01%
STAFF TRAVEL/PARKING	2,500.00	-	726.39	1,773.61	29.06%
STAFF MEMBERSHIP DUES	180.00	-	90.00	90.00	50.00%
TELEPHONE	24,000.00	3,073.13	18,159.10	5,840.90	75.66%
COMPUTER HARDWARE	38,000.00	-	38,959.51	(959.51)	102.53%
COMPUTER SOFTWARE	29,000.00	-	26,385.65	2,614.35	90.99%
HARDWARE SERVICE & WARRANTIES	55,000.00	5,690.41	38,359.60	16,640.40	69.74%
SOFTWARE MAINTENANCE & LICENSING	320,000.00	5,639.88	243,971.78	76,028.22	76.24%
TELEPHONE HARDWARE & MAINTENANCE	7,000.00	-	4,326.90	2,673.10	61.81%
COMPUTER SUPPLIES	10,000.00	51.73	4,593.82	5,406.18	45.94%
THIRD PARTY SERVICES	177,000.00	3,615.99	184,828.91	(7,828.91)	104.42%
TRANSFER TO INDIRECT EXPENSES	(772,680.00)	(26,907.14)	(638,514.33)	(134,165.67)	82.64%
<b>TOTAL DIRECT EXPENSES:</b>	-	-	-	-	
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (12.10 FTE)	1,063,911.00	78,428.32	913,651.55	150,259.45	85.88%
BENEFITS EXPENSE	380,432.00	28,525.34	297,757.01	82,674.99	78.27%
CAPITAL LABOR & OVERHEAD	(51,000.00)	31,780.00	-	(51,000.00)	0.00%
OTHER INDIRECT EXPENSE	332,628.00	40,444.86	291,703.10	40,924.90	87.70%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>1,725,971.00</b>	<b>179,178.52</b>	<b>1,503,111.66</b>	<b>222,859.34</b>	<b>87.09%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>1,725,971.00</b>	<b>179,178.52</b>	<b>1,503,111.66</b>	<b>222,859.34</b>	<b>87.09%</b>
<b>NET INCOME (LOSS):</b>	<b>(1,725,971.00)</b>	<b>(179,178.52)</b>	<b>(1,503,111.66)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>CONTINUING LEGAL EDUCATION (CLE)</b>					
<b>REVENUE:</b>					
SEMINAR REGISTRATIONS	875,328.50	37,187.75	500,098.97	375,229.53	57.13%
SEMINAR-EXHIB/SPNSR/ETC	29,000.00	-	7,000.00	22,000.00	24.14%
SHIPPING & HANDLING	1,000.00	18.00	312.15	687.85	31.22%
COURSEBOOK SALES	9,000.00	355.00	4,783.00	4,217.00	53.14%
MP3 AND VIDEO SALES	878,750.00	127,085.02	734,840.57	143,909.43	83.62%
<b>TOTAL REVENUE:</b>	<b>1,793,078.50</b>	<b>164,645.77</b>	<b>1,247,034.69</b>	<b>546,043.81</b>	<b>69.55%</b>
<b>DIRECT EXPENSES:</b>					
COURSEBOOK PRODUCTION	3,000.00	-	169.31	2,830.69	5.64%
POSTAGE - FLIERS/CATALOGS	15,500.00	-	4,358.44	11,141.56	28.12%
POSTAGE - MISC./DELIVERY	1,000.00	-	332.64	667.36	33.26%
DEPRECIATION	5,820.00	485.00	4,850.00	970.00	83.33%
ONLINE EXPENSES	48,000.00	4,048.31	41,886.55	6,113.45	87.26%
ACCREDITATION FEES	3,000.00	(48.00)	2,684.00	316.00	89.47%
SEMINAR BROCHURES	21,000.00	-	6,336.70	14,663.30	30.17%
FACILITIES	232,357.35	700.00	54,350.96	178,006.39	23.39%
SPEAKERS & PROGRAM DEVELOP	62,000.00	89.02	6,971.65	55,028.35	11.24%
SPLITS TO SECTIONS	100,100.00	-	(806.60)	100,906.60	-0.81%
CLE SEMINAR COMMITTEE	250.00	-	30.19	219.81	12.08%
BAD DEBT EXPENSE	600.00	-	1,241.00	(641.00)	206.83%
STAFF TRAVEL/PARKING	6,000.00	-	529.31	5,470.69	8.82%
STAFF MEMBERSHIP DUES	1,470.00	-	1,175.00	295.00	79.93%
SUPPLIES	2,000.00	-	378.39	1,621.61	18.92%
CONFERENCE CALLS	25.00	-	8.99	16.01	35.96%
COST OF SALES - COURSEBOOKS	250.00	42.87	425.69	(175.69)	170.28%
A/V DEVELOP COSTS (RECORDING)	1,500.00	-	-	1,500.00	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	500.00	-	363.45	136.55	72.69%
STAFF TRAVEL/PARKING	2,000.00	-	96.91	1,903.09	4.85%
<b>TOTAL DIRECT EXPENSES:</b>	<b>506,372.35</b>	<b>5,317.20</b>	<b>125,382.58</b>	<b>380,989.77</b>	<b>24.76%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (9.31 FTE)	587,641.00	52,570.30	526,353.56	61,287.44	89.57%
BENEFITS EXPENSE	250,427.00	16,774.05	193,492.76	56,934.24	77.27%
OTHER INDIRECT EXPENSE	255,931.00	31,133.17	224,543.55	31,387.45	87.74%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>1,093,999.00</b>	<b>100,477.52</b>	<b>944,389.87</b>	<b>149,609.13</b>	<b>86.32%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>1,600,371.35</b>	<b>105,794.72</b>	<b>1,069,772.45</b>	<b>530,598.90</b>	<b>66.85%</b>
<b>NET INCOME (LOSS):</b>	<b>192,707.15</b>	<b>58,851.05</b>	<b>177,262.24</b>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>DESKBOOKS</b>					
<b>REVENUE:</b>					
SHIPPING & HANDLING	3,000.00	873.00	3,872.85	(872.85)	129.10%
DESKBOOK SALES	110,000.00	43,233.55	84,604.15	25,395.85	76.91%
SECTION PUBLICATION SALES	3,000.00	1,502.66	16,616.40	(13,616.40)	553.88%
CASEMAKER ROYALTIES	60,000.00	8,086.45	40,207.81	19,792.19	67.01%
<b>TOTAL REVENUE:</b>	<b>176,000.00</b>	<b>53,695.66</b>	<b>145,301.21</b>	<b>30,698.79</b>	<b>82.56%</b>
<b>DIRECT EXPENSES:</b>					
COST OF SALES - DESKBOOKS	75,000.00	32,832.69	52,103.83	22,896.17	69.47%
COST OF SALES - SECTION PUBLICATION	750.00	485.10	5,490.90	(4,740.90)	732.12%
SPLITS TO SECTIONS	1,000.00	-	456.02	543.98	45.60%
DESKBOOK ROYALTIES	1,000.00	-	758.49	241.51	75.85%
POSTAGE & DELIVER-DESKBOOKS	3,000.00	1,195.77	4,555.57	(1,555.57)	151.85%
FLIERS/CATALOGS	3,000.00	2,225.11	2,225.11	774.89	74.17%
ONLINE LEGAL RESEARCH	1,837.50	-	1,042.79	794.71	56.75%
POSTAGE - FLIERS/CATALOGS	1,500.00	990.83	990.83	509.17	66.06%
COMPLIMENTARY BOOK PROGRAM	2,500.00	957.50	1,848.14	651.86	73.93%
OBSOLETE INVENTORY	850.00	70.30	653.38	196.62	76.87%
BAD DEBT EXPENSE	100.00	-	-	100.00	0.00%
RECORDS STORAGE - OFF SITE	8,100.00	675.00	7,425.00	675.00	91.67%
STAFF MEMBERSHIP DUES	220.00	-	30.00	190.00	13.64%
SUBSCRIPTIONS	185.00	-	-	185.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>99,042.50</b>	<b>39,432.30</b>	<b>77,580.06</b>	<b>21,462.44</b>	<b>78.33%</b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (2.25 FTE)	110,788.00	8,916.96	92,153.58	18,634.42	83.18%
BENEFITS EXPENSE	43,885.00	3,885.52	38,993.52	4,891.48	88.85%
OTHER INDIRECT EXPENSE	61,852.00	7,524.64	54,270.29	7,581.71	87.74%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>216,525.00</b>	<b>20,327.12</b>	<b>185,417.39</b>	<b>31,107.61</b>	<b>85.63%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>315,567.50</b>	<b>59,759.42</b>	<b>262,997.45</b>	<b>52,570.05</b>	<b>83.34%</b>
<b>NET INCOME (LOSS):</b>	<b>(139,567.50)</b>	<b>(6,063.76)</b>	<b>(117,696.24)</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>CLIENT PROTECTION FUND</b>					
<b>REVENUE:</b>					
CPF RESTITUTION	4,000.00	1,132.61	12,768.06	(8,768.06)	319.20%
CPF MEMBER ASSESSMENTS	1,000,000.00	11,160.00	1,036,890.00	(36,890.00)	103.69%
INTEREST INCOME	20,000.00	1,116.48	46,085.06	(26,085.06)	230.43%
<b>TOTAL REVENUE:</b>	<b><u>1,024,000.00</u></b>	<b><u>13,409.09</u></b>	<b><u>1,095,743.12</u></b>	<b><u>(71,743.12)</u></b>	<b><u>107.01%</u></b>
<b>DIRECT EXPENSES:</b>					
BANK FEES - WELLS FARGO	1,000.00	193.42	1,962.94	(962.94)	196.29%
GIFTS TO INJURED CLIENTS	500,000.00	11,750.00	70,092.53	429,907.47	14.02%
CPF BOARD EXPENSES	1,200.00	-	1,213.10	(13.10)	101.09%
STAFF MEMBERSHIP DUES	200.00	-	-	200.00	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b><u>502,400.00</u></b>	<b><u>11,943.42</u></b>	<b><u>73,268.57</u></b>	<b><u>429,131.43</u></b>	<b><u>14.58%</u></b>
<b>INDIRECT EXPENSES:</b>					
SALARY EXPENSE (1.18 FTE)	79,880.00	6,656.66	67,673.25	12,206.75	84.72%
BENEFITS EXPENSE	27,593.00	2,084.91	23,746.63	3,846.37	86.06%
OTHER INDIRECT EXPENSE	32,438.00	3,950.45	28,492.04	3,945.96	87.84%
<b>TOTAL INDIRECT EXPENSES:</b>	<b><u>139,911.00</u></b>	<b><u>12,692.02</u></b>	<b><u>119,911.92</u></b>	<b><u>19,999.08</u></b>	<b><u>85.71%</u></b>
<b>TOTAL ALL EXPENSES:</b>	<b><u>642,311.00</u></b>	<b><u>24,635.44</u></b>	<b><u>193,180.49</u></b>	<b><u>449,130.51</u></b>	<b><u>30.08%</u></b>
<b>NET INCOME (LOSS):</b>	<b><u>381,689.00</u></b>	<b><u>(11,226.35)</u></b>	<b><u>902,562.63</u></b>		



# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	<b>FISCAL 2020 REFORECAST</b>	<b>CURRENT MONTH</b>	<b>YEAR TO DATE</b>	<b>REMAINING BALANCE</b>	<b>% USED OF BUDGET</b>
<b>COVID 19</b>					
<b>REVENUE:</b>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<b>TOTAL REVENUE:</b>	<u>                    -</u>	<u>                    -</u>	<u>                    -</u>	<u>                    -</u>	<u>                    </u>
<b>DIRECT EXPENSES:</b>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
COVID 19	25,000.00	4,053.11	13,266.60	11,733.40	53.07%
<b>TOTAL DIRECT EXPENSES:</b>	<u>25,000.00</u>	<u>4,053.11</u>	<u>13,266.60</u>	<u>11,733.40</u>	<u>53.07%</u>
<b>INDIRECT EXPENSES:</b>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<b>TOTAL INDIRECT EXPENSES:</b>	<u>                    -</u>	<u>                    -</u>	<u>                    -</u>	<u>                    -</u>	<u>                    </u>
<b>TOTAL ALL EXPENSES:</b>	<u>25,000.00</u>	<u>4,053.11</u>	<u>13,266.60</u>	<u>11,733.40</u>	<u>53.07%</u>
<b>NET INCOME (LOSS):</b>	<u>(25,000.00)</u>	<u>(4,053.11)</u>	<u>(13,266.60)</u>		

# Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	<b>FISCAL 2020 REFORECAST</b>	<b>CURRENT MONTH</b>	<b>YEAR TO DATE</b>	<b>REMAINING BALANCE</b>	<b>% USED OF BUDGET</b>
<b>SECTIONS OPERATIONS</b>					
<b>REVENUE:</b>					
SECTION DUES	454,005.00	1,315.00	435,757.59	18,247.41	95.98%
SEMINAR PROFIT SHARE	94,118.73	-	78,319.92	15,798.81	83.21%
INTEREST INCOME	2,320.00	-	-	2,320.00	0.00%
PUBLICATIONS REVENUE	10,000.00	-	2,603.82	7,396.18	26.04%
OTHER	46,100.00	2,855.00	24,348.31	21,751.69	52.82%
<b>TOTAL REVENUE:</b>	<b>606,543.73</b>	<b>4,170.00</b>	<b>541,029.64</b>	<b>65,514.09</b>	<b>89.20%</b>
<b>DIRECT EXPENSES:</b>					
DIRECT EXPENSES OF SECTION ACTIVITIES	562,340.00	5,597.16	140,807.89	421,532.11	25.04%
REIMBURSEMENT TO WSBA FOR INDIRECT EXPENSES	298,443.75	825.00	286,893.75	11,550.00	96.13%
<b>TOTAL DIRECT EXPENSES:</b>	<b>860,783.75</b>	<b>6,422.16</b>	<b>427,701.64</b>	<b>433,082.11</b>	<b>49.69%</b>
<b>NET INCOME (LOSS):</b>	<b>(254,240.02)</b>	<b>(2,252.16)</b>	<b>113,328.00</b>		

## Washington State Bar Association

Statement of Activities

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**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
<b>INDIRECT EXPENSES:</b>					
SALARIES	11,648,994.00	941,529.99	9,689,857.43	1,959,136.57	83.18%
ALLOWANCE FOR OPEN POSITIONS	(212,871.50)	-	-	(212,871.50)	0.00%
TEMPORARY SALARIES	245,029.00	6,932.00	228,817.81	16,211.19	93.38%
CAPITAL LABOR & OVERHEAD	(51,000.00)	31,780.00	-	(51,000.00)	0.00%
EMPLOYEE ASSISTANCE PLAN	5,289.60	-	3,600.00	1,689.60	68.06%
EMPLOYEE SERVICE AWARDS	2,800.00	-	1,834.95	965.05	65.53%
FICA (EMPLOYER PORTION)	892,585.09	71,236.53	701,556.19	191,028.90	78.60%
L&I INSURANCE	49,500.00	-	31,124.41	18,375.59	62.88%
WA STATE FAMILY MEDICAL LEAVE (EMPLOYER)	17,500.00	1,392.00	13,623.71	3,876.29	77.85%
MEDICAL (EMPLOYER PORTION)	1,580,000.00	121,668.57	1,215,476.72	364,523.28	76.93%
RETIREMENT (EMPLOYER PORTION)	1,499,603.60	116,605.12	1,195,554.14	304,049.46	79.72%
TRANSPORTATION ALLOWANCE	115,000.00	(430.00)	105,205.00	9,795.00	91.48%
UNEMPLOYMENT INSURANCE	84,500.00	5,423.14	61,754.85	22,745.15	73.08%
STAFF DEVELOPMENT-GENERAL	6,900.00	-	1,375.19	5,524.81	19.93%
<b>TOTAL SALARY &amp; BENEFITS EXPENSE:</b>	<b>15,883,829.79</b>	<b>1,296,137.35</b>	<b>13,249,780.40</b>	<b>2,634,049.39</b>	<b>83.42%</b>
WORKPLACE BENEFITS	39,000.00	357.41	14,849.02	24,150.98	38.07%
HUMAN RESOURCES POOLED EXP	161,774.10	17,516.80	58,763.12	103,010.98	36.32%
MEETING SUPPORT EXPENSES	15,000.00	54.94	7,169.14	7,830.86	47.79%
RENT	1,925,000.00	153,841.69	1,633,570.38	291,429.62	84.86%
PERSONAL PROP TAXES-WSBA	7,983.96	586.83	6,810.33	1,173.63	85.30%
FURNITURE, MAINT, LH IMP	29,798.47	373.24	14,518.30	15,280.17	48.72%
OFFICE SUPPLIES & EQUIPMENT	45,000.00	4,535.57	28,836.13	16,163.87	64.08%
FURN & OFFICE EQUIP DEPRECIATION	53,000.00	4,284.00	42,830.00	10,170.00	80.81%
COMPUTER HARDWARE DEPRECIATION	46,436.20	3,180.00	36,095.54	10,340.66	77.73%
COMPUTER SOFTWARE DEPRECIATION	153,866.67	15,957.00	111,518.00	42,348.67	72.48%
INSURANCE	194,743.42	17,406.94	175,462.90	19,280.52	90.10%
PROFESSIONAL FEES-AUDIT	81,000.00	-	82,116.30	(1,116.30)	101.38%
PROFESSIONAL FEES-LEGAL	100,000.00	218,572.54	396,125.47	(296,125.47)	396.13%
TELEPHONE & INTERNET	47,000.00	3,695.01	36,703.82	10,296.18	78.09%
POSTAGE - GENERAL	28,070.69	537.90	15,738.14	12,332.55	56.07%
RECORDS STORAGE	42,000.00	15.50	26,977.41	15,022.59	64.23%
STAFF TRAINING	81,400.16	932.80	24,243.88	57,156.28	29.78%
BANK FEES	34,000.00	2,374.05	32,067.78	1,932.22	94.32%
PRODUCTION MAINTENANCE & SUPPLIES	12,000.00	(744.93)	7,708.11	4,291.89	64.23%
COMPUTER POOLED EXPENSES	772,680.00	26,907.14	638,514.33	134,165.67	82.64%
<b>TOTAL OTHER INDIRECT EXPENSES:</b>	<b>3,869,753.67</b>	<b>470,384.43</b>	<b>3,390,618.10</b>	<b>479,135.57</b>	<b>87.62%</b>
<b>TOTAL INDIRECT EXPENSES:</b>	<b>19,753,583.46</b>	<b>1,766,521.78</b>	<b>16,640,398.50</b>		

## Washington State Bar Association

Statement of Activities

For the Period from July 1, 2020 to July 31, 2020

**83.33% OF YEAR COMPLETE**

	FISCAL 2020 REFORECAST	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE
<b>SUMMARY PAGE</b>				
LICENSE FEES	16,317,618.00	1,376,431.48	13,797,216.49	2,520,401.51
ACCESS TO JUSTICE	(358,804.00)	(22,138.64)	(225,736.35)	(133,067.65)
ADMINISTRATION	(1,058,104.00)	(88,090.96)	(811,151.18)	(246,952.82)
ADMISSIONS/BAR EXAM	92,362.21	(84,001.71)	226,639.86	(134,277.65)
BOARD OF GOVERNORS	(548,510.00)	(11,179.41)	(251,998.20)	(296,511.80)
COMMUNICATIONS	(613,602.98)	(47,366.65)	(474,993.39)	(138,609.59)
CONFERENCE & BROADCAST SERVICES	(772,124.00)	(67,208.50)	(653,245.50)	(118,878.50)
DISCIPLINE	(5,874,215.60)	(493,761.62)	(4,890,518.72)	(983,696.88)
DIVERSITY	(265,392.00)	(39,537.72)	(231,827.12)	(33,564.88)
FOUNDATION	(142,703.00)	(12,366.60)	(118,025.59)	(24,677.41)
HUMAN RESOURCES	(207,109.50)	(50,334.79)	(352,295.29)	145,185.79
LAP	(128,221.00)	(15,128.51)	(111,141.79)	(17,079.21)
LEGISLATIVE	(181,506.00)	(12,781.84)	(137,092.31)	(44,413.69)
LICENSING AND MEMBERSHIP	(268,976.10)	(30,976.52)	(266,395.89)	(2,580.21)
LIMITED LICENSE LEGAL TECHNICIAN	(194,729.84)	(15,296.44)	(140,623.45)	(54,106.39)
LIMITED PRACTICE OFFICERS	38,755.10	1,243.98	40,981.09	(2,225.99)
MANDATORY CLE ADMINISTRATION	6,230.50	9,594.44	148,933.51	(142,703.01)
MEMBER BENEFITS	(283,739.00)	(14,111.61)	(252,199.12)	(31,539.88)
MEMBER SERVICES & ENGAGEMENT	(461,627.00)	(38,292.26)	(371,468.58)	(90,158.42)
NW LAWYER	(251,883.14)	(22,090.37)	(195,000.93)	(56,882.21)
OFFICE OF THE EXECUTIVE DIRECTOR	(552,900.00)	(51,740.85)	(415,489.90)	(137,410.10)
OFFICE OF GENERAL COUNSEL	(805,706.46)	(78,968.39)	(704,590.21)	(101,116.25)
OGC-DISCIPLINARY BOARD	(451,510.00)	(16,728.78)	(222,283.04)	(229,226.96)
OUTREACH & ENGAGEMENT	(383,588.00)	(30,989.11)	(304,325.16)	(79,262.84)
PRACTICE OF LAW BOARD	(75,624.00)	(5,735.65)	(55,810.19)	(19,813.81)
PROFESSIONAL RESPONSIBILITY PROGRAM	(267,313.00)	(22,727.99)	(221,823.70)	(45,489.30)
PUBLICATION & DESIGN SERVICES	(139,593.00)	(11,514.92)	(112,654.07)	(26,938.93)
PUBLIC SERVICE PROGRAMS	(284,785.98)	(65,144.61)	(160,613.15)	(124,172.83)
LAW CLERK PROGRAM	11,514.00	(13,567.40)	37,884.90	(26,370.90)
SECTIONS ADMINISTRATION	(56,681.00)	(35,032.92)	(73,625.05)	16,944.05
TECHNOLOGY	(1,725,971.00)	(179,178.52)	(1,503,111.66)	(222,859.34)
CLE - PRODUCTS	638,439.00	106,573.24	541,217.87	97,221.13
CLE - SEMINARS	(445,731.85)	(47,722.19)	(363,955.63)	(81,776.22)
COVID 19	(25,000.00)	(4,053.11)	(13,266.60)	(11,733.40)
SECTIONS OPERATIONS	(254,240.02)	(2,252.16)	113,328.00	(367,568.02)
DESKBOOKS	(139,567.50)	(6,063.76)	(117,696.24)	(21,871.26)
CLIENT PROTECTION FUND	381,689.00	(11,226.35)	902,562.63	(520,873.63)
INDIRECT EXPENSES	(19,753,583.46)	(1,766,521.78)	(16,640,398.50)	(3,113,184.96)
<b>TOTAL OF ALL</b>	<b><u>19,486,434.62</u></b>	<b><u>1,919,989.50</u></b>	<b><u>14,584,592.16</u></b>	<b><u>4,901,842.46</u></b>
<b>NET INCOME (LOSS)</b>	<b><u>267,148.84</u></b>	<b><u>(153,467.72)</u></b>	<b><u>2,055,806.34</u></b>	

**Washington State Bar Association  
Analysis of Cash Investments  
As of July 30,2020**

**Checking & Savings Accounts**

**General Fund**

**Checking**

<b><u>Bank</u></b>	<b><u>Account</u></b>		<b><u>Amount</u></b>
Wells Fargo	General	\$	<u>112,056</u>

Total

<b><u>Investments</u></b>	<b><u>Rate</u></b>		<b><u>Amount</u></b>
Wells Fargo Money Market	0.19%	\$	8,273,582
UBS Financial Money Market	0.14%	\$	1,081,183
Morgan Stanley Money Market	0.12%	\$	3,353,099
Merrill Lynch Money Market	0.30%	\$	1,982,456

**General Fund Total**    \$    **14,802,377**

**Client Protection Fund**

**Checking**

<b><u>Bank</u></b>			<b><u>Amount</u></b>
Wells Fargo		\$	655,303

<b><u>Investments</u></b>	<b><u>Rate</u></b>		<b><u>Amount</u></b>
Wells Fargo Money Market	0.19%	\$	4,105,750
Morgan Stanley Money Market	0.01%	\$	106,901

**Client Protection Fund Total**    \$    **4,867,953**

**Grand Total Cash & Investments**    \$    **19,670,330**