

WASHINGTON STATE
BAR ASSOCIATION

BOARD OF GOVERNORS MEETING

MARCH 7-8, 2024

Meeting Materials

Gonzaga School of Law
Spokane, WA
Zoom and Teleconference



**Board of Governors Meeting
Gonzaga University School of Law, Spokane, WA
March 7-8, 2024 – Honoring Our County Bar Associations**

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

ALL ITEMS ON THIS AGENDA ARE POTENTIAL ACTION ITEMS

To participate by Zoom or Teleconference:

Thursday, March 7th : Meeting ID: 864 7934 3916 Passcode: 041198

<https://wsba.zoom.us/j/86479343916?pwd=NL3JZvU1hx9cyzsl8SrzaMIALEyI1Q.IEDhVWUZYZWb2XK7>

Friday, March 8th : Meeting ID: 850 7265 0432 Passcode: 831589

<https://wsba.zoom.us/j/85072650432?pwd=0J3RfrUSiXKEpqieF6woO6XiVd5NqW.3R0a1GxIwK2ZB0rX>

To participate by phone, call +1 253-205-0468

THURSDAY, MARCH 7, 2024

9:00 AM – CALL TO ORDER & WELCOME

WELCOME & CALL TO ORDER

MEMBER & PUBLIC COMMENT

MEMBER AND PUBLIC COMMENTS

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.

CONSENT CALENDAR

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*.

- Approve January 11-12, 2024, Board of Governors meeting minutes 5
- Approve Presidential Appointments to the Member Status Workgroup 11
- Approve Presidential Appointments to the Member Well-Being Task Force 21
- Approve the Awards Award Eligibility Policy 54

STANDING REPORTS

- PRESIDENT’S REPORT**
- EXECUTIVE DIRECTOR’S REPORT** 70
 - Filling District 1 Position on Board
 - Update on Recommendations of the Bar Licensure Task Force

BUDGET RETREAT

- BUDGET RETREAT**, Treas. Francis Adewale and Director of Finance Tiffany Lynch 118

AGENDA ITEMS & UNFINISHED BUSINESS

- PROPOSED COMMENTS FROM COURT RULES & PROCEDURES COMMITTEE TO PROPOSED AMENDMENTS TO CR 28 AND CR 30**, Chair Michael Chait 136

11:45 AM – 1:15 PM – RECESS FOR LOCAL HEROES LUNCHEON

- PROPOSED AMENDMENTS TO DIVERSITY, EQUITY, AND INCLUSION COUNCIL CHARTER**, Co-Chair Sunitha Anjilvel and Co-Chair Raina Wagner 140
- APPROVE LEGAL TECHNOLOGY TASK FORCE CHARTER**, Member Engagement Council Co-Chairs Francis Adewale and Mathew Dresden, District 2 Gov. Kari Petrasek, Director of Advancement Kevin Plachy, and Practice Management Advisor Margeaux Green
 - Approve Charter..... 146
 - Appoint Task Force Chair 154

LAW STUDENT PANEL

- GONZAGA LAW STUDENT PANEL**, Gonzaga Student Bar Association

EXECUTIVE SESSION

- WSBA FACILITIES**
- RECEIPT OF LEGAL RISK ANALYSIS BY GENERAL COUNSEL**

AGENDA ITEMS & UNFINISHED BUSINESS

- DIVERSITY EQUITY AND INCLUSION COUNCIL REQUEST TO SEEK INFORMATION ABOUT RECENT ENFORCEMENT ACTIONS AGAINST LGBTQ+ ESTABLISHMENTS**..... 422

4:00 PM – RECESS

FRIDAY, MARCH 8, 2024

9:00 AM – RESUME MEETING

AGENDA ITEMS & UNFINISHED BUSINESS

- COUNCIL ON PUBLIC DEFENSE PROPOSED REVISED STANDARDS FOR INDIGENT DEFENSE AND CASELOAD LIMITS**, Chair Jason Schwarz and Standards Subcommittee Chair Bob Boruchowitz 243, 428
- PROPOSED CHANGES TO APR, ELC AND BYLAWS RE RESIDENT AGENT REQUIREMENT**, Chief Regulatory Counsel Renata Garcia and Associate Director of Regulatory Services Bobby Henry 163
- PUBLIC ENGAGEMENT PLAN**, Gov. Brent Williams-Ruth and Chief Communications Officer Sara Niegowski..... 430

12:00 PM – 1:00 PM – RECESS FOR LUNCH WITH COUNTY BAR REPRESENTATIVES

LOCAL BAR ASSOCIATION PANEL

- COUNTY BAR ASSOCIATIONS PANEL**, Spokane County Bar President Emily Arneson, Mason County Bar President Daniel Berner, Yakima County Bar Vice President James Boyer, Snohomish County Bar President Michael Chin, San Juan County Bar President Carla Higginson, Lincoln County Bar President Rusty McGuire, Kitsap County Bar President Laura Yelish

GOVERNOR ROUNDTABLE

- GOVERNOR ROUNDTABLE**

MEETING FEEDBACK

- MEETING FEEDBACK**

2:30 PM – ADJOURN

INFORMATION

- Washington State Bar Foundation Treasurer’s Report 176
- Monthly Financial Reports, Unaudited 182
- General Information 227

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING MINUTES

Seattle, WA

January 12-13, 2024

Call to Order and Welcome ([link](#))

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Hunter Abell on Thursday, January 12 at 9:07 AM. Governors in attendance were:

Francis Adewale
Tom Ahearne
Sunitha Anjilvel
Todd Bloom
Jordan Couch
Matthew Dresden
Kevin Fay
Kristina Larry
Kari Petrasek
Nam Nguyen
Mary Rathbone
Serena Sayani
Brent Williams-Ruth
Allison Widney

Also in attendance were Deputy Executive Director Dua Abudiab, Clarence Belnavis, Justin Bingham, Esperanza Borboa, Citalli Briseño, Executive Administrator Shelly Bynum, Michael Cherry, Mike Chin, Immediate Past-President Dan Clark, Judge Samuel Chung, Quinn Dalan, IT Director Jon Dawson, Chief Disciplinary Counsel Doug Ende, Volunteer Engagement Advisor Paris Eriksen, Gary Epperley, Chief Regulatory Counsel Renata Garcia, Miryam Gordon, Family Law Section Liaison Nancy Hawkins, Human Resources Director and Chief Culture Officer Glynnis Klinefelter Sio, Nicholas Larson, Director of Finance Tiffany Lynch, James Macpherson, Dallas Martinez, Matthew Morissey, Executive Director Terra Nevitt, Chief Communications Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Sophia Palmer, Director of Advancement Kevin Plachy, Terry Price, Mercedes Riggs, Member Wellness Clinical & Outreach Lead Adely Ruiz, Sharon Sakamoto, Equity and Justice Lead Saleena Salango, Andrea Saunders, Assistant General Counsel Catherine Schur, General Counsel Julie Shankland, Chief Equity and Justice Officer Diana Singleton, Alec Stephens, Equity and Justice Lead Bonnie Sterken, Member Services and Engagement Manager Julianne Unite, Raina Wagner, and A. Yanasak

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

Nancy Hawkins shared the feedback she provided to Pres. Abell and Executive Director Nevitt about her concerns with having speakers outside of the Board meetings.

Consent Calendar ([link](#))

Pres. Abell asked if anyone wished to remove an item from the consent calendar. Gov. Petrasek moved for approval. There was no discussion. Motion passed unanimously. Govs. Couch, Rathbone, Widney and Williams-Ruth were not present for the vote.

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

Pres. Abell shared the meeting theme, Honoring Minority Bar Associations and reported that the in-person events scheduled for this meeting will have to be rescheduled since the meeting was moved to an all-virtual format due to inclement weather. President Abell also provided an update on his activities engaging the public and building understanding and trust in the legal profession and rule of law, as well as his engagement with bar presidents in Texas and Michigan relating to the University of Washington's football team and its championship bid.

Executive Director's Report ([link](#))

Executive Director Nevitt referred to her written report.

Revisions to WSBA Fiscal Policies ([link](#))

Treasurer Adewale provided an overview of the two fiscal policy revisions being recommended, which would 1) increase the allowed reimbursement amount for gratuity for ground transportation and 2) revise the reporting process when the Executive Director reallocates budget funds. Director Lynch provided additional detail. Gov. Fay motioned to approve the policy changes as presented. Motion passed unanimously. Govs. Couch, Rathbone, Widney and Williams-Ruth were not present for the vote.

Access to Justice Board Annual Report ([link](#))

Members of the Access to Justice Board reported on major initiatives and accomplishments of the past year, including that they have been focused on the centering of community voices and making sure that people with lived experiences are represented on the board and in decision-making processes. Discussion followed about which communities and people they provide outreach to and how the Board of Governors can support their work, including by establishing a loan repayment program for recent law-school grads who go to rural areas to work; providing compensation to community members who serve on WSBA entities; and adding a community member or "non-lawyer" to the Board of Governors.

Superior Court Judges Association Presentation ([link](#))

Superior Court Judges Association President Judge Samuel Chung provided a brief overview of the association and answered questions from the Board. Concerns of the Judges Association raised during discussion included retention, recruitment, and qualifications of judges and lack of resources and staff. Discussion followed about how the Board of Governors can support their work, including by standing up for judges when being unfairly maligned and working with the association to support its legislative proposals.

Discussion with MBA Leaders Regarding BOG Updates and New DEI Plan ([link](#))

DEI Council Co-Chair Gov. Anjilvel introduced the DEI Plan Workgroup project and its co-chairs. Co-chairs Sharon Sakamoto and Miryam Gordon presented background information and the plan to refresh the WSBA's Diversity Plan, which was originally created in 2013 with the understanding it would be updated every 10 years. Discussion followed regarding plan accountability, widespread inclusion, and how to solicit feedback and input. The co-chairs asked the Board to think about the DEI plan, process, and final product and to contact them with comments and feedback. They specifically asked the Board to consider what "diversity, equity and inclusion" means to them, and why is it important.

Annual Harassment Training ([link](#))

Clarence Belnavis from Fisher Phillips provided anti-harassment training.

Approve Member Wellness Task Force Charter ([link](#))

Director Plachy provided background information about the proposed task force, including the Board of Governors' action to adopt member wellness as a strategic priority in November 2023. Gov. Dresden spoke about the strength of candidate Justin Bingham to serve as chair of the proposed task force. Gov. Adewale spoke about the roots and importance of the initiative. Gov. Adewale moved to approve the task force charter. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.

Gov. Adewale made a motion to accept the President's appointment of Task Force Chair Justin Bingham. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.

Creation of Member Status Workgroup ([link](#))

Chief Regulatory Counsel Renata de Carvalho Garcia explained why this workgroup is being recommended and its proposed scope of work. The workgroup's main task will be to evaluate the license status options currently available to WSBA members who are retiring from the practice of law or otherwise leaving the legal profession and to propose revisions or alternatives. Discussion followed about workgroup membership.

Gov. Adewale moved to amend the charter as presented to add an at-large position reserved for someone who identifies as a senior lawyer/member who has been shown to be in favor of adding a retirement status or alternative. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.

Gov. Adewale moved to adopt the charter as amended. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.

Gov. Adewale moved to accept President Abell's appointment of Gov. Petrasek as chair of the workgroup. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.

Discussion of Bar Licensure Task Force Draft Recommendations ([Part 1 link](#)) ([Part 2 link](#))

President Abell asked to step down from chairing the discussion so he could participate. President-Elect Anjilvel declined to accept the chairmanship as she wanted to retain her vote. Treas. Adewale agreed to chair the discussion.

Gov. Couch moved to permit the Law Clerk Board and DEI Council to send their comments about the task force recommendations to the Task Force and to the Court. Discussion followed, including that some Governors disagreed with the comments, agreement that the Court and Task Force should receive the comments, and whether the entities need permission to submit comments. Motion passed unanimously.

Gov. Couch moved that the Board issue a statement to the Supreme Court in support of task force's draft recommendations, including a statement that the Bar Licensure Task Force ensure the recommendations are carried out in a way that is equitable to those that have already completed the requirements of the APR 6 Law Clerk Program. Gov. Williams-Ruth commented that Gov. Couch's motion was out of order because it would conflict with an existing board resolution in favor of maintaining the bar exam. Gov. Couch sought to amend his motion to include retraction of the previous resolution. General Counsel Shankland read from Roberts Rules of Order to guide the process for how to alter prior board action. Gov. Couch agreed to bifurcate his motion.

Discussion followed about how the proposals would protect the public and overcome systemic problems with the bar exam; whether the Board has sufficient information to make decisions about the task force's recommendations; and whether the board would need to rescind its previous resolution in order to make a comment on the task force's draft reports.

Gov. Couch restated his motion to rescind the prior resolution adopted by the Board of Governors in 2021. Motion passed 8-5.

Gov. Couch restated his motion for the Board of Governors to issue a statement in support of the task force's draft recommendations. Motion passed 8-5.

Governor Roundtable ([link](#))

Gov. Williams-Ruth sought board member interest in having a conversation about the incongruity of the WSBA fiscal year versus the calendar year. Discussion followed.

Gov. Nguyen reported that two organizations today had asked for WSBA's support in seeking funding from Legislature and stated his intent to reach out and follow-up.

Treas. Adewale invited all governors to attend the Legal Foundation of Washington's Goldmark Luncheon in February and to sit at his table.

Meeting Feedback ([link](#))

Gov. Fay commented that WSBA staff did a wonderful job pivoting the meeting to an all-online format.

Treas. Adewale thanked President Abell for making the call to go remote at the right time, saving everyone who would have traveled a great deal of hassle. Treas. Adewale suggested that WSBA always plan for the January meeting to be virtual.

Gov. Bloom thanked the staff and commented that it was a good call to cancel the in-person component of the meeting.

Executive Director Nevitt reminded participants that the chat should not be used for substantive comments as it is not visible to online guests.

ADJOURNMENT

There being no further business, Pres. Abell adjourned the meeting at 11:57 PM on Saturday, January 13, 2024.

Respectfully submitted,

Terra Nevitt
WSBA Executive Director & Secretary

DRAFT



Board of Governors Meeting – Motions List Virtual Meeting January 12-13, 2023

1. Motion to approve the Consent Calendar. Motion passed unanimously. Govs. Couch, Rathbone, Widney and Williams-Ruth were not present for the vote.
2. Motion to approve fiscal policy changes as presented. Motion passed unanimously. Govs. Couch, Rathbone, Widney and Williams-Ruth were not present for the vote.
3. Motion to approve the Member Wellness Task Force charter. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.
4. Motion to accept President Abell's appointment of Member Wellness Task Force Chair Justin Bingham. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.
5. Motion to amend the charter of the Member Status Workgroup to include one At-Large senior member position. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.
6. Motion to adopt the Member Status Workgroup charter. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.
7. Motion to accept President Abell's appointment of Member Status Workgroup Chair Kari Petrsek. Motion passed unanimously. Govs. Couch, Widney and Williams-Ruth were not present for the vote.
8. Motion to permit the Law Clerk Board and DEI Council to send their comments about the Task Force recommendations to the Task Force and the Court. Motion passed unanimously. Gov. Adewale was recused from the vote.
9. Motion to rescind the 2021 Board of Governors resolution regarding the Bar Licensure Task Force. Motion passed 8-5. Gov. Adewale was recused from the vote.
10. Motion for the Board of Governors to issue a statement to the Supreme Court of support about the Task Force's draft recommendations and recommends that the Bar Licensure Task Force ensure the recommendations are carried out in a way that is equitable to those that have already completed the requirements of the APR6 Law Clerk program. Motion passed 8-5. Gov. Adewale was recused from the vote.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
Kari Petrasek, Member Status Workgroup Chair
Renata Garcia, Chief Regulatory Counsel, Member Status Workgroup Staff Liaison
FROM: Hunter Abell, President
DATE: February 14, 2024
RE: Presidential appointments of members to the Member Status Workgroup

CONSENT: Accept the following presidential appointments for the Member Status Workgroup.

At its meeting in January 12-13, 2024, the Board of Governors approved the creation of the Member Status Workgroup and its Chair, Governor Kari Petrasek. Upon approval, the Chair and staff liaison(s) worked with Volunteer Engagement Advisor Paris Eriksen to conduct outreach and recruitment for the member positions. The below individuals were nominated by Chair Kari Petrasek and Staff Liaison Renata Garcia. I have approved these appointments and note that the Board of Governors has the authority to accept or reject these appointments.

WSBA Treasurer:	Francis Adewale
1 Active Member from the Senior Lawyers Section:	Steve Crossland
1 Inactive/Judicial or Honorary Member:	Kathleen Pierce (inactive)
1 Pro Bono Member:	Althea Paulson
1 At-Large Member: (advocating for the creation of a retired status)	P.J. Grabicki

The term begins upon appointment and is for the duration of the Workgroup’s work, which per the Charter is to conclude in September 2024.

Attachments:
Member Status Workgroup – Applicants Materials
Member Status Workgroup – Charter

Stephen R. Crossland
Crossland & Evans PLLC

P. O. Box 566
Cashmere, WA 98815
(509) 782-4418
steve@crosslandlaw.net

Education:

Stanford University - B. A. Political Science 1969
Northwestern School of Law, Lewis and Clark - J. D. 1973

Employment:

Sole Practitioner - Cashmere - 1973-1974
Chelan County Prosecuting Attorney Deputy - 1974-1975
Anderson, McCauley and Crossland - 1974-1980
McCauley and Crossland - 1980-1982
Stephen R. Crossland, P.S. - 1982-1992
Johnson, Gaukroger & Crossland - 1992-2001
Crossland Law Office – 2001 – 2019
Crossland & Evans PLLC – 2019 to present

Professional Activities:

Martindale-Hubbell rated AV for over 30 years to the present
Recipient of the WSBA Award of Merit – 2002
Washington Law and Politics Super Lawyer, 2001, 2002, 2003, 2004, 2008

Washington State Bar Association

Special District Counsel
1986-1995
Real Property, Probate and Trust Section
Executive Committee - 1986-1988, 2000 - 2006
Director Real Property Council 2003 – 2006
Chairman – 2006-2007
Speaker at Midyear – 2005, 2006, 2010, 2012
Unauthorized Practice of Law Committee - 1987-1990
Chairman 1989-1990
General Practice Section
Executive Committee 1989-1995
Chairman 1989-90

Computerization of Law Division
Executive Committee 1990-1994
Chairman 1990-1993

Task Force on Non Lawyer Practice 1994-1995

Hanging Out Your Shingle Seminar
Chairman/Speaker 1994
Speaker 1995

Skills Training Course
Program Co-Chair 1995 with Tom Chambers

Winning Strategies Seminar
Program Co-Chair and Speaker 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006

Committee to Define the Practice of Law
Chairman 1998-2001

WSBA Board of Governors 1995-1998

Practice of Law Board 2002 – 2009
Chairman 2002 – 2009

Law Fund
Executive Committee 2005 – 2007

Alternate Dispute Resolution System-Agriculture Employment Mediation Panel
2005 – 2009

“Can You Hear Me Now” ADR seminar Speaker 2006

Solo and Small Practice Section
Executive Committee 2006 – 2012
Steering Committee - 2006, 2007, 2008, 2009, 2010, 2011, 2012
Speaker – 2006, 2007, 2008, 2009, 2010, 2011, 2012

Alternative Dispute Resolution Section
Executive Committee 2007 – 2009
Chairman 2007 – 2008

Succession Planning Handbook Chair - 2008

Real Property Desk Book Editor – 2008, 2015, 2022, 2023

Futures Conference (Oregon State Bar Association)
Speaker - 2008

Northwest Justice Project
Executive Committee 2009 – 2010

WSBA President 2011-2012

Limited License Legal Technician Board 2012- 21, 2022 - present
Chair 2012- 2021, 2022 - present

PETER J. GRABICKI

601 WEST RIVERSIDE AVENUE

SPOKANE, WA 99201

(509) 747-2052

E-mail – pjg@randalldanskin.com

CURRENT POSITION:

Principal, RANDALL | DANSKIN, P.S.

EDUCATION:

- ◆ University of Texas
Juris Doctorate, cum laude – 1972
Member, Order of the Coif
- ◆ University of San Francisco
Bachelor of Arts, Economics – 1969

ADMITTED TO THE BAR:

- ◆ Texas State Bar – 1973
- ◆ Washington State Bar – 1973
- ◆ Idaho State Bar – 1990
- ◆ U.S. District Courts, Eastern District and Western District (1993) of Washington, District of Idaho and Western and Northern Districts of Texas
- ◆ U.S. Bankruptcy Courts, Eastern District of Washington and Idaho
- ◆ Circuit Court of Appeals for the Seventh, Eighth, Ninth and Tenth Circuits
- ◆ U.S. Tax Court
- ◆ U.S. Court of Claims

MEMBER BAR AND PROFESSIONAL SOCIETIES:

- ◆ Washington State Bar Association
- ◆ Idaho State Bar Association
- ◆ State Bar of Texas
- ◆ Spokane Estate Planning Council

AREAS OF PRACTICE:

Family Wealth Transfers and Planning, Estate Planning and Probate, Business Representation, Business Transactions and Negotiations and Complex Business Workouts

Peter J. Grabicki has represented corporations, bank trust departments, families and individuals with respect to estate planning and wealth transfers, and concerning complex commercial environmental litigation, and has represented equity holders and creditors in complex bankruptcy matters, including in an agri-business setting. He also represents clients incident to tax planning, corporate and real estate issues.

OTHER LEGAL EXPERIENCE:

- ◆ Trial Attorney, Tax Division (Attorney General's Honors Program)
- ◆ U.S. Department of Justice, Washington, D.C. and Dallas, Texas 1973-1977

PUBLICATIONS AND PRESENTATIONS:

Evaluation of Professional Goodwill, Washington State Bar Association
Litigation Issues Involving Fiduciaries, Washington State Bar Association
Forms of Stock Sale Agreements, Washington State Bar Association

CIVIC ACTIVITIES:

- ◆ Attorney General's Honors Program, U.S. Department of Justice, 1973-77
- ◆ Spokane Neighborhood Action Partners – Past Board Member and Chair
- ◆ Legal Foundation of Washington – Past President and Board Member
- ◆ Washington State Bar Association –Former Member, Board of Governors
- ◆ Washington State Bar Association – Taskforce on Mandatory Malpractice Insurance
- ◆ Family Promise of Spokane- Board Member

ALTHEA PAULSON

WSBA #13184 Pro Bono Status

Volunteer Experience:

Kitsap Immigrant Assistance Center

Bremerton, WA

Immigrant rights nonprofit

Pro Bono Attorney, 2021-present

Department of Justice Accredited Representative, 2017-2021

Board Member, current vice president and immediate past president of the Board

Washington State Bar Association, Pro Bono and Public Service Committee

2018-2021

City of Bainbridge Island

Affordable Housing Task Force, Chair

2017-2018

Employment:

Freelance Writer

Special Projects for nonprofits and local government,
research, articles, essays, press releases, creative writing 2007-2018

Bainbridge Buzz, LLC, Bainbridge Island, WA

Co-publisher and editor 2005-2007

Rohan, Goldfarb & Shapiro, Seattle, WA

Attorney and legal researcher, 1992

Graham & Dunn, Seattle, WA

Attorney, 1989-1990

Associated Grocers, Seattle, WA

Corporate Counsel, 1987-1989

Lane Powell PC, Seattle, WA

Attorney, 1983-1987

Willkie Farr & Gallagher, New York, NY

Attorney, 1981-1983

Kathleen Ebert Pierce

[REDACTED]
Tacoma, WA
[REDACTED]
[REDACTED]

WORK HISTORY

- 01/2022 to 12/2023** **Of Counsel**
Morton McGoldrick PLLC – Tacoma, WA
- Completed pending litigation cases.
 - Referred new and continuing clients to attorneys in the firm.
 - Advised clients of impending retirement and provided limited legal services as needed.
- 04/2019 to 12/2021** **Partner**
Morton McGoldrick, PLLC – Tacoma, WA
- Continued in same capacity with the same law firm as a limited liability partnership.
- 01/1994 to 03/2019** **Shareholder**
Morton McGoldrick, PS – Tacoma, WA
- Continued in same capacity with same law firm with new shortened name as a corporate entity.
- 01/1988 to 12/1993** **Partner**
Bonneville, Viert, Morton & McGoldrick – Tacoma, WA
- Handled litigation in the employment and real estate fields in state and federal courts at trial and appellate levels.
 - Managed associates in litigation department.
 - Chaired partner meetings to drive discussion of matters important to firm operations, keeping discourse on-topic and moving at efficient pace.
 - Responsible for personnel and human resources for the firm.
- 08/1986 to 08/1987** **Legal Writing Instructor**
University of Puget Sound School of Law – Tacoma, WA
- Created and developed lesson plans for first year legal writing course.
 - Facilitated learning with creation of engaging written assignments.
 - Conducted lecture classes and offered office hour consultations for students' individual needs.
 - Evaluated written assignments and issued graded reports.

08/1982 to 08/1986 **Associate**
Bonneville, Viert, Morton & McGoldrick – Tacoma, WA

- Handled insurance defense, business, and real estate litigation.
- Conducted legal research, wrote motions, memoranda and briefs.
- Handled depositions and discovery.
- Argued motions and conducted trials, mediations and arbitrations.

EDUCATION

06/1982 **Juris Doctorate**
University of Washington School of Law – Seattle, WA

05/1979 **Bachelor of Arts, Economics**
University of Puget Sound – Tacoma, WA

WASHINGTON STATE BAR ASSOCIATION

Member Status Workgroup Charter

Effective: Approved by the Board of Governors on January 12, 2024

Purpose

The purpose of the Member Status Workgroup is to evaluate the license status options currently available to WSBA members who are leaving the legal profession and to propose revisions to current license status options or alternative license status options as determined by its evaluation. 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. The Member Status Workgroup furthers the WSBA mission by determining whether the current license status options available to members leaving the legal profession meet the needs of WSBA members while adequately informing the public of the member's license status and eligibility to practice law.

Composition

Members of the workgroup should have demonstrated experience and/or interest in the issues raised by senior members of the bar as it relates to choosing alternatives to maintaining an active license to practice law. The workgroup will consist of five members and are outlined as follows:

- Chair
- WSBA Treasurer
- 1 Active Member from the Senior Lawyers Section
- 1 Inactive/Judicial/Honorary Member
- 1 Pro Bono Member
- 1 at-large member (someone who advocates for creation of a retired status)

WSBA Staff Liaison: Renata de Carvalho Garcia, Chief Regulatory Counsel, non-voting

Term

The workgroup is expected to complete its work by no later than the end of FY 2024.

Scope of Work

The workgroup will assess the concerns primarily raised by members who are leaving the practice of law including:

- Members who are leaving the practice of law and wish to maintain their WSBA membership (currently inactive status);
- Members who are leaving the practice of law and do not wish to maintain their WSBA membership (currently voluntary resignation);
- Members who are retiring from the practice of law but wish to be eligible to practice law in limited situations such as for family members or as a volunteer;
- Members who are retiring from the practice of law and wish to maintain their WSBA membership but do not want to pay a license fee (currently honorary status which is available only after 50 years of active or judicial status);
- Members who are leaving the practice of law permanently but do not like the term voluntary resignation; and
- Members who are leaving the practice of law permanently prior to the traditional retirement age and do not want to be considered “retired.”

The workgroup will evaluate the current license status options available to such members, collaborate with all relevant and interested stakeholders, identify and seek input from people most impacted by proposed changes, examine the financial impact to the WSBA budget of any proposed revisions or alternatives to license status options, and, if determined to be warranted, propose amendments to the WSBA Bylaws necessary to adopt revisions or alternatives to current license status options.

Measures of Success

A successful workgroup will:

- present a recommendation for license status options that addresses the concerns raised by members,
- demonstrate how the recommendation meets the needs of the members,
- demonstrate how the recommendation will protect the public and adequately inform the public of a member’s eligibility to practice law,
- demonstrate how the recommendation will have an acceptable impact on the WSBA’s budget, and
- promoting belonging and advancing equity for members who are contemplating changing their status.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
Justin Bingham, Member Well-Being Task Force Chair
Dan Crystal, Member Wellness Program Manager, Member Well-Being Task Force Staff Liaison
FROM: Hunter Abell, President
DATE: February 14, 2024
RE: Presidential Appointments of members to the Member Well-Being Task Force

CONSENT: Accept the following presidential appointments for the Member Well-Being Task Force.

At its meeting in January 12-13, 2024, the Board of Governors approved the creation of the Member Well-Being Task Force and its Chair, Justin Bingham. Upon approval, the Chair and staff liaison(s) worked with Volunteer Engagement Advisor Paris Eriksen to conduct outreach and recruitment for the member positions. The below individuals were nominated by Member Engagement Co-Chairs Francis Adewale and Matthew Dresden as well as Chair Justin Bingham, Staff Liaison Dan Crystal and Advancement Department Director Kevin Plachy. I have approved these appointments and note that the Board of Governors has the authority to accept or reject these appointments.

1 Current/Former BOG Member:	Kyle Sciuchetti
1 Adjudicative Member:	Michael Finkle
1 Law School Representative Member:	Anna Endter
Public Members:	Laura Moss Jenn Stuber
WSBA Members:	Emily Arneson (Spokane, WA) Melissa Berry (large firm) Darcel Lobo (small firm) Ghousia Rahim (Spokane, WA)

The term begins upon appointment for two years concluding February 2026.

Attachments:

Member Well-Being Task Force – Applicant Materials
Member Well-Being Task Force - Charter

EMILY K. ARNESON
(509) 939-6964 • Emily.Arneson@outlook.com

February 1, 2024

Washington State Bar Association
1325 Fourth Ave., Suite 600
Seattle, WA 98101-2539
barleaders@wsba.org

Re: Member Well-Being Task Force

Dear Bar Leadership:

I have the honor of serving as the President of the Spokane County Bar Association (SCBA). At a recent meeting of the SCBA Board of Trustees, I was pleased to hear a report from Francis Adewale, WSBA Treasurer and District 5 Governor, saying that the WSBA is convening a task force on the state of attorney well-being. I am particularly interested in this issue, especially as it relates to mental health and substance abuse. Please consider this letter my expression of interest in joining the Member Well-Being Task Force.

As you will see from my attached resume, I have significant experience serving on boards and committees devoted to a number of causes. I have worked in multiple private firms, as well as several public agencies. This background will allow me to provide valuable perspective to the Task Force, while leveraging strong local connections for information gathering and effective communication.

In addition to my resume, I have also attached a recent article I wrote for the SCBA newsletter, the *Calendar Call*, concerning well-being in the legal industry for your information.

Should you have any questions, please don't hesitate to contact me.

Sincerely,

Emily K. Arneson

Encl.

Cc: Francis Adewale
Justin Bingham

Emily Arneson

Spokane, WA 99203

(509) 939-6964

Emily.Arneseon@outlook.com

LinkedIn.com/in/EmilyKArneson



Education

JUNE 2022

Master of Public Administration

Eastern Washington University – Cheney, WA

Relevant coursework: Public Personnel Management; Organizational Theory; Policy Analysis; Public Planning and Budgeting; Research Approaches; Intergovernmental Relations; Public Leadership and Ethics; Data-Driven Decision Making.

DECEMBER 2009

Juris Doctor

University of Washington School of Law – Seattle, WA

MAY 2006

Bachelor of Arts in Sociology, Honors in Major Field of Study; Minor in French Language
Whitman College – Walla Walla, WA

Licenses & Certifications

- Law license, Washington State Bar Association
- Law license, Idaho State Bar (inactive)
- Certified HIPAA Privacy and Security Expert (CHPSE)
- Certified Information Privacy Manager (CIPM), *International Association of Privacy Professionals*
- Certified Public Records Officer, *Washington Association of Public Records Officers*

Awards and Honors

- *Special Presidential Commendation*, WSBA, 2021, awarded to CLE planning committee for significant contributions to address systemic racism
- *Rising Stars*, Spokane Journal of Business, 2018
- *APEX Outstanding Young Lawyer Award*, Washington State Bar Association, 2017
- *Top 20 Under 40 Awards*, Inland Business Catalyst Magazine, 2017
- *Public Service and Leadership Award*, Washington Young Lawyers Committee, 2016
- *Chapter Member of the Year*, Washington Women Lawyers, Spokane Chapter, 2016

Experience

OCTOBER 2023 TO PRESENT

Technology Procurement and Data Privacy Officer **Eastern Washington University**

- Managing procurement of all of the university's information technology by directing competitive solicitations, negotiating agreements, addressing contract issues, and monitoring vendor compliance;
- Directing the university's information privacy program, including developing policy, addressing data breaches, negotiating data sharing agreements, and promoting industry best practices;
- Supporting institutional stakeholders through review of non-revenue contracts for research, data sharing, and intellectual property;
- Serving as a hearing officer for Title IX student and staff disciplinary proceedings.

JUNE 2022 TO OCTOBER 2023

Privacy Officer **Washington State Department of Corrections**

- Establishing and implementing an agency-wide privacy program, including drafting of the agency's first privacy policy to be applicable to the personal information of more than 25,000 incarcerated and supervised individuals and over 8,000 employees;
- Strategically planning projects and efforts to improve consistency of practice, interpretation, compliance, and adherence to applicable legal requirements and minimize risks and exposure to liability;
- Assessing privacy risk and advising senior leadership with respect to proposed policies, data sharing agreements, public records requests, and emerging technologies;
- Directing agency responses to breaches of confidential data and personally identifiable information, including mitigation of harm and notification of the data subject(s);
- Monitoring state legislative actions and drafting thorough bill analyses;
- Providing innovative and highly effective solutions for agency executive management in technically complex situations and in exceptionally sensitive legal and/or political circumstances.

JUNE 2017 TO JUNE 2022

Ombuds and Accessibility Officer; Public Records Officer **Spokane Transit Authority**

- Engaging with internal and external stakeholders to ensure inclusivity and accessibility of transit services and facilities—including developing agency-wide training programs, advocating for capital improvements, articulating equitable goals, and maintaining current knowledge of emerging trends and best practices;
- Investigating reports of discrimination, harassment, and retaliation based on race, color, national origin, sexual orientation, gender expression, and disability;
- Serving as the agency's subject matter expert on civil rights, including compliance with the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, the Washington Law Against Discrimination, and other local, state, and federal laws;
- Managing all aspects of the agency's public records request process;
- Evaluating program and agency performance using qualitative analysis and data comparisons in order to recommend quality and process improvements;
- Engaging in agency-wide evaluation of policies and procedures, including adopting streamlined reformatting and revision of inactive and outdated documents;
- Actively participating in strategic planning related to capital investments, fare policy, anticipation of ballot measures, seeking of state and federal grants, and expansion and improvement of transit service.

JANUARY 2013 TO JUNE 2017

Associate Attorney

Witherspoon Kelley, P.S.

- Counseling employer-clients on civil rights/EEO obligations, intellectual property rights, wage and hour issues, and management decisions such as hiring, reductions-in-force, and labor relations;
- Developing and leading employee trainings with respect to non-discrimination and anti-harassment;
- Litigating claims of employment discrimination, wrongful termination, breach of contract, and wage claims;
- Advising requesters and responding agencies with respect to obligations under the Public Records Act, and litigating public access cases and appeals;
- Advising clients on privacy rights under HIPAA, FERPA, and state law.

JULY 2010 TO DECEMBER 2012

Associate Attorney

Morton McGoldrick, P.S.

- Advocating for and protecting the rights of individuals with disabilities through responsible and inclusive substituted decision-making and guardianship proceedings;
- Drafting basic and complex estate plans, including wills, trusts, and powers of attorney;
- Providing general counsel to tax-exempt charitable entities, including maintenance of tax-exempt status, transfers of real estate, and bylaw revision.

JUNE 2007 TO AUGUST 2007

Judicial Extern

U.S. District Court, Eastern District of Washington

- Serving under Chief Judge Robert Whaley;
- Preparing bench memoranda and research on various issues, including habeas corpus, sentencing recommendations, pretrial conferences, motions to suppress, and civil matters.

Leadership Activities

2019 TO PRESENT; 2016-2017

Spokane County Bar Association and Volunteer Lawyers Program

Current President; Former Treasurer; Former Trustee; Former President of the Young Lawyers Division

- Leading a robust, collegial, and innovative local bar in order to enhance access to justice for the broader community;
- Enhancing the efforts of the Volunteer Lawyers Program to expand access to justice for low-income individuals and other marginalized communities by providing policy and fiduciary oversight, grant management, and staff supervision;
- Directing the Board's policy adoption (Financial and Reserves Policies, Conflict of Interest, and Diversity & Inclusion); creating comprehensive quarterly financial reports; managing strategic initiatives for risk management; and recruiting diverse members to the Board;
- Providing direction, coaching, training, and supervision of staff;
- Creating and monitoring annual budgets (totaling over \$550,000 in revenue) that promote organizational priorities while responsibly supporting ongoing needs.

2019 TO PRESENT

Whitman College Alumni Association

Board Member

- Maintaining connection between alumni and the institution through local and regional events and communication, and acting as an ambassador to support and critique the efforts of the college.

2013 TO 2018

Junior League of Spokane

Former Board Member and Community Director, Project Research & Development Chair; Current Sustaining Member

- Overseeing community research, direct service projects, and advocacy efforts of the League;
- Chairing committee to research local data related to educational, health, and other needs of the Spokane area in an effort to develop initiatives to improve the community through promotion of childhood literacy skills;
- Directing the creation and expansion of book fair events and book library to support programming.

2016 TO 2022

Emerging Leaders Society, Spokane County United Way

Board Member; Strategic Planning Chair; United Way Board Liaison

- Elevating the commitment to make lasting change in the community by providing early to mid-career professionals with opportunities for networking, volunteering, and professional development;
- Leading the Board in strategic planning initiatives by identifying and tracking deliverables, coordinating joint efforts, and providing parliamentary guidance;
- Promoting volunteerism and community investment, including monetary support, in-kind programming, and donor-directed funding, as liaison to the United Way Board of Directors.

2015 TO 2018

WSBA Labor & Employment Section Executive Committee

Young Lawyer Liaison

- Working to connect new and young lawyers to the Section's resources, tools, and member benefits while gaining professional experience as a member of the Executive Committee.

2016 TO 2018

LGBTQ Law Section, Spokane County Bar Association

Board Member

- Member and officer of new section of local bar created to engage the community on legal issues faced by LGBTQ+ individuals.

2013 TO 2017

Washington Women Lawyers, Spokane County Chapter

Former President

- Promoting the interests of women in the legal industry through fostering collegiality, providing educational and social opportunities, and cultivating mentorship;
- Drafting and leading effort to adopt the Chapter's first Judicial Evaluations Policy and Procedures.

February 1, 2024

Melissa McGonigal Berry
MBerry@perkinscoie.com
D. +1.206.359.8020

Justin Bingham
Chair, Member Task Force on Well-Being
Washington State Bar Association
Seattle, WA

Re: Member Well-Being Task Force

Dear Chairperson Bingham and WSBA Leaders:

I enjoyed speaking with Dan Crystal and Kevin Plachy about the upcoming opportunity to serve on the Member Well-Being Task Force. Our conversation and review of the recent Board of Governors charter confirmed my strong interest in participating in the task force.

Helping lawyers and law students thrive through learning and development has been a throughline in my career. A consistent theme of my background is a commitment to positively affect individuals and organizations through collaborating actively, communicating effectively, and driving change. By coupling this approach with my systems-thinking, I am equipped to be a valuable contributor on the task force.

Over the past decade, I have been involved with improving well-being, first in law schools and more recently in law firms. Through my law school leadership roles in career and student services, I supported student well-being and professional identity development through programming as well as individual coaching. As a faculty member and senior administrator, I connected students to mental health support and other well-being resources. In 2017, I became involved in the national conversation through the Association of American Law Schools (AALS) Student Services Section where I collaborated with law school leaders from around the country who were seeking to raise awareness of well-being issues and resources. During this time, I became certified in Mental Health First Aid for the first time, which I renewed last year.

When I moved back to law firms in 2019, my passion for improving well-being in the profession continued to grow and I sought to bridge the gap between law school and practice. As Director of Professional Development and Diversity at Lane Powell, I was a catalyst in the firm's well-being efforts, including:

- Signing on to the ABA Well-Being Pledge;
- Proposing and implementing well-being hours for billable credit;
- Organizing the firm's inaugural Well-Being Week in Law in 2020; and

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- Identifying a well-being platform with monthly programming and resources for attorneys and staff.

As Director of Attorney Development at Perkins Coie, I have continued my efforts to help all attorneys flourish and develop. I also have maintained my volunteer work at the national level with NALP through its Well-Being Section and Neurodiversity in the Legal Profession Task Force and the Institute for Well-Being in Law's (IWIL) DEI Committee.

I bring a unique perspective gained from engaging in all stages of the law student and lawyer life cycles. Because of this insight and my experience as a first-generation law student and lawyer who witnessed colleagues struggling with mental health, substance use, and well-being issues, I am committed to take actions to enhance the well-being of our profession.

I am thrilled about the possibility of serving WSBA members and the broader legal community in Washington through research and recommendations that will lead to tangible positive change in our collective futures. Thank you for considering me to serve on the task force.

Please let me know if you would like any additional information. I look forward to hearing from you soon.

Sincerely,



Melissa McGonigal Berry
Director of Attorney Development

MELISSA MCGONIGAL BERRY

██████████ | mberry@perkinscoie.com

LAW FIRM OPERATIONS EXPERIENCE

Perkins Coie LLP, Seattle, WA

Director of Attorney Development, February 2023–Present

- *Professional Development*: Lead attorney development, CLE, including training, mentoring, and coaching programs. Manage performance evaluation processes for all associates, counsel, practice attorneys and patent agents.
- *Operations*: Manage two teams with a total of 12 employees and two department budgets. Collaborate cross-functionally on recruiting, business development, engagement, pro bono, and well-being efforts.
- *Well-Being*: Serve on firmwide well-being task force. Collaborate with Talent Advisors and D&I team.

Lane Powell PC, Seattle, WA

Director of Professional Development and Diversity, September 2019–February 2023

- *Professional Development*: Provided leadership in strategic planning, implementation, and management of attorney training, development, evaluation, advancement and promotion, and performance management. Oversaw associate, counsel and non-equity partner performance review and compensation cycles and performance management. Launched firmwide learning and development program. Developed and implemented firm's first associate core competencies and stay interview initiative. Formulated new associate compensation guidelines and billable hours credit policies, including new well-being and DEI hours for associates.
- *Diversity, Equity, Inclusion & Belonging*: Led firmwide DEI efforts, events, and education. Spearheaded creation and implementation of the firm's first three-year DEI Strategic Plan. Built consensus for Mansfield Rule program participation for which the firm earned Certification Plus; implemented necessary tracking and reporting systems. Launched pronoun and self-identification initiatives. Restructured and revitalized DEI Committee and collaborated to enhance heritage month celebrations and communications.
- *Operations*: Report to COO. Manage two department budgets. Collaborate cross-functionally on recruiting, marketing, business development, CLE compliance, engagement, pro bono, and well-being efforts.
- *Well-Being*: Led inaugural Well-Being Week in Law (2020) and served on planning team in 2021 and 2022. Secured firmwide programming and resources to satisfy ABA Well-Being Pledge. Participated in ABA Pledge Workshops.

LAW SCHOOL EXPERIENCE

UNIVERSITY OF WASHINGTON SCHOOL OF LAW, Seattle, WA

Assistant Dean for Student & Career Services, January 2017–September 2019

Affiliate Instructor, September 2018–September 2019

- *Operations*: Led department responsible for career development, academic advising, student organization support, wellness, and William H. Gates Public Service Law Program. Managed budget and operations. Oversaw team of 8. Directed employment outcomes data collection and reporting.
- *Professional Development & Career Strategy*: Headed efforts to support JD students, graduate students, and alumni through programming and coaching. Developed and implemented career strategy and professional development programming.
- *Employer & Alumni Engagement*: Conducted strategic outreach to employers to increase student and alumni opportunities and grow recruiting programs. Launched revitalized mentor program using new technology platform to enhance access and participant experience. Managed Gregoire Fellows Program and served on Governance Council.
- *Student Services*: Coached students on variety of academic, personal, and professional issues. Co-led first-year orientation and commencement. Chaired 2017–2018 Academic Success Committee. UW Resilience Lab affiliate.
- *Master of Jurisprudence Program*: Developed and taught American Legal System & Method (Fall 2018). Advised and supported administration of the MJ program through recruiting, coaching, curriculum design, and academic support.

Director of Graduate Program & Alumni Coaching, September 2016–January 2017

- Coached JD and LLM alumni, LLM, PhD, and MJ students. Partnered with graduate programs to increase services and opportunities for students and alumni. Designed and delivered workshops and resources.

Lecturer, August 2000–June 2003

- *Curricular*: Taught Administrative Law; Legal Writing & Research; and Introduction to Law (undergraduate course)
- *Supervision*: Supervised externships, upper-level writing projects, research assistants, and teaching assistants.

MELISSA McGONIGAL BERRY

mberry@perkinscoie.com

- *Administration:* Served on faculty committees, including Judicial Clerkships, Part-Time Appointments and Lectureships (Chair), and Access to Justice Work Group. Co-Founded William L. Dwyer Inn of Court.

CHAPMAN UNIVERSITY, DALE E. FOWLER SCHOOL OF LAW, Orange, CA

Assistant Dean of Career Services, August 2014–2016

- *Operations:* Managed \$700,000 budget and team of 7. Oversaw employment data collection and reporting, resulting in a 14% increase over two years at 9/10 months after graduation.
- *Career Strategy & Professional Development:* Led efforts to support students and alumni through programs and coaching. Engaged in strategic employer outreach to build relationships and generate student and alumni opportunities; grew on-campus recruiting programs, job posting, and services for alumni.
- *Student & Alumni Engagement:* Collaborated on admissions, student, and alumni events, including orientation and commencement. Engaged in alumni relations and reported to Alumni Board; developed initiatives for recent graduates to increase employment opportunities.
- *Curricular:* Taught in 2016 Supplemental Bar Prep Program.
- *Diversity, Inclusion & Access to Justice:* Broadened opportunities for diverse students through initiatives and outreach. Partnered with Legal Aid Society of Orange County to launch the Lawyer Entrepreneurship Assistance Program. Served on Orange County Coalition for Diversity in Law and Orange County Bar Association Diversity Task Force.

Director, Environmental, Land Use & Real Estate Law Emphasis Program, May 2005–July 2008

Associate Professor, August 2007–July 2008

Assistant Professor, July 2003–July 2007

- *Program Administration:* Directed JD concentration certificate program, including planning curriculum, collaborating with administration and faculty, recruiting and advising students, and strategic outreach.
- *Curricular:* Taught Administrative Law; Environmental Law; Environmental Justice; and Torts.
- *Supervision:* Supervised externships, research assistants, academic fellows, research projects, and Law Review notes.
- *Service:* Elected Law School Senator to University Faculty Senate. Appointed to Admissions Committee.
- *Consulting:* Evaluated Multistate Bar Exam questions for National Conference on Bar Examiners (2005–2008).

UNIVERSITY OF MISSOURI SCHOOL OF LAW, Columbia, MO

Visiting Associate Professor, July 2013–August 2014

- *Curricular:* Taught Environmental Law; Land Use; Natural Resources; and Sales and Leases. Designed Entrepreneurship Clinic structure and developed curriculum. Organized Environmental Law 4.0 symposium.
- *Supervision:* Supervised research assistants and law review/journal notes. Faculty Advisor to student journal.

LEGAL EXPERIENCE

PERKINS COIE LLP, Seattle, WA

Associate Attorney, Litigation Department, September 1996–August 2000

- Associates Committee member; collaborated on Mid-Level Associates Retreat
- Perkins Coie Community Pro Bono Fellow at TeamChild, Seattle, WA, January–June 2000

LATHAM & WATKINS, Washington, DC

Associate Attorney, Communications Law and Litigation, October 1994–September 1996 (including clerkship leave)

US COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, Washington, DC

Law Clerk to the Honorable David B. Sentelle, April–August 1995

US DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN, Milwaukee, WI

Law Clerk to the Honorable Terence T. Evans, Chief Judge, August 1993–August 1994

MELISSA MCGONIGAL BERRY

██████████ | mberry@perkinscoie.com

EDUCATION

NORTHWESTERN UNIVERSITY PRITZKER SCHOOL OF LAW, Chicago IL

JD, *cum laude*, 1993

- Managing Note & Comment Editor, *Northwestern University Law Review*
- Research Assistant, Professors Macneil, Merrill and Speidel; Teaching Assistant, Professor Marshall
- Student Assistant, Career Services Office

TULANE UNIVERSITY, NEWCOMB COLLEGE, New Orleans, LA

BA, *cum laude*, Political Science & Latin American Studies, 1990

- *Honors*: Phi Beta Kappa; Charles Dunbar, Jr. Fellow in Political Science; Tulane Honors Program; Dean's List
- Junior Year Abroad at Universidad Complutense de Madrid, Madrid, Spain

PROFESSIONAL AFFILIATIONS & ACTIVITIES

- Washington State Bar Association (Admitted 1997)
- Institute for Well-Being in the Law, Diversity, Equity & Inclusion Committee (2021–Present)
- Professional Development Consortium (2019–Present); Speaker, 2019, 2022 & 2023 Conferences & 2021, 2022 & 2023 Professional Development Institute; Summer Conference Planning 2023; PDI Planning (2021).
- Mansfield Rule 6.0 Advisory Group (2021–Present)
- SALRA–Seattle Area Legal Recruiting Administrators (2016–Present). Board 2018–2020: President 2019; VP 2018.
- U.S. Law Firm Group, Diversity and Recruiting & Professional Development Committees (2019–Present)
- Association of American Law Schools (AALS) (2016–2019), Student Services Section, Vice-Chair
- NALP Member since 2014
 - *Task Forces, Advisory Groups & Work Groups*: Neurodiversity in the Legal Profession Task Force (2021–Present); Developing the Professional Lawyer Work Group (2020–2021); Advisory Group for *Professional Development in a Pandemic* study (2020); ABA/NALP Employment Outcomes Reporting Advisory Group (2018–2019).
 - *Elected Positions*: Nominating Committee (2018–2019) and Conference Planning Committee (2017–2018)
 - *Section Leadership*: Co-Vice Chair, Professional Identity Formation Work Group, Lawyer Professional Development Section (2020–Present) and Law Student Professional Development Section (2018–2020); Chair, Legal Master's Programs Interest Group (2019–2020); Co-Chair, Pro Bono Work Group (2016–2017)
 - *Recent Speaking Engagements*: 2021, 2022 & 2023 Annual Conferences; Neurodiversity Webinar (2023)
 - *Publications*: Authored/Co-Authored 5 articles for *NALP Bulletin* and *Report on 2020 Survey of Law Firm Competency Expectations for Associate Development* (May 2021)

RECENT BOARD & COMMUNITY SERVICE

- Tombo Institute at Bellevue College Design Thinking Program, Advisory Board Member (2019–Present)
- Mother Attorneys Mentoring Association – Seattle, Board Member and Co-Chair of Mentorship (2019–2021)
- Legal Employers Advancing Diversity of Washington, Board Member (2017–2019)
- Maple Village Waldorf School, Long Beach, CA (2015–2016)

CERTIFICATIONS & TRAININGS

- Professional Development Consortium Certification in Providing Effective Feedback & Evaluations (Winter 2022)
- NALP Coaching 101 and Coaching 201
- Mental Health First Aid Certification
- Suicide Prevention Training (Forefront 2021)
- Green Dot Certified (Campus Culture of Respect & Bystander Training)
- Undocu Ally Training through University of Washington Leadership without Borders

Speaking engagements and full publications available on request.

Michael J. Finkle
Judge, King County District Court
(work) 206-477-2121; (e-mail) michael.finkle@kingcounty.gov

Education

BBA, Loyola Marymount University, 1978
JD, University of California at Los Angeles (UCLA) School of Law, 1981
MBA, Seattle University, 1995

Employment History

Judge, King County District Court, Issaquah, WA (2010-present) (adjudicate criminal, civil, protection order and therapeutic justice matters)
Adjunct Professor of Law, Seattle University Law School, Seattle, WA (1998-2017) (courses in Law, Policy & Mental Health and Trial Techniques)
Assistant City Attorney Supervisor, Public & Community Safety Division, Seattle City Attorney's, Seattle, WA (1990-2010) (supervise prosecutions in Seattle Municipal Court; handle special projects and cases)
Deputy City Attorney, Special Operations and Criminal Divisions, Los Angeles City Attorney's Office, Los Angeles, CA (1986-1990) (prosecute cases, including appeals, in L.A. Municipal Court; conduct civil litigation on behalf of City)
Associate Attorney, Reish & Luftman, Santa Monica, CA (1985-1986) (civil transactional practice)
Associate Attorney, Greenberg, Bernhard Weiss & Rosin, Los Angeles, CA (1981-1985) (civil transactional practice; some civil litigation)

Criminal Justice Policy-Related Activities

Member, Washington State Supreme Court Gender and Justice Commission—2023 – present.
Member, Administrative Office of the Courts Protection Order Forms Subcommittee—2022-present
Co-Chair and Member, Therapeutic Courts Committee, District and Municipal Court Judges Association—2013-present
Member, Judicial Assistance Services Program (JASP), Administrative Office of the Courts (AOC) 2013-present
Chair, Administrative Office of the Courts Forensic Behavioral Health Forms Subcommittee—2015-present
Member, *Trueblood* General Advisory Committee—2020-present
Member, Administrative Office of the Courts Protection Order Forms Subcommittee—2015-present
Member, Rules Committee, District and Municipal Court Judges Association—2021-2022
Chair, King County Youth Court Executive Committee (chaired group that created Youth Court)—2018-2019

Member, Education Committee, District and Municipal Court Judges Association—2014-16

Member, Board of Governors, District and Municipal Court Judges Association (2014-2017)

Member, National Judicial College Panel to Create Best Practices Model for Criminal Ability to Proceed Matters (2010-2011)

Faculty, State Judicial College for Ability to Proceed (2013-2015)

Co-Chair, Statewide Therapeutic Court Legislation Work Group, created per SB 579 (2013), “10.77 Work Group” to Develop Creative Local Procedures in Handling Ability to Proceed Issues (2012-2013)

Chair, King County District Court’s Regional Veterans Court Executive Committee (2012-2013; chaired group that created Regional Veterans Court)

Chair, King County District Court’s Regional Mental Health Court Executive Committee (2012-2013)

Member, Mental Illness and Drug Dependency Oversight Committee (2012-2013)

Member, Mental Health Advisory Committee on Constitutional Issues in Problem-Solving Courts (2012)

Member, National Judicial College Panel to Create Best Practices Model for Criminal Ability to Proceed Matters (2010-2011)

Member, King County Crisis Diversion Planning Group (2008-2013)

Member, Dangerously Mentally Ill Offender Work Group (2008-2009)

Member, RCW 10.77 Work Group to Review Ability to Proceed Statute (2007-2009)

Supervising Attorney, Seattle Municipal Court’s Mental Health Court (1999-2020)

Member, Community Crisis Alternative Plan Workgroup (2006-2007)

Member, Washington State Domestic Violence Fatality Review Advisory Group (2002)

Member, Adult Justice Operational Master Plan Alternatives Work Group (2001-2002)

Member, Racial Disparity Work Group (approx. 2001-2002)

Member, County Designated Mental Health Professional Protocol Advisory Committee (1998-1999; 2001-2002)

Member, Work Group to Recommend and Draft Proposed Amendments to Mental Health Laws (1999-2000)

Member, King County/City of Seattle Failure to Appear Work Group (1998-1999)

Chair, Seattle DUI Implementation Work Group (1998)

Member, King County Executive's Mentally Ill Offender Task Force (1997-1998)

Co-Chair, Policies and Procedures Committee of City of Seattle Domestic Violence Task Force (1993-1995)

Bench/Bar-Related Activities

Guest Judge, Seattle University School of Law moot court competitions, multiple times per year (2016-present)

Rules Committee, King County District Court (2013-2015, 2020-2022)

Guest Judge, University of Washington School of Law Trial Advocacy Course Mock Trials (2013-2016)

Guest Judge, Seattle University School of Law Juvenile Justice Clinic Mock Trials (2012-2015)

Public Access Committee, King County District Court (2013-2017)

Member, King County District Court Search Warrant Project (2014)

Guest Judge, University of Washington School of Law Moot Court Tournament (2010-2014)
Member, Probation Committee, King County District Court (2010-2012)
Member, Long Range Planning District and Municipal Court Judges Association (2010-2012)
Member, Legislative Committee, District and Municipal Court Judges Association (2010-2011)
Coach, Seattle University School of Law Team in Texas Young Lawyers Association National Mock Trial Competition (February 2010)
Member, Mental Illness and Sex Offender Civil Commitments Subcommittee of Washington State Bar Association's Committee on Public Defense (2005-2007)
Member, Committee on Diversity, Washington State Bar Association (2001-2002)
President, Washington State Association of Municipal Attorneys (2000-2001)

Civic and Community Activities

Board Member and Mentor, Joint Minority Mentorship Program (2022-present; Board 2024))
Member, Pathway Advisory Committee regarding high school curriculum for Issaquah School District (2021-present)
Volunteer coach at three high schools, judge, rater, and host for district high school mock trial competitions; judge and rater at state tournament (2018-present); judge and rater at international tournament (2023-present)
Participant, Judges in the Classroom program at elementary school (2018-present)
Volunteer judge at state high school ethics bowl competitions (2017-present)
Faculty, Kessler-Eidson Trial Advocacy Program at Emory Law School (2016-present)
Presenter, over 130 legal topics on national, state, and local levels (1992-present)
Presenter to 4th and 5th graders at local elementary school (May 2012)
Volunteer, helped build wheelchair ramp as part of volunteer group (September 2010)
Co-chair, neighborhood Public Safety Committee (1995-1997)
Volunteered with group seeking to incorporate City of Sammamish (1992 and 1997)
Speaker on behalf of neighborhood at public hearings before County Council and County Boards (1992-1993)

Publications

Academic Journals:

Competency in Extradition Hearings: Seeking a Uniform Forensic Approach to Determining a Criminal Defendant's Competency to Proceed with an Extradition Hearing (co-author), Third round of reviews for publication by The Journal of the American Academy of Psychiatry and Law (2014)
Mental Health Courts: Judicial Leadership for Effective Court Intervention (co-author), 50 ABA Judges Journal Issue 4 (2012)
Competency Court: A Creative Solution for Restoring Competency to the Competency Process (lead author), 27 Behavioral Sciences and the Law 767 (2009)
Washington's Criminal Competency Laws: Getting From Where We Are to Where We Should Be, 5 Seattle Journal for Social Justice 201 (2006)

For Whom The Period Tolls: Discovery of Loss Provisions in Fidelity Insurance Policies, 9 Century City Bar Association Journal 19 (1984)
Voluntary Affirmative Action Under Title VII: Standards of Permissibility, 28 UCLA Law Review 291 (1980)

Practice Guides and Reference Materials:

Author, Commitment to Commitment—Examining How Adults in Washington are Committed Based on Mental Illness, Chapter 4 Washington Health Law Manual (4th ed.), by Washington State Hospital Association—2023 (3rd ed. published online in 2007 and revised in 2015)
The 2022 Judges’ Guide to Handling Ability to Proceed Issues in District and Municipal Courts, prepared for District and Municipal Court Judges’ Association Annual Spring Conference (June 2022; previous versions revised every few years from approximately 2000-present)
The 2022 Introduction to the Mental Health Civil Commitment Law, prepared for District and Municipal Court Judges’ Association Annual Spring Conference; June 2022 (previous versions revised every few years from approximately 2000-present)
The 2022 Judicial Primer on Conducting Involuntary Medication (Sell) Hearings, prepared for District and Municipal Court Judges’ Association Annual Spring Conference (WA-specific law) (June 2022; previous versions revised from approximately 2004-present)
Co-Contributor and Co-Editor, Behavioral (ITA) Health Bench Book, Administrative Office of the Courts (2021)
Co-Chief Author, Limited Jurisdiction Section of Criminal Chapter, King County Bar Association’s Washington Lawyers’ Practice Manual (2002-2004, 2011-2014)
Judicial Primer on Conducting Involuntary Medication (Sell) Hearings—Published online by National Judicial College (all jurisdictions) (July 2011)
Editor and Contributing Author, Ethics Primer for Government Lawyers, Washington State Association of Municipal Attorneys (2008, 2010)

Honors and Other Achievements

CTE VIP Award (Career & Technical Education), Issaquah School District (2022-2023)
Faculty, National Institute for Trial Advocacy (2012-present)
Faculty, Kessler-Eidson Trial Advocacy Program, Emory School of Law (Atlanta), 2016-present
Recipient, Washington State Association of Municipal Attorneys’ inaugural “Outstanding Service Award” (2003)
Senior Faculty and Faculty, Trial Advocacy Program (sponsored by Washington State Bar Association) (1991-2000)
Recognized for Exemplary Contributions to the Development of Young Lawyers through Trial Advocacy Program—awarded by Young Lawyers Division, WSBA (1997)
Managing Editor, UCLA Law Review Volume 28 (1980-1981)
Staff Member, UCLA Law Review Volume 27 (1979-1980)

Judge Michael Finkle
King County District Court
East Division, King County Courthouse
5415 220th Avenue SE
Issaquah, WA 98029
michael.finkle@kingcounty.gov
206-477-2121

January 18, 2024

Well-Being Taskforce
barleaders@wsba.org<<mailto:barleaders@wsba.org>>

Re: Application for membership

Dear Taskforce Members:

Please accept this letter and resume as my application for membership in the Well-Being Taskforce. Based on my background and experience both as an attorney and as a judge, I believe I would be an excellent fit on the Taskforce.

One of my roles as a judge has been as a committee member of the Judicial Assistance Services Program, or JASP. The committee is equivalent to a board of directors, and I hold the office of vice-chair in waiting. I will take office as Chair when the current Chair and the Chair in waiting have completed their terms. I started with JASP in 2014.

JASP is comprised of judges from across the state at the appellate, superior, district, and municipal court levels. Its mission is to provide assistance and resources to judges in need, whether from substance use, mental illness, or general life issues. Judges can self-refer, or concerned family, friends, fellow judges, or court staff can contact JASP. By Court rule, JASP referrals and communications are privileged.

Since 1999, I have been a strong advocate for therapeutic justice, primarily for those with mental health issues. I have published, practiced, and adjudicated in that area, and continue to do so even though I have been assigned to civil rotation for the past four years.

I would be happy to answer any questions you may have. You can contact me at the address, telephone, and e-mail addresses above.

Sincerely,

Judge Michael Finkle



Darcel Lobo
DAL Law Firm
DAL Coaching & Consulting



As a coach and consultant for lawyers, my goal is to help them run successful law firms in a way that fits into how they want to live their lives. As a law firm owner since 2016, and a mom of two young children, I understand how easy it is for lawyers to prioritize their work, their clients, and their families, but put themselves on the backburner. I approach my coaching and consulting practice by looking at the attorney as a whole person, and bringing a sense of humanness to the legal profession.

Professional Development Experience

DAL Coaching & Consulting

Normandy Park, WA
2022-Current

Owner and Consultant

- Consult with clients on how to build efficient processes in their law firms.
- Help clients prioritize their well-being and integrate self-care into the daily and weekly routines.
- Help clients build internal processes and systems to leverage technology and staff to maximize their law firm.
- Support clients in building healthy boundaries within their professional and personal lives.
- Coach clients on how to build their productivity skills, including but not limited to: time management, streamlining operations, and maximizing profitability.

Law Practice Experience

DAL Law Firm

Normandy Park, WA
2016-Current

Owner and Attorney: Bankruptcy, Estate Planning, and Real Estate

- Represent clients in Chapter 7 and 13 Bankruptcy. Representation of clients concerning Bankruptcy has also included advising and representing clients with: Loan Modifications, Mediation under Washington State’s Foreclosure Fairness Act, Foreclosures, Short Sales, Debt Negotiations, Settlements, and Loan Deficiencies.
- Represent clients in Estate Planning and Probate, including: Wills, Healthcare Directives, Power of Attorneys, Trusts, Community Property Agreements.
- Represent clients in a number of Real Estate matters, including: Loan Modifications, Purchase and Sale Agreements, Title Issues, Landlord/Tenant, Homeowners Association Issues, and Deeds.

Marine View Law & Escrow

Des Moines, WA
2009- 2016

Associate Attorney: Real Estate, Bankruptcy, and Estate Planning

Honors and Awards

- Super Lawyers, Rising Star 2021- 2023
- Best Lawyers Ones to Watch 2021- 2023

Professional Speaking Engagements

- Tips to Help Attorneys Live Their Lives With Intention (*WSBA*) September 2023
- Facilitated small group mastermind for law firm owners (*WSBA*) September 2023
- Attorney Well-Being Panelist (*NCVAA*) September 2023
- How To Run Your Law Firm More Efficiently (*Seattle U Law*) June 2023
- “Oh, You Don’t Have Boundaries?” (*KCBA Bar Bulletin*) May 2023
- Starting Your Law Firm While Juggling Your Personal Life (*MAMA Seattle*) May 2023
- Time Management: How To Finish Things and Stop Procrastinating (*KCBA*) February 2023
- Picking Your Practice Area and Defining Your Niche (*Seattle U Law*) January 2023
- Balancing Your Life and Practice (*WSBA*) July 2022
- How to Run Your Law Firm Under 25 Hours Per Week (*Maximum Lawyer Conference*) June 2022
- Implementing Systems and Streamlining Processes In Your Law Firm (*KCBA*) November 2021
- Top 5 Tips for Financial Self Care (*King 5 News*) October 2021
- Covid 19 and the Small Law Firm (*WSBA*) July 2021
- Best Practices When Filing for Bankruptcy (*Pierce County Bar Association*) July 2021
- Probate Process in Washington State- (*1590 AM Radio Station*) May 2021
- Bankruptcy and Covid (*1590 AM Radio Station*) March 2021
- Bankruptcy Case Law Updates (*Western Washington Bankruptcy Bench Bar*) February 2021
- Covid 19 Impacts on Small Businesses (*Seattle Southside Chamber of Commerce*) May 2020
- Estate Planning (*King 5 News*) June 2018
- Chapter 7 Bankruptcy Overview (*WSBA*) February 2018
- Recent Real Estate Law Updates (*570 KVI Talk Radio*) April 2017
- Financial Budgeting (*King 5 News*) December 2016

Professional Affiliations

- WSBA Solo and Small Practice Section Chair/Vice Chair/Secretary 2018- Current
- WSBA Solo and Small Practice Annual Conference Planning Committee 2020- Current
- FDCC/MAMAs Ladder Down Program Co-Director 2022- Current
- King County Bar Association Bankruptcy Section Secretary/Treasurer 2021- Current
- King County Board of Trustees 2020- 2023
- Seattle Southside Chamber of Commerce Board of Directors 2019- Current
- KCBA Solo and Small Firm Co-Chair 2017- 2018
- South King County Bar Association President/Vice President 2015- 2017
- Mother Attorneys Mentoring Association 2010- Current
- Women Bankruptcy Attorneys (WOMBATS) 2010- Current
- Loren Miller Bar Association 2006- Current

Education

Seattle University School of Law

Seattle, WA

Juris Doctorate

May 2009

- President of the Black Law Student Association
- Recipient of the 2009 Black Law Student Association’s Leadership Award
- Recipient of the Dean’s Diversity Scholarship
- Member of the Student Bar Association’s Judiciary Committee
- Mentor for two 1L students

Seattle University

Seattle, WA

Bachelor in Arts and Science, with a major in History and minors in Women’s Studies and American Law & Politics

May 2006

- Costco Scholar, Trustee’s Scholar, and Dean’s List
- Researched and assisted Professor Angeliqne Davis with her article, “Multiracialism and Reparations: The Intersection of the Multi-Racial Category and Reparations Movement,” in the *Thomas Jefferson Law Review*, Volume 29, Issue 2 (Spring 2007).

Darcel Lobo
DAL Law Firm
DAL Coaching & Consulting

Cover Letter

My name is Darcel Lobo and I am seeking to serve as a member of the Well-Being Task Force. I am both a law firm owner as well as a coach to help lawyers build better law firms and better lives.

I opened DAL Law Firm in 2016, and since doing so, I have become dedicated to helping other lawyers seek fulfilling careers in a way that supports how they want to live their lives. This is what brought me to start coaching lawyers and open DAL Coaching & Consulting. I am very interested in serving as a member of the Well-Being Task Force because I believe it is important that lawyers learn to, and are encouraged to, integrate well-being into their law firms and lives.

So many times, the notion of well-being can seem like a foreign concept to attorneys who have it engrained in their minds that being a successful lawyer means being a “busy” lawyer. But I disagree. While there can certainly be times that I feel busy, I do not equate that with my success as a lawyer. Nor do I think that taking one or two CLEs on well-being and then forgetting about what you’ve learned is useful either; rather, well-being should be integrated into both our professional and personal lives, and be something that we are cognizant of and continually striving to incorporate. It requires a mindset shift in how lawyers think of our profession, and I think taking the first initial steps of having a task force such as this, as well as having open and honest conversations about well-being, is a great first start to helping lawyers.

I believe that I bring a strong commitment to supporting the well-being of lawyers; this is something I speak about extensively in CLEs I present, and I also worked diligently to ensure our recent 2023 WSBA Solo & Small Firm Conference integrated well-being throughout the programming. Since opening my own law firm in 2016, I have been a mentor for many lawyers who have been navigating the journey of seeking work/life balance and I believe that this task force is a way for me to continue the work to support lawyers that I am passionate about.

Thank you in advance for your consideration.

Sincerely,

/s/ Darcel Lobo

Darcel Lobo

January 28, 2024

Washington State Bar Association
1325 Fourth Ave., Suite 600
Seattle, Washington 98101

Re: Washington State Bar Association Member Well-Being Task Force

Dear Mr. Hunter Abell, Mr. Justin Bingham, and other members of the selection team,

My name is Laura Moss, MD, and I am writing to express my sincere interest in joining the Washington State Bar Association Member Well-Being Task Force. I am a licensed Addiction Psychiatrist with many years of experience evaluating and treating co-occurring mental health and substance use disorders. Over time, my interest and expertise evolved to working with safety sensitive health care professionals.

I joined the Washington Health Professionals Program (WPHP), a program similar to lawyers' assistance programs, as the Associate Medical Director seven years ago. Although WPHP has a focus on evaluating and finding treatments for impairing health conditions such as medical, mental health, and substance use disorders, we also work to reduce stigma and promote wellness activities which improve quality of life and reduce risk of impairment. The work often leads to collaboration with other health professionals, including members of Well-Being and Wellness Committees.

I am currently a member of the board for the Federation of State Physician Health Programs, our national professional organization. This work has been rewarding and fits with my goals to be of service to our members, which include lawyers who report similar goals and challenges among their professional colleagues.

Additional professional experiences that may prove useful to the Task Force are teaching, participation in some research, writing, and a 2023 collaboration with the University of Washington Forefront Suicide Prevention and Sonja Olson, DVM, to write and record a mandatory wellness and suicide prevention training for all Washington veterinary professionals for the Washington State Veterinary Board of Governors and Department of Health.

If selected to join the Task Force, you will find me to be curious, affable, hardworking, collaborative, and walking my own wellness path.

Please let me know if you have questions or if references would be helpful.

Sincerely,

A handwritten signature in blue ink that reads "Laura Moss MD". The signature is stylized and cursive.

Laura Moss, MD
Associate Medical Director

Curriculum Vitae

Laura C. Moss, MD

Associate Medical Director for Washington Physicians Health Program
Western Region Board Member for the Federation of State Physician Health Programs
General and Addiction Psychiatry

Email: [REDACTED]

Phone: [REDACTED]

Education:

Psychiatry Addiction Fellowship. VA Puget Sound Health Care System. Seattle, Washington.
2002 - 2003

Psychiatry Residency Training Program. University of Washington Department of Psychiatry and Behavioral Sciences. Seattle, WA. 1998 - 2002

M.D. University of Washington School of Medicine. Seattle, WA. 1998

B.S. in Nursing. Washington State University. Pullman, WA. 1987

Current Licensure and Certification:

Addiction Psychiatry, re-certification in April 2014
American Board of Psychiatry and Neurology

Psychiatry, re-certification in May 2013
American Board of Psychiatry and Neurology

Active and Unrestricted Physician and Surgeon License from State of Washington
MD00039129, Expires 01/27/25.

Inactive Physician and Surgeon License from State of Oregon
MD150515 expires 12/31/25.

Active DEA License with Buprenorphine waiver
Number available upon request, Expires 01/31/26.

Professional Memberships:

Federation of State Physician Health Programs
Current Western Region Member of FSPHP Board
American Academy of Addiction Psychiatry
American Psychiatric Association
Washington Psychiatric Association

Awards:

Janssen Psychiatry Resident Award of Excellence, 2002
Sigma Theta Tau, Honor Society in Nursing, 1987

Presentations:

Suicide Prevention for Veterinary Professionals, 2023

<https://intheforefront.org/preventing-suicide-in-veterinary-professionals/>

University of Washington Forefront Suicide Prevention, Laura Moss, MD, and Sonja Olson, DVM
Authored and presented as recorded, mandatory training for Washington State veterinary professionals about suicide prevention and wellness.

Occupational Hazards of Healing Professions, Impaired Healthcare Professionals Seminar. UW MEDEX Programs (Physician Assistant Training). June 22, 2023. Seattle, Washington.

Saving Careers, Saving Lives: WPHP and the Impaired Physician. Swedish Medical Center Graduate Medical Education Orientation. June 13, 2022. Seattle, Washington.

Medicine and Wellbeing: Enhancing Resilience and Meaning in Medicine. Washington State University, College of Veterinary Medicine (faculty presentation). February 21, 2022. Pullman, Washington.

Physician Impairment and WPHP, Psychiatry Residency Spokane, Sacred Heart Medical Center. Teleconference. January 13, 2022.

Burnout and Finding Support, Swedish Family Medicine Residency Program. March 25, 2021. Seattle, Washington.

Pacific Northwest Health Sciences University, "Wellness and the Art of Medicine ". Teleconference. November 6, 2020.

22nd Annual Fundamentals of Addiction Medicine. "Improving Outcomes for Women with Substance Use Disorders". Tulalip, Washington. February 20, 2020.

Heritage University for Physician Assistant students. "The Impaired Health Care Professional". February 13, 2020. Selah, Washington.

Jefferson Healthcare Medical Staff Symposium, "Beyond Burnout: Cultivating Joy in Life and Medical Practice". November 9, 2019. Semiahmoo, Washington.

2018 Federation of State Physician Health Programs Annual Education Conference, "Use of Controlled Substances as Treatment Modalities for Monitored Physicians". April 25, 2018. Concord, North Carolina.

Burnout or Fade Away- Isn't There Another Way?

**Recognition and Management Approaches to Professional Stress and Burnout
Seattle Office of Administration Hearings Meeting, June 26, 2017**

Western Doctors in Recovery. "Cannabis and the healthcare Professional: Does Legalization Really Matter?" February 2017. California.

2017 Federation of State Physician Health Programs Annual Education Conference, “What’s Age Got to Do with It?” Review of a Cognitive Screening Pilot in Health Care professionals. April 21, 2017. Fort Worth, Texas.

The 2nd Annual Addiction Medicine for the Primary Care Provider Conference. “Designer Drugs of Abuse”. December 3, 2015. Minneapolis, Minnesota.

Wellbeing Conferences at the Royal College of Physicians of Ireland, September 18, 2014 “Treatment of Trauma in Physicians” and September 19, 2014 “Trainees in Treatment: Saving Careers and Lives”, Dublin, Ireland.

The 26th Annual Southwest Pharmacists Recovery Network Meeting, “Treatment of Chemical Dependency and Co-Occurring Disorders”. September 21, 2013. Tucson, Arizona.

2013 Federation of State Physician Health Programs Annual Education Conference, “Treatment of Trauma in Healthcare Providers”. April 21, 2013, Cambridge, Massachusetts.

Publications:

(Previously known as Laura Ferguson)

Moss, LC. *What is Recovery?* In: Matthews, AM and Fellers, JC, editors. Treating comorbid opioid use disorder in chronic pain. Switzerland; Springer International Publishing; 2016 p. 119-128.

Meredith C, Jaffe C, Cherrier M, Robinson J, Malte C, Yanasak E, Kennedy A, Ferguson L, Tapp A, Saxon A. *Open Trial of Injectable Risperidone for Methamphetamine Dependence*. The Journal of Addiction Medicine. J Addict Med, 2009; 3(2):55-65.

Simpson T, Saxon A, Meredith C, Malte C, McBride B, Ferguson L, Gross C, Hart K, & Raskind, M.A. (2008). *A Pilot Trial of the Alpha-1 Adrenergic Antagonist, Prazosin, for Alcohol Dependence*. Alcoholism Clinical and Experimental Research. 2008; 32(11):1-9.

Reoux J, Malte C, Farr C, Ferguson L, and Saxon A. *Poster 14: Controlled Trial of Extended Release Divalproex Sodium in Alcohol Dependent Patients with Subsyndromal Psychiatric Symptoms*. American Journal on Addictions. 2008; 17(4):333.

Ferguson L, Ries R, and Russo J. *Barriers to Identification and Treatment of Hazardous Drinkers as Assessed by Primary Care Doctors*. Journal of Addictive Diseases. 2003; 22(2):79-90.

Employment:

Washington Physicians Health Program, Seattle, Washington

Associate Medical Director, May 2016 - current.

Hazelden Betty Ford Foundation, Newberg, Oregon

Medical Director, March 2013 - April 2016

Director of the Health Care Professionals Program, October 2014 - April 2016

Addiction Psychiatrist, January 2010 - April 2016

Veterans Administration Health Care Services Puget Sound, Seattle, Washington
Staff Psychiatrist and Addiction Psychiatrist, 2002-2008
Director of the Women's Trauma and Recovery Center, 2008 - 2009

University of Washington Department of Psychiatry and Behavioral Sciences,
Seattle, Washington.
Acting Clinical Professor and then Assistant Clinical Professor, 2003 - 2009
Assistant Training Director for UW Psychiatry Residency at Seattle VA, 2003 - 2004
Chief Psychiatry Resident at VA Puget Sound Health Care System, 2001 - 2002

Department of Alcohol and Substance Abuse (DASA). Consulting psychiatrist for methadone treatment centers accreditation surveys. Washington State. 2005 - 2009.

Overlake Hospital Medical Center, Bellevue, Washington. Weekend psychiatrist for the department of psychiatry inpatient and consult service. 2008 - 2009.

Sacred Heart Medical Center, Spokane, Washington. Weekend psychiatrist for adult, geriatric, and child psychiatric inpatient units. 2002 - 2008.

Sacred Heart Medical Center, Spokane, Washington. Registered nurse and evening charge nurse on nephrology unit. Also worked on cardiology and oncology units. 1988 - 1991 and again from 1993 - 1994, prior to starting medical school.

References:

Upon request

January 25, 2024

VIA EMAIL

barleaders@wsba.org

Member Wellness Program
Washington State Bar Association
1325 Fourth Ave, Ste 600
Seattle, WA 98101

Subject: Well-Being Task Force

Dear Bar Leaders:

One of the highlights of my time as president of the Washington State Bar Association was to be able to promote and publicize the great work our bar association does in helping our members during stressful times, periods of incapacity and addiction that directly affects their lives and practices. For years, I had the opportunity to observe the work of the Oregon State Bar and what programs they offered to its members and knew that the WSBA could do more, if only they set their sights on it. In one of my first columns in *The Bar News*, I wrote about studies that demonstrated the seriousness of mental health and substance abuse in our profession and the need for us to improve upon what we already had. [NW Lawyer - Nov. 2020 \(wabarnews.org\)](https://www.wabarnews.org) I envisioned financial assistance for comprehensive treatment options for people seeking support, a standing committee to ensure that we heard from our members and kept them up to date on our progress and free counseling assistance designed specifically for legal professionals.

As immediate past president, I continued to champion this work toward making sure that the tools the WSBA needed to advance and grow its well-being program were identified and made available. In January 2023, I was thrilled to see that the WSBA Board of Governors approved the Well-Being Task Force Draft Charter that outlined the need for further work and specific objectives we could take to improve well-being within our membership.

Today, I sit on the State Lawyers Assistance Committee on the Oregon State Bar, whose authority it is to receive, review, investigate, process and resolve all complaints and referrals regarding lawyers whose performance or conduct may impair their ability to practice law or their professional competence. I've learned of the important work that bar associations can do with conditional admissions that allow attorneys to enter into written agreements that permit attorneys to practice who might not otherwise be allowed to practice due to events in their past. I am inspired by the countless volunteers that selflessly dedicate their time and energy

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without charge toward helping others in the profession during difficult times. And, I am interested in volunteering my own time and energy toward this important work.

Please accept this cover letter and resume as my application to serve on the Well-Being Task Force as a current member of the WSBA or as a former BOG member (2017 to 2022). I have a strong interest in seeing that WSBA's well-being programs are championed and understood by our members for the important role they play in protecting both our members in the legal profession and the public for which they serve.

Please reach out to me directly if I can provide additional information about my background or why I believe I would be an effective member of the Member Well-Being Task Force.

Thank you.

Sincerely,

//Kyle D. Sciuchetti

Kyle D. Sciuchetti

Enclosure

Kyle D. Sciuchetti

SUMMARY OF QUALIFICATIONS

I serve as outside counsel to many businesses throughout the Pacific Northwest. My practice includes civil litigation, with an emphasis in complex construction disputes and business disputes in Washington, Oregon and Idaho.

WORK EXPERIENCE

MILLER NASH LLP – Partner; Vancouver/Portland; 2019 to Present

- Advises businesses and manages the legal needs of a wide range of companies
- Significant experience representing construction professionals in business and litigation

BULLIVANT HOUSER BAILEY, PC - Attorney; Portland/Vancouver; 2007 to 2019

- Civil practice focusing on business in Washington, Oregon and Idaho
- Serves as outside counsel to businesses throughout Pacific Northwest
- Represents businesses in trial, arbitration, mediation and appeals

LANDYE BENNETT BLUMSTEIN, LLP - Attorney; Portland; 2003 to 2007

- Civil practice focused on business litigation, construction defect and products liability
- Counseled business clients in employment law, including employment and severance agreements
- Experienced in all levels of trial practice including motions practice, jury trials and appeals

HALL & HOLLAND - Attorney; Vancouver; 2001 to 2003

- Provided advice to business clients on real estate, contracts, lease agreements, corporate governance, purchase and sale agreements, employment litigation and other issues
- Negotiated use of U.S. Dept. of Energy power-line easement for operation of quarry conveyor

PUBLIC POWER COUNCIL, Inc. - Senior House Counsel; Portland; 1999 to 2001

- Represented Public Power Council in the United States Court of Appeals for the Ninth Circuit, U.S. district Court Western District of Washington and the U.S. District Court of Oregon
- Negotiated complex power sales agreements on behalf of member utilities
- Advised Executive Committee on wide range of issues including corporate structure, multi-million dollar purchase and sale agreements, litigation strategy and regulatory compliance

CITY of SPOKANE - Assistant City Attorney/Prosecutor; Spokane; 1997 to 1999

- Prosecuted jury and bench trials in district court for the City of Spokane
- Managed full docket of cases requiring daily appearances in court

WASHINGTON STATE LEGISLATURE - Code Reviser's Office; Olympia; 1997

- Drafted over 500 bills, amendments and resolutions during the 1997 legislative session
- Counseled elected officials and business representatives on legislation concerning business, sales, construction law, real property issues and other matters

BAR ADMISSIONS

Washington State Bar Association – 1996
Oregon State Bar Association – 1996
Idaho State Bar Association – 2015
United States District Court, Western District of Washington – 1999
United States District Court, Eastern District of Washington – 2006
United States District Court, District of Oregon – 2000
United States District Court, District of Idaho – 2015
United States Court of Appeals for the Ninth Circuit – 2000
United States Supreme Court – 2000

PROFESSIONAL ACTIVITIES

President, Washington State Bar Association – 2020 to 2021
Immediate Past President, Washington State Bar Association – 2021 to 2022
President-Elect, Washington State Bar Association – 2019 to 2020
Governor, District 3, Washington State Bar Association, Board of Governors – 2017 to 2020
Past President, Board Member Clark County Food Bank – 2007 to 2016
Board of Directors, Humane Society of Southwest Washington – 2006 to Present
Board Member, Clark County Animal Control Advisory Board – 2019 to Present (Chair 2022 to Present)
Washington State Bar Association Legislative Review Committee – 2003 to Present (Chair 2016, 2019)
Washington State Bar Association Legislative Committee; Board of Governors – 2017 (Chair 2018, 2019)
Washington State Bar Association, Long Range Strategic Planning Council – 2020 to 2023 (Chair 2021)
Washington State Bar Association, Taxicab Committee – 2020 to 2021 (Chair)
Washington State Bar Association, Cmte. To Investigate Alt. to Mand. Malpractice Ins. 2020 (Chair)
Washington State Bar Association, Bar Structures Workgroup – 2018 to 2019
Statute Law Committee, Washington State Legislature Code Reviser’s Office – 2021 to Present
Trustee, Washington State Bar Foundation, Board of Trustees – 2017 to 2020
Board Member, Committee on Mission Performance & Review, WSBA – 2017 to 2019
Washington State Bar Association Liaison to Committee on Professional Ethics – 2017 to 2020
Washington State Bar Association Liaison to Corporate Counsel Section – 2017 to 2020
Washington State Bar Association Liaison to World Peace Through Law Section – 2017 to 2020
Governor, District 8, Oregon State Bar – 2024 to Present
Oregon State Bar Public Affairs Committee – 2024 to Present
Oregon State Bar State Lawyers Assistance Committee – 2024 to Present
Oregon State Bar Construction Section – 2024 to Present
Oregon State Bar Corporate Counsel Section – 2024 to Present
Metropolitan Business Association; Board of Directors – 2017 to Present
Washington State Bar Association; Practice of Law Committee – 1998 to 2001, 2002 to 2003
Oregon State Bar Association, Corporate Counsel Section – 2000 to 2001
Certificate of Appreciation, Bonneville Power Administration – 1996
American Bar Association, 1994 to Present
A.B.A. Washington State Bar Association Delegate to ABA House of Delegates – 2023 to Present
A.B.A. President/Representative, Lewis & Clark, Northwestern School of Law – 1995 to 1996
A.B.A. 12th Circuit Lieutenant Governor, Public Interest Division – 1994 to 1995
A.B.A. Membership Chair – 1994 to 1995

EDUCATION

J.D. – Lewis & Clark College, Northwestern School of Law; Portland, Oregon – 1996
Dean’s Fellowship/Scholarship awarded for academic achievement
B.A. – Political Science, University of Washington; Seattle, Washington – 1992
Academic Honors, University of Washington
B.A. – Psychology, University of Washington; Seattle, Washington – 1992
Psi Chi, National Psychology Honors Society

REPORTED CASES

Kaiser Aluminum & Chemical v. Bonneville Power Admin., 261 F.3d 843 (9th Cir. 2001).

Waxman v. Waxman & Assoc., 224 Or.App. 499, 198 P.3d 445 (2008).

Abraham v. T. Henry Const., Inc., 230 Or. App. 564, 217 P.3d 212 (2009)

WASHINGTON STATE BAR ASSOCIATION

Well-Being Task Force DRAFT CHARTER

Approved by the Board of Governors January 12, 2023

Background

The Task Force seeks to (1) study well-being among WSBA members and the broader legal community in Washington and (2) make recommendations to enhance well-being for those same individuals and thereby improve the provision of legal services.

The Task Force will draw on the considerable and influential existing body of work compiled by national and state legal organizations, most prominently [The Path to Lawyer Well-Being: Practical Recommendations for Positive Change](#), authored by the National Task Force on Lawyer Well-Being, a coalition of organizations including the National Organization of Bar Counsel (NOBC), the Association of Professional Responsibility Lawyers (APRL) and the [American Bar Association's Commission on Lawyer Assistance Programs](#) (COLAP). Following publication of the report in 2017, both the ABA and the Conference of Chief Justices passed resolutions urging all states to review and consider the report's 44 recommendations. Subsequently, 26 states have formed well-being committees and another eight states have held well-being conventions or "summits."

In November 2023, at the recommendation of the Member Engagement Council (MEC), the WSBA Board of Governors (BOG) voted to adopt member wellness as an organizational priority. Creating a Well-Being Task Force (which was also part of the MEC's recommendation) is the first step in acting on that priority.

Task Force Objectives

The Task Force's primary objective will be to create a report synthesizing the Task Force's research and recommending tangible steps WSBA can take to enhance well-being among WSBA members and the broader legal community in Washington. This objective will be achieved by accomplishing two subsidiary objectives:

1. Create Workgroups to Research Well-Being Across the Various Sectors of the Legal Profession in Washington and the U.S.

By the end of its second meeting, the Task Force will establish multiple workgroups to research well-being across various sectors of the legal profession. The workgroups will be comprised of Task Force members and additional non-voting members if desired, such as WSBA employees and members of relevant associations (e.g., Superior Court Judges Association, District and Municipal Court Judges Association, and Appellate Judges Association). The workgroup members will be appointed by the Chair of the Task Force, with consent of a majority of the task force members.

Each workgroup will focus on one or more sectors of the legal profession, with the goal of bringing recommendations to the Task Force of how to raise awareness and/or prioritize well-being within those sectors. Examples of sectors could include types of practice (e.g., private practice, in-house, judiciary, public/government practice), law schools/law clerk programs, member wellness programs, professional

liability insurance carriers, and professional regulatory systems,¹ Topics of workgroup focus could include substance use, structural and systemic oppression, student loan challenges, marginalization and experiences of othering, discrimination or bias, balancing work and family life, the impact of remote work, and other concerns. The foregoing examples of sectors and topics are not exhaustive, and the term “sectors of the profession” should be interpreted broadly.

Workgroups will be tasked with:

- recruiting relevant contributors, both within the profession, and outside of the profession, to participate in each workgroup’s research;
- conducting outreach to and receiving feedback from sectors of the profession relevant to the workgroup;
- reviewing well-being recommendations nationwide and determining which appear most relevant to legal practice in Washington;
- understanding the state of research regarding mental health; and
- providing a final report to the full Task Force, containing its findings and recommendations.

2. Create a Workgroup to Investigate Well-Being Among WSBA Members

The Task Force will also form a workgroup to investigate well-being among WSBA members. This workgroup’s primary goal will be to develop and deploy a member survey by no later than the end of the Task Force’s first year. Areas of inquiry for the survey may include the relative well-being of members, the identification of challenges in legal practice, the occurrence of mental health conditions or illness, and suggestions for the Task Force. The workgroup may also solicit member feedback through listening sessions, focus groups, and other forms of interaction. The workgroup will provide a final report to the full Task Force, containing its findings and recommendations.

Timeline

The Task Force will have a duration of two years from the date of its first meeting and will meet monthly or at other intervals determined to be appropriate by the Chair. The Task Force will provide quarterly reports to the Member Engagement Council, an interim written report to the Board after its first year of operation, and a final report to the Board at conclusion of its two-year duration. The Task Force may also report to the Member Engagement Council or the Board on an interlocutory basis if urgent issues arise.

Composition

The Task Force shall consist of nine voting members and two non-voting judicial members, as follows:

- Chair (voting)
- 1 Current or Former BOG Member (voting)
- 4 WSBA Members (voting)

¹ In adopting this Charter, the Board of Governors recognizes that Washington State’s professional regulatory systems for legal practitioners are created by and answerable to the Washington Supreme Court exclusively. To the extent the Task Force has ideas or recommendations that would implicate regulatory processes, procedures, policies, or rules, the Task Force should work collaboratively with the pertinent stakeholder(s) and direct any recommendations to the appropriate regulatory staff or board, the Disciplinary Advisory Round Table, and/or the Supreme Court.

- 1 Member of the State Supreme Court (non-voting)
- 1 Adjudicative Officer in Washington State (non-voting)
- 1 Law School Representative (student or employee; voting)
- 2 Public Members (voting)

Further membership criteria is detailed in the appendix below.

Nominations and Appointment

Except for the State Supreme Court member, who will be determined by the Supreme Court, the WSBA President will appoint Task Force members in accordance with WSBA Bylaws Art. IX.B.2 taking into account the recommendation of the Co-Chairs of the Member Engagement Council. The President shall appoint the Task Force Chair taking into account the recommendation of the Co-Chairs of the Member Engagement Council. The WSBA Executive Director will designate the WSBA staff liaison(s).

Terms

Task Force members will serve for the two-year duration of the Task Force. The WSBA President will appoint any replacement members (if necessary) taking into account the recommendation of the Co-Chairs of the Member Engagement Council.

Final Report

At the end of its duration, the Well-Being Task Force will issue a final report to the Board of Governors. The report will (1) evaluate the scope and efficacy of the Task Force's achievements, and (2) provide feasible recommendations to improve well-being within the legal profession in Washington State.

APPENDIX

The following non-exclusive criteria shall be prioritized for membership on the Task Force:

Practice Types and Venues

The Task Force seeks participation from attorneys from various practice types and venues. Solo attorney participation will be important to prioritize the pressure they face in running their business, marketing, and having support staff to help manage their client base. Attorneys in mid-size or large firm settings face very different wellness challenges in keeping up their billable hour requirements and responding to management pressures upon their performance. Civil legal aid lawyers and public defenders face challenges of secondary trauma from working with clients who experience poverty and other forms of oppression. Government attorneys face challenges with unique bureaucratic responsibilities, and in house counsels face the demands of the companies they support.

Years of Bar Licensure

The Task Force seeks participation from attorneys at all stages of their careers. Early career attorneys face major pressures as they adapt to a profession that they were typically not trained for in law school. Mid-career attorneys often struggle with transitioning to a more hospitable work environment or to use a skill set more to their liking. Late career attorneys handle the question of when to retire and to manage, in some cases, changes in mental capacity.

Experience or Interest in Well-Being

The Task Force seeks participation from legal professionals with an interest in enhancing the well-being of the profession. Those who have original insights into what they think legal professionals need to feel more engaged and at ease will be prioritized. Those with volunteer experiences or connection to mental health venues will also be an asset.

Mental Health Professionals

The Task Force seeks participation from experienced mental health professionals who are not lawyers but have familiarity with the legal profession. Their expertise will inform the Task Force's recommendations and decision making.

Diversity, Equity, and Inclusion

The Task Force seeks participation from people from marginalized communities (e.g., people of color, people from the LGBTQ2S+ community, people with disabilities). Having a diverse group of members is vital to promote diversity, equity and inclusion goals, particularly given that these communities disproportionately experience mental health challenges and other wellness-related issues due to historical and ongoing marginalization, discrimination, access to healthcare, and other reasons.

Geography

The Task Force seeks participation from legal professionals and others throughout Washington to ensure consideration of wellness issues in all parts of the state, with particular attention to the different issues in rural and urban areas. To obtain geographic diversity, at least two Task Force members must reside east of the Cascades and at least one other member must reside outside of King, Pierce, and Snohomish Counties.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Gov. Kari Petrusek, Awards Committee Chair, and Sara Niegowski, Chief Communications and Outreach Officer
DATE: February 14, 2024
RE: Awards Committee Handbook: Award Eligibility Policy

ACTION: Approve the Award Eligibility Policy as part of a newly compiled Awards Committee Handbook.

The Awards Committee (“Committee”) oversees the nomination process and makes honoree recommendations to the Board of Governors (“Board”) for the WSBA’s annual APEX (Acknowledging Professional Excellence) Awards. The Committee has compiled a handbook to guide its work and provide greater continuity, consistency, and transparency to the awards process. The handbook compiles historical context, general information, operating norms, and policies related to the APEX Awards. Of the three included policies, two (*Process and Criteria to Name an Award in Honor of a Person* and *Process and Criteria to Add or Retire APEX Award Categories*) have been adopted by the Board; a new third policy (*Award Eligibility*) is coming before the Board for consideration now. With the Board’s approval of that policy, the Committee will begin using the handbook starting this year to guide its work.

Attached is the policy being recommended for approval in the handbook. The entire handbook is also attached, with the policy in question on page 10 (marked “DRAFT”).

Background

During the awards nomination and selection process last year, multiple Committee members recommended that such a handbook be created to help guide future Awards Committee chairs and members. Until now, the Committee’s historic documents and processes/procedures/policies existed in disparate documents or, quite often, not codified but passed along verbally during onboarding from year to year. By compiling the documents and (often hard-learned wisdom) into one central handbook, the Committee expects to operate with greater consistency, transparency, fairness, and efficiency.

Attachments

- *Eligibility policy for adoption*
- *Equity, Fiscal, Legal Analyses*
- *Complete Awards Committee Handbook*

Award Eligibility

Policy adopted by the Board of Governors XXX (TK)

The APEX Awards are an opportunity for WSBA leaders to honor legal practitioners who embody the highest ideals of service in each respective award category. When soliciting and considering nominations, a top priority is to reflect the full diversity of the legal community across Washington state in terms of geography, practice area and type, and other demographics such as gender, race, age, etc.

Unless otherwise stated, each APEX Award is given to a single WSBA member (any license type). Awards that allow for group (including corporate entities) and/or non-WSBA member nominations as well as awards with specific eligibility requirements are listed below. Honorees may receive one award per lifetime in any single APEX Awards category; the Committee should carefully consider other candidates before awarding another APEX Award, in a different category, to an honoree who has received an APEX Award in the past five years. To avoid actual or perceived conflicts of interest and uphold the integrity of the awards process, current/seated WSBA staff, Board of Governors members, and Officers are not eligible for APEX Awards.

Specific eligibility:

- Angelo Petrucci Award for Lawyers in Government Service: Open to a WSBA member who works in government service, defined as employment with a local, city, county, state, tribal, or federal government entity or agency, including the Attorney General's Office and military branch. Elected officials are not eligible.
- Justice Charles Z. Smith Excellence in Diversity Award: Open to individuals, groups, and non-WSBA members.
- Legal Innovation Award: Open to individuals, groups, and non-WSBA members.
- Lifetime Service Award: Open to non-WSBA members.
- Outstanding Judge Award: Open to current or retired judges, including administrative law judges, hearings officers, and other judicial or quasi-judicial officers.
- Outstanding Young Lawyer Award: Open to active lawyers who meet the definition of "young lawyer" in the WSBA Bylaws (currently: "until the last day of December of the year in which the member attains the age of 36 years or until the last day of December of the fifth year after the year in which such member first was admitted to practice as a lawyer in any state, whichever is later.")
- Pro Bono Public Service Awards: One award given to an individual and one award to a group; open to non-WSBA members.
- Norm Maleng Leadership Award: Open to individuals, groups, and non-WSBA members.
- Sally P. Savage Leadership in Philanthropy Award: Open to individuals, groups, and non-WSBA members.

WASHINGTON STATE BAR ASSOCIATION

Awards Committee Handbook

This WSBA Awards Committee Handbook gathers all relevant information—including historical context, policies, and procedures—in one place to help guide and assist Awards Committee members as they do their work each year. The policies herein, which specify or prohibit conduct and/or have a fiscal impact, must be approved by the Board of Governors. The procedures herein which specify how the Committee operates may be updated by the Awards Committee.

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Awards Overview

Since at least the 1950s, the Washington State Bar Association has operated an awards program to honor outstanding members of the legal community. We coalesced this annual effort into a comprehensive recognition program named the APEX (**A**cknowledging **P**rofessional **E**xcellence) Awards in 2016. The goals of the APEX Awards are to recognize people and organizations whose work embodies the WSBA mission, to show members what WSBA's mission looks like in day-to-day legal practice, to inspire members to proudly uphold the rule of law and integrity of the profession, and to grow public confidence in a just and equitable legal profession.

There are currently 12 APEX Award categories. The Awards Committee (Committee) is the entity that encourages nominations early in the calendar year, selects the honorees in early spring, and presents a final slate of APEX recommendations to the entire Board of Governors at the May meeting. Once the honorees are confirmed, WSBA staff members immediately commence work on the accompanying celebrations:

- Each honoree is featured in a professionally produced video.
- Each honoree and a guest are invited to a reception in September, where they receive an APEX crystal in front of the Board of Governors, Supreme Court Justices, and other members of the legal community. The President decides each year whether the honorees' videos are shown. (Note: The Board of Governors sunset the APEX ~300-guest formal banquet in 2020.)
- Consistent with available resources, WSBA staff coordinates with each honoree to plan an "APEX in the Community" party during the following fiscal year. These informal celebrations are in the honorees' community, bringing together their friends, family, and colleagues for connection and celebrating. Each honoree's video is featured prominently.
- Each honoree's video is featured prominently via the WSBA's web and social media presence, and on our YouTube channel. We also send a link to the video and press release to relevant media and the WSBA membership at large.
- Honorees' names are added to perpetual plaques prominently placed on the WSBA's public floor.

The 12 APEX Award categories are:

- **Chief Justice Mary E. Fairhurst Award of Merit:** The WSBA's highest honor, this award—named in honor of the late Chief Justice and former WSBA President—is given to an individual for a recent, singular achievement with a great impact on the community.
- **Angelo Petrucci Award for Lawyers in Government Service:** Named in honor of a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors, this award is given to a lawyer in government service who has made a significant contribution to the legal profession, the justice system, and the public.
- **Justice Charles Z. Smith Excellence in Diversity Award:** Named in honor of the first African-American to serve on the Washington Supreme Court, this award goes to a legal professional, law firm, or law-related group that has made a significant contribution to diversity in the legal profession.
- **Legal Innovation Award:** This award recognizes legal professionals, law firms, courts, law schools, individuals, or organizations that demonstrate leadership in promoting innovation in the practice of law (programs, processes, or technology that advance or streamline the future of the profession and accessibility/delivery of legal services).
- **Lifetime Service Award:** This is a special award given for a lifetime of service to the legal community and the public.

- **Norm Maleng Leadership Award** (*presented jointly with the Access to Justice Board*): Named in honor of the late King County Prosecuting Attorney, this award recognizes a legal leader who embodies the spirit of optimism, love of the law, commitment to diversity and mentorship, and pursuit of access to justice.
- **Outstanding Judge Award**: This award is presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.
- **Outstanding Young Lawyer Award**: This award recognizes a legal professional who has made significant contributions to the professional community, especially the community of young lawyers, within their initial years of practice.
- **Pro Bono and Public Service Awards**: These awards recognize outstanding cumulative efforts in providing pro bono services or giving back in meaningful ways to the public, the community, or to the legal profession. Nominations are considered in two categories: 1) for an individual, or solo or small firm practitioner; 2) for a multi-person law firm or organization.
- **Professionalism Award**: This award recognizes a legal professional who exemplifies the spirit of professionalism in the practice of law, as defined in the WSBA's Creed of Professionalism.
- **Sally P. Savage Leadership in Philanthropy Award** (*presented jointly with the Washington State Bar Foundation*): Named in honor of the leader who sparked the Bar Foundation's renaissance and was a catalyst for its refocused mission to sustain the WSBA's effort to advance justice and diversity, this award recognizes a legal leader who inspires people to recognize the transformative potential of philanthropy.

Past Recipients of the APEX and WSBA Awards

Chief Justice Mary E. Fairhurst Award of Merit (Formerly Award of Merit)

2023	Caesar Kalinowski IV	1993	Frank V. Slak Jr.
2022	Hon. James E. Rogers	1993	John Gavin
2021	David A. Perez	1992	William H. Gates Jr.
2020	Daniel G. Jones	1991	John G. Kamb
2019	Roger Sherrard	1990	Thomas S. Foley
2018	Spokane Community Court	1989	Smithmoore P. Myers
2016	Matthew H. Adams	1988	Lowell K. Halverson
2015	Deborah M. Niedermeyer		Ann Sandstrom
	Manuel F. Rios III	1987	R. Ted Bottiger
2014	Eric M. Pedersen		Marjorie D. Rombauer
2013	Adam Berger	1986	Charles A. Goldmark
	Kristin Houser	1985	John D. McLauchlan
	Rebecca Roe		Claude M. Pearson
	Bill Rutzick	1984	Harry M. Cross
2012	William Dussault		Jack R. Dean
2011	Hon. Mary E. Fairhurst	1983	Kenneth Schubert Jr.
	Joseph M. McMillan		Hon. George Revelle
	Charles C. Sipos	1982	Hon. Eugene Wright
	Harry H. Schneider, Jr.		F. Lee Campbell
2010	Hon. Donald J Horowitz	1981	William A. Gissberg
2009	Hon. Deborah Fleck	1980	Cleary S. Cone
2008	Hon. Gerry L. Alexander	1980	Malcolm L. Edwards
	Ronald R. Ward		Hon. Charles Horowitz
2007	Kenneth Davidson	1978	G. Keith Grim
2006	Marc A. Boman		Paul W. Steere
2005	Barbara C. Clark	1977	Edith M. Lobe
2004	David Boerner		Hon. George T. Shields
	Ellen Conedera Dial	1976	Paul R. Cressman Sr.
2003	David Burman	1975	Daniel C. Blom
	Maureen Hart		Murray B. Guterson
	Kathleen O'Sullivan	1974	Robert P. Beschel
2002	Stephen R. Crossland		Alfred McBee
2001	John McKay	1972	Muriel Mawer
	Rick Nagel		Edmund B. Raftis
2000	Louis Rukavina III	1971	Donald Spickard
1999	Douglas C. Lawrence	1970	Alfred J. Schweppe
1998	Julian C. Dewell	1969	George V. Powell
1997	Joseph P. Erickson	1968	Dewitt Williams
	C. Robert Ford	1965	John Davis
1996	David W. Soukup		Robert M. Elston
1995	Paul Stritmatter	1964	E.K. Murray
1994	Ruth Walsh McIntyre	1963	E. Glenn Harmon
		1962	Benjamin Grosscup
		1961	Hon. Charles Horowitz
			Charles F. Osborn
			Jack Whitmore

1959 Theodore P. Cummings
 1958 Clarence Coleman
 George W. McCush
 Herbert Ringhoffer
 Hon. William J. Steinert
 1957 Arnold R. Beezer
 Benjamin Grosscup

PROFESSIONALISM AWARD

2023 Peter Kram
 2022 Mark J. Fucile
 2021 Lt. Col. Melanie J. Mann
 2020 Jean M. McCoy
 2019 Mike Pettit
 2018 Mark A. Johnson
 2017 J. Donald Curran
 2016 Anthony R. Hinson
 2015 Matthew L. Clucas
 2014 Laura Anglin
 2013 Phillip H. Ginsberg
 2012 Steven H. Sackmann
 2011 Craig A. Sims
 2010 James M. Danielson
 2009 Richard Mitchell
 2008 Hon. Ronald M. Gould
 2007 Eugene Moen
 2006 Joy B. McLean (posthumous)
 2005 Robert H. Lamp
 2004 Jeffrey J. Jahns
 2003 Harry J. McCarthy
 2002 Smithmoore P. Myers
 2001 Francois X. Forgette
 2000 Peter Greenfield
 1999 Jane Seymour
 1998 Jack G. Rosenow
 1997 Christine O. Gregoire
 Patrick Hardy
 1996 Kathleen M. Taft
 1995 Sidney J. Strong
 1994 Judith Proller
 1993 Mark G. Honeywell
 1992 Fred G. Campbell
 1991 Julian C. Dewell
 1990 Evans, Craven & Lackie
 Yakima County Bar Association
 1989 Warren Peterson

LIFETIME SERVICE AWARD

2023 Sue Encherman
 2022 Gail R. Smith
 2021 William H. Gates II (posthumous)
 2020 Patricia J. Chvatal
 Carol Newell Pidduck
 D. Jean Shaw
 2019 Ann M. Guinn
 2018 Milton G. Rowland
 2017 Karl Tegland
 2015 Susan K. Cook
 2014 James A. Vander Stoep (posthumous)
 2013 Donald Madsen
 2012 Hon. Tom. Chambers
 2011 Robert D. Welden
 2010 Hon. Robert Bryan
 2009 Hon. Robert Harris
 2008 Hon. Eugene C. Anderson
 2007 Dale L. Carlisle
 2006 Patrick H. McIntyre
 2005 Julian C. Dewell
 2004 M. Wayne Blair
 2003 none given
 2002 Hon. C. Z. Smith
 2001 Joseph H. Gordon Sr.
 2000 Leonard W. Schroeter
 1998 Lewis Orland
 1997 Bernice Bacharach
 1996 J. Donald Curran
 1995 John N. Rupp
 1993 Jack R. Dean (posthumous)
 1992 Michael J. Hemovich

ANGELO PETRUSS AWARD FOR LAWYERS IN PUBLIC SERVICE

2023 Rebecca Bernard
 2022 Ann Lundwall
 2021 Julian M. Bray (posthumous)
 2020 Nancy Koptur
 2019 Susan L. Carlson
 2018 Les Reardanz
 2017 Renee Morioka

2015 Robert K. Costello
 2013 Maureen Hart
 2012 David Huey
 2010 Joanne I. Moore
 2011 Margaret E. Fisher
 2009 Roger Wynne
 2008 Jon E. Ostlund
 2007 Norm Maleng (posthumous)
 2006 Penny L. Allen
 2005 Rafael A. Gonzales
 2004 Sally G. Bagshaw
 Rhonda J. Brown
 2003 Rochelle Kleinberg-Goffe
 2002 Jerald R. Hamley
 2001 Narda D. Pierce
 2000 Barbara A. Vining
 1999 Joseph S. Montecucco
 1998 Joseph Shorin III
 1997 John P. Wulle
 1996 William L. Williams
 1995 Richard L. Cease
 1994 Robert V. Jensen
 1993 Thomas W. Hillier II
 1992 Stephen J. Lundin
 1991 Mary C. Barrett
 1990 Lee Ann Milles
 1989 John Gray

JUSTICE CHARLES Z. SMITH EXCELLENCE IN DIVERSITY AWARD

(Formerly Affirmative Action Award and Excellence in Diversity Award)

2023 Imani Shannon (posthumous)
 2022 QLaw Foundation of Washington
 2021 James F. Williams
 2020 Catherine C.A. Romero
 2019 Hon. G. Helen Whitener
 2018 Hon. Bonnie J. Glenn
 2017 Lionel Greaves IV
 2016 Chalia Stallings-Ala'ilima
 2015 The Judicial Institute
 2014 Gabriel S. Galanda
 2013 Fé Lopez
 2012 Chach Duarte White
 2011 Ramona L. Witt (posthumous)

2010 Aneelah Afzali
 2009 Minority Bar Association Joint
 Committee on Law Firm Diversity,
 And Collaboration Project
 2008 Marcine Anderson
 2007 David W. Savage
 Ronald R. Ward
 2006 David Boerner
 Paula Lustbader
 Alternative Admissions Program and
 Academic Resource Center
 Seattle University Law School
 2005 Paula E. Boggs and
 Starbucks Coffee Company
 2004 Dean Sandra Madrid
 2003 Perkins Coie LLP
 Glass Ceiling Task Force
 2001 Rafael A. Gonzales; Washington Young
 Lawyers Division
 2000 Superior Court Judges' Association
 Equality and Fairness Committee
 1999 Williams, Kastner & Gibbs
 1998 King County Prosecutor's Office
 1997 Puget Sound Minority Clerkship
 Program
 1996 V. Rafael Stone
 Foster Pepper & Shefelman
 1995 Daniel Gandara
 1994 Jerry Franklin King
 1993 Dr. Sandra Madrid
 1992 Lane Powell Spears & Lubersky
 1991 Richard A. Jones

COURAGEOUS AWARD (Sunset)

2016 Todd Gruenhagen
 Leo Hamaji
 Carl Luer
 Stacey MacDonald
 Colleen O'Connor
 William Prestia
 Kathryn Ross
 David Sorenson
 2015 Hunter M. Abell
 2014 Shirley Bondon
 2013 Carl Maxey (posthumous)

2012 Hon. David L. Edwards
 2009 Ernest Radillo
 2007 John McKay
 2006 Nancy C. Iverinen
 2005 James A. Bamberger
 Marcia Newlands
 2004 Ada Shen-Jaffe
 2003 None given
 2002 William A. Jaquette III
 2001 Steven J. Tucker
 2000 Garth L. Dano
 1999 Faye von Wrangel
 1998 A. Stephen Anderson
 Junko Charity Louise Gerard
 1997 Rhesa E. Mansfield
 1996 Roy Prosterman
 1995 Timothy K. Ford
 1994 Frederick Paul
 1993 Robert D. Wilson-Hoss
 1992 Edward V. Hiskes
 1991 David J. De Laittre

PRO BONO AWARD

(see Pro Bono and Public Service 2017 and later)

2016 Perkins Coie & Microsoft
 David A. Bateman
 2015 SGB/LBAW Legal Clinic at El Centro
 de la Raza
 2014 Gene Siple
 2013 Brian Buckley
 GLBT Legal Clinic
 2012 Kathleen C. Field
 2011 Joanne M. Hepburn
 Thomas E. Kelly Jr.
 2010 DLA Piper LLP Seattle
 2009 Jonathan Yeh
 Dan Young
 2008 Gail R. Smith
 2007 Shelley Ajax
 2006 Leonard J. Feldman
 2005 Paula T. Crane
 2004 Matthew Kenney
 2003 Spokane County Bar Volunteer
 Lawyers Program
 Tacoma-Pierce County Bar
 Volunteer Legal Services Program

2002 Matthew Geyman
 2001 TeamChild
 2000 Rosemarie Warren LeMoine
 1999 Susan Daniel
 1998 Scott A. Smith
 Benton Franklin Legal Aid Society
 1997 Clark County Volunteer Lawyers
 Program
 1996 Suzanne P. Kendall
 1995 John McKay
 1994 Morse & Bratt
 1993 Deborra E. Garrett
 Spokane Office: Washington Attorney
 General
 1992 Marla B. Elliott
 E. King County Bar Assoc.
 Spokane Co. Bar Assoc.
 1991 Daniel A. Raas
 George J. Zweibel
 Lukins & Annis
 SKCBA - YLD
 1990 Russell W. Hartman
 1989 H. Scott Holte

OUTSTANDING JUDGE AWARD

2023 Hon. Rebecca Glasgow
 2022 Hon. Anita Crawford-Willis
 2021 Hon. Gerry L. Alexander (Ret.)
 2020 Hon. Michael McCarthy
 (awarded posthumously)
 2019 Hon. Brett Buckley
 2018 Hon. Bruce A. Spanner
 2017 Hon. Ronald Kessler (ret.)
 2016 Hon. Kathleen M. O'Connor (ret)
 2015 Hon. James P. Hutton
 2014 Hon. James. M. Riehl
 2013 Hon. Sharon Armstrong
 Hon. Laura Inveen
 2011 Hon. Steven C. González
 Hon. Mary I. Yu
 2010 Hon. Vickie Churchill
 Hon. Tari S. Eitzen
 Hon. Richard F. McDermott
 2009 Hon. Lesley Allan
 Chelan County Superior Court
 2008 Hon. Larry E. McKeeman

2007 Snohomish County Superior Court
 Hon. Gregory J. Tripp
 Spokane County District Court
 2006 Hon. D. Gary Steiner
 Pierce County Superior Court
 2005 Hon. Deborah Fleck
 King County Superior Court
 2004 Hon. Richard Jones
 King County Superior Court
 2003 Hon. Stephen Dwyer
 Snohomish County District Court
 2002 Hon. Michael S. Hurtado
 Seattle Municipal Court
 Hon. James M. Murphy
 Spokane County Superior Court
 2001 Hon. Daniel J. Berschauer
 Thurston County Superior Court
 2000 Hon. Richard P. Guy
 Washington State Supreme Court
 1999 Hon. William G. Knebes
 Clallam County Court Commissioner
 1998 Hon. J. Dean Morgan
 Court of Appeals – Division II
 Hon. John A. Schultheis
 Court of Appeals – Division III
 1997 Hon. Nancy Ann Holman
 King County Superior Court
 1996 Hon. Alan R. Hancock
 San Juan County Superior Court
 Hon. Thomas A. Swayze Jr.
 Pierce County Superior Court
 1995 Hon. Eugene C. Anderson
 Washington State Supreme Court
 1994 Hon. Charles V. Johnson
 King County Superior Court
 1993 Hon. James M. Dolliver
 Washington State Supreme Court
 1992 Hon. Marshall Forrest
 Court of Appeals - Division I
 1991 Hon. Roy A.H. Rainey
 Bremerton Municipal Court
 1990 Hon. Robert F. Utter
 Washington State Supreme Court
 1989 Hon. Tom Huff
 Yelm Municipal Court

PRO BONO AND PUBLIC SERVICE AWARD
(formerly Community Service Award and Public Service Award)

2023 Michael Goldenkranz (Individual)
 2023 FIRST Legal Clinic (Group)
 2022 William E.L. Hayden (Individual)
 2022 Sexual Violence Law Center (Group)
 2021 Master Chief Sally A. Webster
 (individual)
 2021 Virtual Help, A collaboration between
 Perkins Coie, Microsoft, and Legal Hope
 (group)
 2020 Joanna Plichta Boisen (Individual)
 2020 Thurston County Volunteer Legal
 Services (Group)
 2019 William D. Braun (Individual)
 2019 The Groves Law Offices (Group)
 2018 Edwardo “Eddie” Morfin (Individual)
 2018 Law Offices of Carol L. Edward &
 Associates (Group)
 2017 Grifan Cayce (Individual)
 2017 Mills Meyers Swartling (Group)
 2016 Adam Cornell
 2015 Kenneth G. Kieffer
 2014 Deborah Perluss
 2013 Karen Murray
 2012 James Douglas
 2011 Kripa Upadhyay
 2010 Ahndrea Blue
 2009 Capt. Alexander Straub
 2008 Lori K. Rath
 2007 Robert Wilson-Hoss
 2006 Hon. Joel M. Penoyar

NORM MALENG LEADERSHIP AWARD
Presented jointly with the Access to Justice Board

2023 Tahmina Watson
 2022 Riddhi Mukhopadhyay
 2021 Edmund R. Witter
 2020 Malou Chávez
 2019 Erin Lovell
 2018 Joan Kleinberg
 2017 Ada Shen-Jaffe
 2016 Michele Storms

2015 Breean L. Beggs
 2013 Judge T.W. "Chip" Small
 2012 Bruce Neas
 2011 Colleen Kinerk
 2010 Lonnie G. Davis
 2009 Hon. Mary I. Yu
 2008 M. Wayne Blair

OUTSTANDING YOUNG LAWYER AWARD

2023 Deanna Willman
 2022 Sofia M. Pasarow
 2021 Paul Heer
 2020 Jordan L. Couch
 2019 Shaun T. Greer
 2018 Annalise Martucci
 2017 Emily Arneson
 2016 Veronica Quinonez
 2015 Vincent D. Humphrey II
 2014 Alicia R. Levy
 2013 Jacob Brennan
 2012 Robin Lynn Haynes
 2011 David S. Keenan
 2010 Sarah Leyrer

LEGAL INNOVATION AWARD

2023 Jessica Nguyen
 2022 Davis Wright Tremaine LLP
 2021 Jacqueline G. Schafer
 2020 Latinx Legal Day
 2018 Project Safety
 2017 Dean Standish Perkins

SALLY P. SAVAGE LEADERSHIP IN PHILANTHROPY AWARD

Presented jointly with the Washington State Bar Foundation

2023 William Hyslop

2022 Amanda DuBois
 2021 Karen Murray
 2020 Lem Howell
 2019 Fred Rivera
 2018 *Not Awarded*
 2017 Teru Olsen
 2016 Gonzaga University School of Law
 Seattle University School of Law
 University of Washington School of Law
 2015 *Not Awarded*
 2014 Ron Ward
 2013 Sally Savage (posthumously)

SUNSET AWARDS (unrelated to APEX Awards)

Excellence in Legal Journalism

- 2011—Tim Connor, *Spokane*
- 2008—Jack Hamann
- 2004—Ken Armstrong, Florangela Davila, and Justin Mayo, *Seattle Times*
- 2001—Lise Olsen, *Seattle Post-Intelligencer*; and Robert C. Pittman
- 2000—Karen Dorn Steele, *Spokesman-Review*

Outstanding Elected Official

- 2007—Sen. Debbie Regala
- 2006—Rep. Kelli Linville
- 2005—Gov. Christine O. Gregoire, Sen. Stephen L. Johnson, and Rep. Patricia T. Lantz

Procedures: Overview, Operating Norms, and Timelines

The Committee is created by and composed of Board of Governors members. The WSBA President appoints a chair (voting) and five members to the Committee at the beginning of each fiscal year. The annual timeline for the APEX Awards process is: Open nominations from the beginning of January through the end of February; Committee deliberation and selection of a slate of APEX honorees primarily in mid-March and if a second meeting is necessary, in late March or early April; and a final Board of Governors decision on the slate in May. The May deadline is critical to ensure honoree's videos can be produced by end-of-fiscal-year festivities in September. Throughout the process, the Committee will meet at least once to select the recommended honorees (this may take more than one meeting). The Committee may also choose to meet in the fall, prior to the nominations process, to establish ground rules and talk about best ways to encourage nominations from across the state.

To uphold the goals of the APEX Awards and ensure a fair process, the Committee has established these agreed-upon operating policies, procedures, and best practices:

- **The process is confidential.** The Committee's work and meetings are not public. Immediately after the May meeting, the WSBA President and Executive Director will call to personally inform the honorees that they have been selected. We will publish the honorees' names on the website when those calls are complete. At that time, the honorees' information is made public. The Committee's deliberations and list of nominations remain confidential. Nomination materials may be highly sensitive, and, at times, we might also provide relevant discipline-related information.
- Two awards are presented jointly: The Norm Maleng Leadership Award in partnership with the Access to Justice Board, and the Sally P. Savage Leadership in Philanthropy Award in partnership with the Washington State Bar Foundation. Each of these entities solicits nominations and reviews the nominations in their respective category prior to the Committee meeting. Each entity recommends an honoree to the Committee. The Committee is not bound by the recommendation, but the decision to go with a different honoree should be made in close consultation with the partner entity. In other words, the recommendations are the presumed Committee selection unless there are compelling reasons otherwise. Typically, representatives from the Access to Justice Board and Bar Foundation will join the Committee for the first portion of the meeting to present their recommendations. Committee members should keep information about any other awards/nominees—outside the awards under consideration—confidential until the entity representatives leave the meeting.
- Nominations "from the floor" are not appropriate—i.e., each candidate should be nominated and considered via the same process with the same deadlines, not by Committee members making recommendations during the meeting.
- One of the most important jobs of Committee members is soliciting and encouraging nominations. This ensures a robust pool of candidates.
- Not all categories need to be awarded each year.
- Only under exceptional circumstances will two or more honorees be selected for one category each year. We do not want to dilute the singular achievement of each honoree, and we are under contract with the videographers for a single video for each award.
- "Honoree" is preferred to "winner" to avoid the idea of competition in the nomination process.
- All guidance in relation to GR12 applies to the Committee. Honorees cannot be recognized for political stances or activities, especially if those stances are contrary to current law.
- Have fun! The APEX Awards showcase truly astounding people doing incredible work!

Award Eligibility

Policy adopted by the Board of Governors XXX (TK)

The APEX Awards are an opportunity for WSBA leaders to honor legal practitioners who embody the highest ideals of service in each respective award category. When soliciting and considering nominations, a top priority is to reflect the full diversity of the legal community across Washington state in terms of geography, practice area and type, and other demographics such as gender, race, age, etc.

Unless otherwise stated, each APEX Award is given to a single WSBA member (any license type). Awards that allow for group (including corporate entities) and/or non-WSBA member nominations as well as awards with specific eligibility requirements are listed below. Honorees may receive one award per lifetime in any single APEX Awards category; the Committee should carefully consider other candidates before awarding another APEX Award, in a different category, to an honoree who as has received an APEX Award in the past five years. To avoid actual or perceived conflicts of interest and uphold the integrity of the awards process, current/seated WSBA staff, Board of Governors members, and Officers are not eligible for APEX Awards.

Specific eligibility:

- Angelo Petrucci Award for Lawyers in Government Service: Open to a WSBA member who works in government service, defined as employment with a local, city, county, state, tribal, or federal government entity or agency, including the Attorney General's Office and military branch. Elected officials are not eligible.
- Justice Charles Z. Smith Excellence in Diversity Award: Open to individuals, groups, and non-WSBA members.
- Legal Innovation Award: Open to individuals, groups, and non-WSBA members.
- Lifetime Service Award: Open to non-WSBA members.
- Outstanding Judge Award: Open to current or retired judges, including administrative law judges, hearings officers, and other judicial or quasi-judicial officers.
- Outstanding Young Lawyer Award: Open to active lawyers who meet the definition of "young lawyer" in the WSBA Bylaws (currently: "until the last day of December of the year in which the member attains the age of 36 years or until the last day of December of the fifth year after the year in which such member first was admitted to practice as a lawyer in any state, whichever is later.")
- Pro Bono Public Service Awards: One award given to an individual and one award to a group; open to non-WSBA members.
- Norm Maleng Leadership Award: Open to individuals, groups, and non-WSBA members.
- Sally P. Savage Leadership in Philanthropy Award: Open to individuals, groups, and non-WSBA members.

Process and Criteria to Name an Award in Honor of a Person

Policy adopted by the Board of Governors July 2019

The Washington State Bar Association annually recognizes luminaries of the Washington legal profession through its APEX (Acknowledging Professional Excellence) Awards. The awards are meant to illustrate and inspire legal professionals to advance WSBA's mission.

In general, each award should be named for the aspect of the legal profession the award highlights, and not after an individual due to the potential subjectivity of the naming process, need to appeal broadly to nominees in each award category, and the possible diminishing of name recognition through the years. However, in exceptional cases, an award may be named after an individual who exemplifies the spirit of the award category and embodies the WSBA mission.

The APEX Awards Committee is responsible for receiving and responding to requests to name awards, screening the request using the criteria below, and making a recommendation to the Board of Governors, which will make the final decision.

Although no single factor is determinative, in order to accomplish the purpose of the Apex Awards and maintain consistency, the Board of Governors decision to approve a recommendation to name an APEX Award should be governed by the following criteria:

To name an APEX Award after an individual, the individual should:

- Be deceased.
- Be a legal "giant" known to, and significant to, the WSBA legal community—preferably across the state—generally considered an upstanding recognizable name within the profession.
- Have an array of professional and personal achievements that epitomize the spirit and characteristics of the award category and are distinguished even among other leaders in his/her practice area.
- Have a personal story and/or philosophy that inspires WSBA members to follow in his/her footsteps.

Procedure for naming an APEX Award:

- The APEX Award should not be renamed until the following fiscal year if the Board of Governor's action is less than 9 months before the APEX Award ceremony, although the Board of Governors may act on less notice when it deems appropriate and if it is practical to do so
- Any WSBA member or group of members may make a recommendation to name an existing APEX Award after someone they believe meets the above criteria. The recommendation should be made in writing to the WSBA with more information about the nominee's qualifications and the level of membership outreach and support for the proposal.
- The APEX Awards Committee will determine whether the nominee meets all of the above criteria. It may be necessary for Committee members to consult with legal leaders in the area of the award category to make an informed decision.
- A quorum of the Committee must be present to vote on the recommendation, and 75 percent of Committee members present must vote in favor of the recommendation for it to pass to the Board of Governors.
- If the Committee moves forward with a recommendation to the Board of Governors, and the board votes in approval, committee members will make a good-faith effort to contact and seek input from the closet relatives and colleagues of the nominee.

Process and Criteria to Add or Retire APEX Award Categories

Policy adopted by the Board of Governors July 2019

The Washington State Bar Association annually recognizes luminaries of the Washington legal profession through its APEX (Acknowledging Professional Excellence) Awards. The awards are meant to illustrate and inspire legal professionals to advance WSBA's mission. WSBA's goal is to maintain as few award categories as necessary to meaningfully showcase different aspects of the WSBA's mission in action; each additional award has the potential to dilute the significance of the awards as a whole, thin out nominees across categories, and extend the ceremony length.

The APEX Awards Committee is responsible for receiving and responding to requests to add or retire award categories, screening the request using the criteria below, and making a recommendation to the Board of Governors, which will make the final decision.

Criteria for screening the viability of APEX Awards categories:

Any APEX Award category should:

- Meaningfully and uniquely showcase an aspect of the legal profession that advances the WSBA's mission and values.
- Not substantively duplicate any existing award category (i.e., could nominees for a prospective award category could readily fit into an existing award category for their achievements).
- Be expansive enough to reliably draw annual nominations from across the state and from many sectors of the legal community.

Procedures for naming an APEX Award:

- An APEX Award category will not be added or retired until the following fiscal year if the Board of Governor's action is less than 9 months before the APEX Award ceremony, although the Board of Governors may act on less notice when it deems appropriate and if it is practical to do so.
- Any WSBA member or group of members may make a recommendation to add or retire an APEX Award. The recommendation should be made in writing to the WSBA with accompanying information.
- The Awards Committee will determine whether the recommendation meets all of the above criteria. It may be necessary for Committee members to consult with legal leaders in the area of the award category to make an informed decision.
- A quorum of the Committee must be present to vote on the recommendation, and 75 percent of Committee members present must vote in favor of the recommendation for it to pass to the Board of Governors.

EQUITY ANALYSIS FOR APEX AWARD POLICY/HANDBOOK:

It appears that the proposed policy is intended to more clearly outline eligibility for APEX Awards and create a handbook to combine two APEX Award policies already approved by the Board of Governors. Without having more specific information like perspectives or input from marginalized communities who might be ultimately impacted by this change, it is difficult to do an equity analysis. However, based on the information provided, below are some comments:

- Given that six of the nine awards are open to people who are not WSBA members, it is suggested to adjust the introductory language to convey how inclusive the APEX Awards are. The proposed language provides that the awards are designed to “honor legal practitioners” and “unless otherwise stated, the awards are for a single WSBA member.” We suggest replacing “legal practitioners” with “people” and explaining that the award eligibility includes both WSBA members and people are not members.
- In the vein of making the awards inclusive to all who contribute to the legal profession and legal system, you should consider replacing “Lawyers” with “Legal Professionals” in the Angelo Petrus Award for Lawyers in Government Service since that award is open to any WSBA member.
- Under the policy on “Procedures: Overview, Operating Norms, and Timelines,” it provides that “One of the most important jobs of Committee members is soliciting and encouraging nominations. This ensures a robust pool of candidates.” We encourage you to continue to work on promoting diversity, equity and inclusion in the award process with strategic outreach to underrepresented and marginalized communities and continual broadening of outreach in order to prevent unintentionally limiting outreach to the committee’s own networks.

FISCAL ANALYSIS:

The fiscal impact to WSBA resulting from the proposed recommendation is limited as the request is focused on approving the documentation of existing processes. The fiscal impact includes staff time drafting the proposal and time used to incorporate any approved revisions to the relevant records. The staff time used is included in the overall duties of existing WSBA staff and would not require additional staff or allocation of resources from other internal sources.

RISK ANALYSIS:

The changes to the policy protect the awards process from allegations of, or actual instances of conflict of interest. The WSBA Officers and members of the Board of Governors are making the awards decisions. Excluding these same people from receiving the awards avoids any appearance of undue influence, collusion, or bias. The changes do not appear to create legal risk.

TO: WSBA Board of Governors
FROM: Executive Director Terra Nevitt
DATE: February 21, 2024
RE: Executive Director's Report

2024 Licensing Update

As of February 14, 92% of licensed legal professionals have paid their license fee. We are seeing a consistent increase in the number of members paying online each year. So far this year, about 70% of payments were made online via credit card or electronic funds transfer. Of those who have paid, about 14% have made donations to the Washington State Bar Foundation and/or the Campaign for Equal Justice which is consistent with prior years. The percentage of members taking the Keller deduction (20%) is very similar to last year but a little higher than prior years (15% in 2021 and 17% in 2022). In addition, 88 licensed legal professionals were granted a license fee exemption due to hardship, 29 were granted the armed forces exemption, and 50 utilized the payment plan option. In terms of next steps, we recently emailed all 4,372 licensed legal professionals who had not yet completed their license renewal or MCLE requirements and will likely be mailing out certified pre-suspension notices in a couple of weeks.

Winter 2024 LPO and Bar Exams

It takes a village! 53 people to be exact. The upcoming licensure exams will be administered by a team of 35 proctors and 18 WSBA staff at the Lynnwood Convention Center. We are currently expecting 55 candidates to sit for the LPO exam on February 26 and 325 candidates to sit for the bar exam on February 27-28. As it usually happens, representatives from all Washington law schools will come in at the end of the bar exam to congratulate their students.

Next Steps for Bar Licensure Task Force Draft Recommendations

At the January meeting, the Board voted in support of the Bar Licensure Task Force draft recommendations, with the suggestion that they be carried out in a manner equitable to those that have already completed the requirements of the APR 6 Law Clerk Program. The Board also voted to rescind its April 17, 2021, Resolution in Support of a Bar Exam to Ensure a Competent, Ethical, and Diverse Legal Profession, which among other things, stated support for the continued requirement of passing a bar exam prior to admission to the WSBA. This feedback, along with feedback from the Law Clerk Board and the Diversity Equity and Inclusion Counsel was communicated to the Court and the Chairs of the Bar Licensure Task Force on January 15, 2024. The Court is expected to take up consideration of the Task Force recommendations in March. Gov. Brent Williams-Ruth and I will be participating in presenting Task Force updates to the Court on March 6. During that presentation, I will be sharing the public feedback that WSBA has gathered on the recommendations via email and during the January 8, 2024 listening session.

You can find the recommendations and a recording of the Task Force’s presentation of the recommendations to the Washington Supreme Court [here](#). You can also read special coverage of the recommendations in the November issue of [Bar News](#).

Update: Timing for Adoption of the NextGen Exam

As we heard at the September meeting, the National Conference of Bar Examiners (NCBE) is developing the NextGen bar exam to be available for administration starting in July 2026 and will stop offering the current version of the Uniform Bar Exam starting in 2028. Washington [APR 4](#) requires that applicants for admission to practice as a lawyer must take and pass the “National Conference of Bar Examiners (NCBE) Uniform Bar Exam (UBE)”. Absent a change to this rule, I presume that we will move to the NextGen as the newest version of the UBE. The timing of adoption, however, is an open question. Because my team and I and the Bar Licensure Task Force considering the NextGen bar exam as an improvement from the current exam, we submitted a formal request to the Court to adopt the NextGen exam effective July 2026. Although we originally expected the Court to take up this topic in January, it has been deferred to March and will be considered alongside the Bar Licensure Task Force Recommendations.

Report on Legal Financial Obligations and Washington Courts

In December, the Washington State Center for Court Research issued a preliminary report to the Legislature regarding legal financial obligations (LFOs) in our courts. You can find the report, funded by the legislature, [here](#). Among the report’s findings is that the percentage of cases in which LFOs are imposed has decreased in recent years, and that the chances of an LFO being imposed depends on a number of factors, including the court, the charges, and the characteristics of the court-user, including race, ethnicity, gender, and age. A final report is due by July 1, 2024.

Board of Governor Congressional District Elections

The application deadline for the congressional district positions was February 15. Congratulations to Governor Mary Rathbone who has been declared the winner for district 4 and Governor Francis Adewale who has been declared the winner for district 5. There are two candidates for the district 7 south position: Alain Villeneuve and Aaron Weisman. The election for the district 7 south position begins March 15 and closes April 1.

Unfortunately, we received no applications for District 1. In accordance with the WSBA Bylaws the position will now be filled by Board appointment until the next election cycle. Applications for this position are due by April 9 and should be emailed to barleaders@wsba.org. The Board of Governors will appoint the district 1 Governor at their May 2-3 meeting.

We continue to recruit for the President-elect and Governor At-large (Young Lawyer) position. The application deadline for President-elect is April 9. Candidates for President-elect will be interviewed by the full Board at the May 2-3 meeting. The Governor At-Large (Young Lawyer) applications are due April 15. The Washington Young Lawyers Committee will interview applicants on April 20. The election for this position is May 15 – June 3.

Information about the elections is online here: www.wsba.org/elections.

Attachments

FY23 Audit Results

FY24 First Quarter Budget Report

FY24 First Quarter Budget Reallocations

Litigation Report

Media Report

Member Demographics Report

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Tiffany Lynch, Director of Finance

Subject: FY 2024 First Quarter Financial Update

Date: January 24, 2024

GENERAL FUND

The December 31, 2023 financials marks the end of the first quarter of fiscal year 2024. With 25% of the year complete, the General Fund is outperforming against budget with revenue and indirect expenses on target and direct expenses under budget. The General Fund net income is \$308,063 as of December 31, 2023. Below is a narrative which highlights the major variances and estimates moving forward.

REVENUE

Total revenue is on budget at 25% (+\$110,311) which includes the following areas of note:

- a. *Licensing Fees* are under budget by \$183,271 (-1%). The majority of fees are collected in January and pro-rated on a monthly basis, and the budget assumes an even timing distribution of revenue between each month. Revenue from October to December reflects dues collected for the 2023 membership year and revenue from January through September will be for 2024. Additionally, the budget includes revenue from late fees (assessed after February 1st) and newly admitted members, which are not earned until after February so revenue will increase and level out closer to budget later in the year.
- b. *Bar Exam Fees* are ahead of budget by \$84,905 (+7%) due to timing of the collection of fees for the Winter 2024 exam. This is on track with our expectations for fees. The winter exam typically has fewer applicants than the summer. Fees collected for the summer 2024 exam will come in between February and May.
- c. *Interest income* is ahead of budget by \$98,499 (+25%). The budget approach was conservative, so it is likely that we'll come in over budget since we have secured some investments with fixed interest rates and maturity dates throughout FY24. We do anticipate a drop in interest rates in the coming months, so income going forward may not be as high as it has been in Q1.
- d. *MCLE Revenue* is ahead of budget by \$82,322 (+7%) mainly from application and accredited sponsor fees which are seasonally higher because of CLE reporting period deadlines.
- e. *NMP Product Sales* in the New Member Education cost center are over budget for the year by \$68,798 (97%). While the budget was developed conservatively, there are significantly higher sales from the Trial Advocacy Program which became available for purchase in time to take advantage the high sales season (due to the CLE reporting period deadlines), as well as higher sales for Practice Primers which were focused on estate planning, a topic that typically

generates a lot of interest.

- f. *Donations & Grants revenue* in the Public Service Programs and Diversity cost centers are identified as being under budget by \$66,250 (combined) with no revenue collected year-to-date. This revenue is from the WSB Foundation which makes payment to WSBA twice in the year, with the first payment to be received in February.

EXPENSES

Total expenses are under budget by \$454,821 (-2%), which includes the following areas of note:

- a. *Direct Expenses* are under budget by \$376,460 (-13%). Direct program costs such as board/council/taskforce meetings, event expenses, supplies, staff travel, etc. vary depending on the timing of activities. It is normal for WSBA's direct expenses to run under budget in the first half of the year. We expect spending in these areas to pick up as we move into the second half of the fiscal year.
- b. *Indirect Expenses* are on budget at 25% with minimal savings variance of \$78,361.
 - i. Salaries, Taxes, & Benefits had a combined savings of \$58,473. The bulk of savings is attributed to salary savings from open positions and corresponding benefits, in particular payroll taxes, retirement, and unemployment insurance. Areas trending above budget include temporary staffing salaries (timing due use of seasonal employees for licensing renewals) and medical (employee coverage changes resulted in higher than expected budget).
 - ii. Other Indirect Expenses had a combined savings of \$19,888 mainly due to lower cost YTD for rent and legal fees, offset by higher Computer Pooled Expenses (IT direct expenses), all of which are impacted based on timing of expenditures.

CONTINUING LEGAL EDUCATION (CLE)

The CLE fund includes CLE Seminars, CLE Products, and Deskbook cost centers which collectively have budgeted a surplus of \$157,341 for FY 2024. December 31, 2023 results reflect an actual surplus of \$426,877. Revenue is higher than budget by \$352,540 (+20%) due to higher product sales and seminar registrations. This is a seasonal trend caused by year-end CLE reporting requirements. Expenses overall are under budget by \$35,002 (-2%), mostly due to lower expenses from timing of direct expenses that have not been incurred yet for seminars held later in the fiscal year and higher indirect expenses for mainly for medical benefits.

CLIENT PROTECTION FUND (CPF)

The Client Protection Fund (CPF) budgeted a use of reserves of (\$92,700) for FY 2024. Actual results as of December 31, 2023 reflect a surplus of \$194,830. Revenue is ahead of budget by \$94,670 (+16%) due to increased revenue for all sources, the highest of which is interest income (currently over budget) at \$49,525 in excess revenue. As noted under the General Fund, interest income was budgeted conservatively, and we have been able to lock in higher interest rates for investments through FY24. Additionally, member assessments are running higher than budget by \$28,013, which is to be expected because revenue is recognized upon collection of license fees which have a high volume between November through January each year. Overall expenses are under budget by \$123,335 (-18%), mainly due to direct expenses for Gifts to Injured Clients which are paid out towards the end of the fiscal year.

SECTIONS FUND

The Sections Operations cost center represents the collective total of financial activity for all 29 sections. Sections budgeted a loss of (\$328,603) for FY 2024. Actual results as of December 31, 2023 reflect a surplus of \$26,440, mainly related to timing of programming and Section activities which are planned throughout the year at different times.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Consolidated Financial Statements

For the Years Ended September 30, 2023 and 2022

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Independent Auditor's Report

**To the Board of Governors
Washington State Bar Association
Seattle, Washington**

Opinion

We have audited the financial statements of Washington State Bar Association and Affiliated Foundation (collectively, the WSBA), which comprise the consolidated statements of financial position as of September 30, 2023 and 2022, and the related consolidated statements of activities and changes in net assets, functional expenses and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the WSBA as of September 30, 2023 and 2022, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the WSBA and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Change in Accounting Principle

As discussed in Note 1 to the financial statements, the WSBA adopted the Financial Accounting Standards Board's Accounting Standards Update (ASU) No. 2016-02, *Leases (Topic 842)*, and related ASUs, for the year ended September 30, 2023. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for 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.



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In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the WSBA's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit 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 WSBA's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the WSBA's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The Washington State Bar Foundation consolidating statement of financial position on page 4 and the statement of activities on page 21 are presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.



Certified Public Accountants
February 2, 2024

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Consolidated Statement of Financial Position September 30, 2023

	Washington State Bar Association	Washington State Bar Foundation	Subtotal	Eliminations	Total
Assets					
Cash and cash equivalents	\$ 8,003,047	\$ 254,076	\$ 8,257,123	\$ -	\$ 8,257,123
Restricted cash and cash equivalents	2,586,192		2,586,192		2,586,192
Receivables, net	481,186		481,186		481,186
Prepaid expenses	415,092		415,092		415,092
Desk and course books	182,935		182,935		182,935
Investments	11,669,400	196,822	11,866,222		11,866,222
Property and equipment, net	1,399,829	14,400	1,414,229		1,414,229
Operating lease right-of-use asset	4,973,949		4,973,949		4,973,949
Total Assets	\$ 29,711,630	\$ 465,298	\$ 30,176,928	\$ -	\$ 30,176,928
Liabilities and Net Assets					
Liabilities:					
Accounts payable	\$ 658,199	\$ -	\$ 658,199	\$ -	\$ 658,199
Accrued expenses	752,857		752,857		752,857
Client Protection Fund, committed gifts	449,469		449,469		449,469
Deferred licensing fees	4,160,795		4,160,795		4,160,795
Operating lease liability	5,789,102		5,789,102		5,789,102
Other deferred revenue	390,754		390,754		390,754
Total Liabilities	12,201,176		12,201,176		12,201,176
Net Assets:					
Without donor restrictions-					
General and designated funds	9,849,483		9,849,483		9,849,483
Continuing legal education	1,177,163		1,177,163		1,177,163
Sections operations	1,970,409		1,970,409		1,970,409
Client Protection Fund	4,513,399		4,513,399		4,513,399
Washington State Bar Foundation		465,298	465,298		465,298
Total Net Assets	17,510,454	465,298	17,975,752		17,975,752
Total Liabilities and Net Assets	\$ 29,711,630	\$ 465,298	\$ 30,176,928	\$ -	\$ 30,176,928

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Consolidated Statement of Financial Position September 30, 2022

	Washington State Bar Association	Washington State Bar Foundation	Subtotal	Eliminations	Total
Assets					
Cash and cash equivalents	\$ 14,361,666	\$ 412,437	\$ 14,774,103	\$ -	\$ 14,774,103
Restricted cash and cash equivalents	4,917,392		4,917,392		4,917,392
Receivables, net	132,030		132,030		132,030
Prepaid expenses	528,017		528,017		528,017
Desk and course books	191,648		191,648		191,648
Investments	1,992,752		1,992,752		1,992,752
Property and equipment, net	1,119,706	14,400	1,134,106		1,134,106
Total Assets	\$ 23,243,211	\$ 426,837	\$ 23,670,048	\$ -	\$ 23,670,048
Liabilities and Net Assets					
Liabilities:					
Accounts payable	\$ 760,077	\$ -	\$ 760,077	\$ -	\$ 760,077
Grants payable	7,957		7,957		7,957
Accrued expenses	696,346		696,346		696,346
Client Protection Fund, committed gifts	705,248		705,248		705,248
Deferred licensing fees	4,116,056		4,116,056		4,116,056
Deferred lease obligation and incentive	959,276		959,276		959,276
Other deferred revenue	376,786		376,786		376,786
Total Liabilities	7,621,746		7,621,746		7,621,746
Net Assets:					
Without donor restrictions-					
General and designated funds	8,713,263		8,713,263		8,713,263
Continuing legal education	1,042,049		1,042,049		1,042,049
Sections operations	1,802,651		1,802,651		1,802,651
Client Protection Fund	4,063,502		4,063,502		4,063,502
Washington State Bar Foundation		426,837	426,837		426,837
Total Net Assets	15,621,465	426,837	16,048,302		16,048,302
Total Liabilities and Net Assets	\$ 23,243,211	\$ 426,837	\$ 23,670,048	\$ -	\$ 23,670,048

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Consolidated Statements of Activities and Changes in Net Assets
For the Years Ended September 30, 2023 and 2022**

	<u>2023</u>	<u>2022</u>
Revenues:		
Licensing revenues	\$ 17,048,661	\$ 17,044,516
Client protection fund member assessments	715,570	704,366
Exam fees	1,195,909	1,225,065
Continuing legal education - products	952,664	1,340,095
Continuing legal education - seminars	832,936	645,144
Contributions and grants	410,567	384,124
Other	4,864,980	4,123,118
	<u>26,021,287</u>	<u>25,466,428</u>
Total Revenues	26,021,287	25,466,428
Expenses:		
Salaries, benefits and payroll taxes	16,784,466	16,076,544
Occupancy	2,067,982	2,258,611
Technology	1,069,314	924,502
Sections events	616,728	383,771
Professional services	532,174	380,613
Meetings and travel	491,820	321,478
Grants, sponsorships and donations	452,516	415,965
Supplies	393,700	420,607
Examination fees	363,434	158,273
Gifts to injured clients	342,424	566,947
CLE production	295,986	32,607
Insurance	266,861	395,952
Depreciation and amortization	188,779	238,528
Other	140,225	286,216
Conferences	44,790	77,516
Subscriptions	42,638	158,108
	<u>24,093,837</u>	<u>23,096,238</u>
Total Expenses	24,093,837	23,096,238
Total Change in Net Assets Without Donor Restrictions	1,927,450	2,370,190
Net Assets, beginning of year	<u>16,048,302</u>	<u>13,678,112</u>
Net Assets, End of Year	<u>\$ 17,975,752</u>	<u>\$ 16,048,302</u>

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Consolidated Statement of Functional Expenses
For the Year Ended September 30, 2023**

	Program											
	Discipline	Client Protection Fund	BOG/OED	Regulatory Services	Communicatio	Advancement	Foundation	Sections	Total Program	Management and General	Fundraising	2023 Total
Salaries, benefits and payroll taxes	\$ 4,536,483	\$ 140,708	\$ 668,424	\$ 2,616,834	\$ 1,441,403	\$ 2,209,553	\$ -	\$ -	\$ 11,613,405	\$ 5,057,744	\$ 113,317	\$ 16,784,466
Occupancy	554,013	17,991	49,838	308,956	183,430	303,993			1,418,221	634,458	15,303	2,067,982
Technology	293,881	9,429	26,119	161,913	97,274	240,035			828,651	232,643	8,020	1,069,314
Sections events						1,493		524,345	525,838	90,890		616,728
Professional services	132,204	1,066	53,884	24,154	26,653	17,800			255,761	271,695	4,718	532,174
Meetings and travel	7,278	1,125	322,927	35,516	5,173	20,709		781	393,509	97,795	516	491,820
Grants, sponsorships and donations			79,486				107,107		186,593	265,923		452,516
Supplies	9,899	321	890	29,749	330,964	9,330			381,153	12,242	305	393,700
Examination fees				360,404		2,542			362,946	488		363,434
Gifts to injured clients		342,424							342,424			342,424
CLE production	169				86,498	209,319			295,986			295,986
Insurance	71,492	2,322	6,431	39,869	23,670	39,229			183,013	81,873	1,975	266,861
Depreciation and amortization	42,299	1,373	3,805	54,479	14,005	23,210			139,171	48,440	1,168	188,779
Other	36,135	3,879	3,251	20,687	73,270	20,718			157,940	(18,713)	998	140,225
Conferences			35,574	5,680		1,406			42,660	2,130		44,790
Subscriptions			681	250	9,439	1,715			12,085	30,553		42,638
Total Expenses	\$ 5,683,853	\$ 520,638	\$ 1,251,310	\$ 3,658,491	\$ 2,291,779	\$ 3,101,052	\$ 107,107	\$ 525,126	\$ 17,139,356	\$ 6,808,161	\$ 146,320	\$ 24,093,837

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Consolidated Statement of Functional Expenses
For the Year Ended September 30, 2022**

	Program										2022 Total	
	Discipline	Client Protection Fund	BOG/OED	Regulatory Services	Communicatio	Advancement	Foundation	Sections	Total Program	Management and General		Fundraising
Salaries, benefits and payroll taxes	\$ 4,578,551	\$ 128,915	\$ 598,506	\$ 2,384,326	\$ 1,357,444	\$ 2,119,731	\$ -	\$ -	\$ 11,167,473	\$ 4,812,719	\$ 96,352	\$ 16,076,544
Occupancy	531,539	17,860	49,318	378,411	264,671	378,925			1,620,724	623,477	14,410	2,258,611
Technology	229,764	7,629	28,330	127,089	85,218	132,834		1,584	612,448	302,899	9,155	924,502
Sections events								383,771	383,771			383,771
Professional services	107,156	1,850	4,020	63,888	25,376	25,156			227,446	151,989	1,178	380,613
Meetings and travel	13,222		205,479	55,889	6,850	27,187			308,627	11,705	1,146	321,478
Grants, sponsorships and donations						72,659	94,346	72,500	239,505	176,460		415,965
Supplies	20,522	689	1,904	39,658	316,351	16,781			395,905	24,071	631	420,607
Examination fees				158,273					158,273			158,273
Gifts to injured clients		566,947							566,947			566,947
CLE production					32,466	141			32,607			32,607
Insurance	103,478	3,477	9,596	57,920	36,628	60,669			271,768	121,379	2,805	395,952
Depreciation and amortization	49,747	1,672	4,616	75,116	17,608	30,070			178,829	58,350	1,349	238,528
Other	48,724	2,933	38,774	22,521	14,834	101,469		2,950	232,205	53,375	636	286,216
Conferences			68,341			2,094		7,081	77,516			77,516
Subscriptions	60,946		138	11,528	17,696	53,213			143,521	14,587		158,108
Total Expenses	\$ 5,743,649	\$ 731,972	\$ 1,009,022	\$ 3,374,619	\$ 2,175,142	\$ 3,020,929	\$ 94,346	\$ 467,886	\$ 16,617,565	\$ 6,351,011	\$ 127,662	\$ 23,096,238

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Consolidated Statements of Cash Flows
For the Years Ended September 30, 2023 and 2022**

	<u>2023</u>	<u>2022</u>
Cash Flows From Operating Activities:		
Cash received from licensing fees	\$ 17,093,400	\$ 17,068,206
Cash received from CLE products and seminars	1,793,520	1,988,535
Cash received from other activities	5,887,498	6,304,642
Cash paid to employees	(12,826,667)	(12,324,988)
Cash paid to vendors	(11,305,333)	(10,540,472)
Interest received	956,420	146,032
	<u>1,598,838</u>	<u>2,641,955</u>
Net Cash Provided by Operating Activities		
Cash Flows From Investing Activities:		
Proceeds from sale of investments	7,914,149	
Purchase of investments	(17,787,619)	(1,992,752)
Acquisition of property and equipment	(573,548)	(711,088)
	<u>(10,447,018)</u>	<u>(2,703,840)</u>
Net Cash Used in Investing Activities		
Net Change in Cash, Cash Equivalents and Restricted Cash	(8,848,180)	(61,885)
Cash, cash equivalents and restricted cash, beginning of year	<u>19,691,495</u>	<u>19,753,380</u>
Cash, Cash Equivalents and Restricted Cash, End of Year	<u>\$ 10,843,315</u>	<u>\$ 19,691,495</u>
<p>The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the consolidated statements of financial position that sums to the total of the same such amounts shown in the consolidated statements of cash flows:</p>		
Cash and cash equivalents	\$ 8,257,123	\$ 14,774,103
Restricted cash and cash equivalents	<u>2,586,192</u>	<u>4,917,392</u>
Total Cash, Cash Equivalents and Restricted Cash Shown in the Consolidated Statements of Cash Flows	<u>\$ 10,843,315</u>	<u>\$ 19,691,495</u>

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 1 - Nature of Operations and Significant Accounting Policies

Nature of Operations - Washington State Bar Association (“WSBA”) is an instrumentality of the Supreme Court of the State of Washington operating under the supervisory authority of the Washington Supreme Court. Operations consist of regulating the practice of law in the state under delegated authority of the Washington Supreme Court, and providing various law-related services to the members and public. Lawyers, Limited License Legal Technicians, and Limited Practice Officers must be active members of WSBA in order to practice law in Washington state. A primary source of revenues of WSBA is license fees, which members must pay in order to maintain their licenses. License fees follow a pro-rated schedule based on the attorney member’s years of practice. For 2023 and 2022, the license fee was set at \$458 for all attorneys in practice for three years or more, and a pro-rated lower fee for those in practice for fewer than three years. WSBA members are primarily Washington state residents.

The Washington State Bar Foundation (“the Foundation”) helps fund WSBA programs that provide legal assistance to Washington state’s most vulnerable populations, match moderate income clients with legal professional who work for reduced fees, and ensure the legal profession reflects the communities it serves and supports all members. The members of the Foundation consist solely of the members of the Board of Governors of WSBA.

Principles of Consolidation - These consolidated financial statements consolidate the statements of Washington State Bar Association and Washington State Bar Foundation (collectively, “the WSBA”). Inter-organization accounts and transactions have been eliminated in the consolidation. The Washington State Bar Foundation is a separate legal entity from the Washington State Bar Association and is tax-exempt under section 501(c)(3) of the Internal Revenue Code.

Basis of Presentation - Net assets, revenues, gains and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, the net assets of the WSBA and changes therein are classified and reported as follows:

Net Assets Without Donor Restrictions - Net assets that are not subject to donor-imposed stipulations.

Net Assets With Donor Restrictions - Net assets whose use is limited by donor-imposed time and/or purpose restrictions. As of September 30, 2023, and 2022, the WSBA had no net assets with donor restrictions.

Revenues are reported as increases in net assets without donor restrictions unless use of the related asset is limited by donor-imposed restrictions. Expenses are reported as decreases in net assets without donor restrictions. Gains and losses on investments and other assets or liabilities are reported as increases or decreases in net assets without donor restrictions unless their use is restricted by explicit donor stipulation or by law. Expirations of donor restrictions on net assets (i.e., the donor stipulated purpose has been fulfilled or the stipulated time period has lapsed) are reported as net assets released from restriction. Contributions with externally imposed restrictions that are met in the same year as received are reported as revenues of the net assets without donor restrictions class.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 1 - Continued

Revenue Recognition - The following are the principal activities from which WSBA earns revenue:

Licensing Revenue - The WSBA earns licensing revenue from providing members a license to practice law and access to programs, education and events. Licensing fees are generally due from members by February 1st of the calendar year the license is related to and revenue is recognized over the calendar year membership period.

Client Protection Fund Member Assessment - The WSBA earns revenues by assessing members a mandatory fee for the Client Protection Fund (see Note 2). Fees are paid by members as part of the annual licensing process and recognized as revenue at the point in time they are collected.

Exam Fees - The WSBA earns revenue by administering exams for the legal profession. Applicants remit payment for the exam in advance of the examination date. Revenue is recognized at the point in time the examination is administered. As of September 30, 2023 and 2022, deferred revenue from examination fees totaled \$101,440 and \$101,090, respectively, and is included in other deferred revenue on the consolidated statements of financial position.

Continuing Legal Education - The WSBA provides continuing legal education to the profession through live seminars and products. Revenue is recognized at the point in time a seminar occurs or a CLE product is provided to the customer. Payment is received in advance of the seminar or at the time the product is purchased.

Cash and Cash Equivalents and Investments - Cash and cash equivalents include money market funds and bank deposits. Bank deposits are maintained for ongoing operating expenses and are sometimes in excess of federally insured limits. The WSBA has not experienced any losses in these accounts.

Unrealized gains and losses, if any, are reported in the statements of activities as increases or decreases in net assets.

Investment balances include federally insured certificates of deposit and U.S. treasury bills.

Restricted cash and cash equivalents relate to funds restricted for the Client Protection Fund (see Note 2). Part of the restricted cash and cash equivalents are amounts paid into the Client Protection Fund.

The composition of cash balances and investments are included in Note 3 and 4, respectively.

Receivables - Receivables are generally from members and result from Bar News advertising, consulting fees, and unpaid fees related to continuing legal education programs. Receivables are unsecured, stated at the amount management expects to collect from outstanding balances, and do not bear interest. Management provides for probable uncollectible amounts through a charge to change in net assets and a credit to a valuation allowance. The valuation allowance is calculated based on days outstanding within the receivables account. Accounts that are determined to be uncollectible are written off against this allowance. There was no allowance considered necessary as of September 30, 2023 or 2022.

Desk and Course Books - Inventory of desk books is stated at lower of cost (first-in, first-out method) or market.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 1 - Continued

Property and Equipment - Property and equipment is stated at cost. Depreciation and amortization is computed over the estimated useful lives of the assets, using the straight-line method. The capitalization policy threshold is \$2,500.

Leasehold improvements	Life of lease
Equipment, furniture, software and fixtures	1 to 10 years

The WSBA follows the provisions outlined by accounting principles generally accepted in the United States of America (U.S. GAAP) to account for costs of computer software developed or obtained for internal use. The WSBA capitalizes certain direct costs incurred in developing internal use software.

Deferred Licensing Fees - Licensing fees are recognized ratably over the applicable calendar year period. Accordingly, fees collected during the WSBA's fiscal year that relate to the fourth quarter of the calendar membership period are included as deferred revenue in these financial statements.

Contributions - Contributions are recognized as revenue when the donor imposed conditions, if any, have been met. All contributions are considered to be without donor restriction unless specifically restricted by the donor. Noncash contributions are reflected in the accompanying consolidated financial statements at the estimated fair value at the date of receipt.

Income Taxes - The WSBA is an organization exempt from federal income taxes because it is an instrumentality of the Supreme Court of the State of Washington exercising a governmental function. Washington State Bar Foundation has been notified by the Internal Revenue Service that it is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

Classification of Expenses - The financial statements report certain categories of expenses that are attributable to programs and supporting services of the WSBA. Those expenses include employee benefits and taxes, occupancy, indirect professional services, depreciation and amortization and technology expenses. These expenses are allocated based on the number of full time equivalents included in each program or supporting service.

Net Assets - The WSBA Board of Governors has directed that portions of the WSBA's net assets without donor restrictions be designated for Sections Operations and Continuing Legal Education. The total of revenues over expenses for all sections (which represent specialized legal interests) is included in the Sections Operations designated balance. The difference between revenues and expenses for Continuing Legal Education products and seminars is included in the Continuing Legal Education designated balance.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 1 - Continued

The WSBA has also designated a portion of its net assets without donor restrictions at September 30 as follows:

	<u>2023</u>	<u>2022</u>
Operating Reserve Fund	\$ 2,000,000	\$ 2,000,000
Facilities Reserve Fund	2,700,000	1,000,000
General Fund	<u>5,149,483</u>	<u>5,713,263</u>
	<u><u>\$ 9,849,483</u></u>	<u><u>\$ 8,713,263</u></u>

The Operating Reserve Fund provides unrestricted funds for any general, unanticipated, but necessary, expenses that may be incurred throughout the year. The goal is to ensure that funds are available in the event of an emergency or an unanticipated decline in revenue. In 2023, the Board did not designate any additional reserves to this fund.

The Facilities Reserve Fund is used for refurbishment of existing leased space or costs to move to another space after the current lease ends in December 2026.

The General Fund was established to accumulate net reserves above the Operating Reserve Fund and Facilities Reserve Fund.

Operating Leases - Effective October 1, 2022, the WSBA adopted the new lease accounting guidance in Accounting Standards Update No. 2016-02, *Leases (Topic 842)* (ASC Topic 842) using the modified retrospective approach with comparative accounting periods continuing to be presented under previous lease guidance (ASC Topic 840). The WSBA has not elected the package of practical expedients permitted in ASC Topic 842. Accordingly, the WSBA accounted for its existing leases under the new guidance, taking into consideration (a) whether the contract contains a lease under ASC Topic 842, (b) whether classification of the leases would be different in accordance with ASC Topic 842, and (c) whether the unamortized initial direct costs before transition would have met the definition of initial direct costs in ASC Topic 842 at lease commencement. Additionally, the WSBA did not elect the practical expedient to use hindsight in determining the lease term (that is, when considering lessee options to extend or terminate the lease and to purchase the underlying asset) and in assessing impairment of the entity's right-of-use (ROU) assets. As a result of the adoption of the new lease accounting guidance, the WSBA recognized on October 1, 2022 (a) a lease liability of \$7,343,557, (b) a right-of-use asset of \$6,384,281, and (c) removal of deferred rent liabilities of \$959,276.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 1 - Continued

The WSBA determines if an arrangement contains a lease at inception. Operating leases are included in ROU assets and lease liabilities in the consolidated statements of financial position. ROU assets represent a right to use an underlying asset for the lease term and operating lease liabilities represent the WSBA's obligation to make lease payments arising from the lease. ROU assets and lease liabilities are recognized at the lease commencement date based on the present value of lease payments over the lease term. The WSBA's leases do not provide an implicit rate of return; thus, the WSBA uses the risk-free discount rate, determined using a period comparable with that of the lease term from the later of the lease commencement date or implementation date. The WSBA has lease agreements with lease and non-lease components which are accounted for separately. Lease terms may include options to extend or terminate the lease when it is reasonably certain that the WSBA will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term. A ROU asset and operating lease liability is not recognized for leases with an initial term of 12 months or less.

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 the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Subsequent Events - The WSBA has evaluated subsequent events through February 2, 2024, the date on which the consolidated financial statements were available to be issued.

Note 2 - Client Protection Fund

In 1995, the Washington Supreme Court and the WSBA created the Client Protection Fund ("the Fund"). In fiscal years 2023 and 2022, the Fund received a \$20 mandatory annual assessment per individual required to pay into the fund (including all active attorney members, pro hac vice applicants, etc.). The Fund may be used only for the purpose of relieving or mitigating a loss sustained by any person due to the dishonesty of, or failure to account for money or property entrusted to, any attorney member of the WSBA in connection with the member's practice of law, or while acting as a fiduciary in a matter related to the member's practice of law. As the WSBA's use of the funds is restricted as described above, it is shown as restricted cash and cash equivalents in the assets section of the consolidated statements of financial position and the net assets of the fund are separately presented on the consolidated statements of financial position.

The Client Protection Fund is administered pursuant to Admission to Practice Rule 15 and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court. A client or a person in a fiduciary relationship with a licensed legal professional (LLP) who files a grievance with the WSBA that alleges a dishonest taking of funds or property by a LLP, may be provided with an application form to apply for a gift from the Fund. The WSBA recognizes gifts from the Fund at the time an application is approved by the Client Protection Board or Trustees and applicants are advised of the decision. Gifts from the Fund are expected to be paid within one year from the consolidated statement of financial position date and are recorded as Client Protection Fund, committed gifts on the consolidated statements of financial position.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2023 and 2022**

Note 3 - Cash and Cash Equivalents

Cash and cash equivalents consist of the following at September 30:

	<u>2023</u>	<u>2022</u>
Unrestricted Cash and Cash Equivalents:		
Bank deposits	\$ 1,108,215	\$ 1,165,656
Money market funds	<u>7,148,908</u>	<u>13,608,447</u>
	<u>\$ 8,257,123</u>	<u>\$ 14,774,103</u>
Restricted Cash and Cash Equivalents:		
Bank deposits	\$ 384,022	\$ 376,657
Money market funds	<u>2,202,170</u>	<u>4,540,735</u>
	<u>\$ 2,586,192</u>	<u>\$ 4,917,392</u>

Note 4 - Investments

Investments consist of the following at September 30:

	<u>2023</u>	<u>2022</u>
Certificates of deposit	\$ 10,910,343	\$ 1,250,000
U.S. Treasury Bills	<u>955,879</u>	<u>742,752</u>
	<u>\$ 11,866,222</u>	<u>\$ 1,992,752</u>

The following schedule summarizes the returns from investments:

	<u>2023</u>	<u>2022</u>
Interest income - unrestricted	\$ 873,953	\$ 116,053
Interest income - restricted	<u>245,788</u>	<u>35,955</u>
	<u>\$ 1,119,741</u>	<u>\$ 152,008</u>

Investment income is included as other revenue on the consolidated statements of activities.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 5 - Property and Equipment

Property and equipment consist of the following at September 30:

	<u>2023</u>	<u>2022</u>
Leasehold improvements	\$ 1,010,058	\$ 817,170
Furniture	1,049,101	1,049,101
Office equipment	1,642,727	1,669,517
Software	<u>4,120,153</u>	<u>4,163,847</u>
	7,822,039	7,699,635
Less accumulated depreciation and amortization	(7,011,469)	(6,893,809)
Projects in process	<u>603,659</u>	<u>328,280</u>
	<u><u>\$ 1,414,229</u></u>	<u><u>\$ 1,134,106</u></u>

Note 6 - Qualified Employee Benefit Plan

The WSBA participates in the Washington State Public Employees' Retirement System ("PERS"), a series of defined benefit/defined contribution employee benefit plans sponsored and managed by the State of Washington Department of Retirement Systems ("DRS"). The funding of the plan is analyzed and rates are proposed by the Office of the State Actuary ("OSA") per RCW, Chapter 41.45, and all rates are approved by the legislature. There is a pension funding council that consults with the economic and revenue forecast supervisor and the executive director of the state investment board, for guidance on long-term economic assumptions that are proposed by the OSA. In accordance with PERS, the WSBA and the WSBA's employees make contributions to the plan based on rates established by DRS. Employer contributions for the years ended September 30, 2023 and 2022, were \$1,263,903 and \$1,203,504, respectively.

Note 7 - Fair Value Measurements

U.S. GAAP establish a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3).

The three levels of the fair value hierarchy are described as follows:

Level 1 - Unadjusted quoted prices available in active markets for identical assets or liabilities;

Level 2 - Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities; or

Level 3 - Unobservable inputs that are significant to the fair value measurement.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2023 and 2022**

Note 7 - Continued

A financial instrument's level within the fair value hierarchy is based upon the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

Following is a description of the valuation methodologies used for assets and liabilities measured at fair value. There have been no changes in the methodologies used at September 30, 2023 or 2022.

Certificates of Deposit - Certificates of deposit are valued at face value plus accumulated interest at year end.

U.S. Treasury Bills - U.S. treasury bills are valued using bid evaluations from similar instruments in actively quoted markets.

Fair Values Measured on a Recurring Basis -

Fair values of assets measured on a recurring basis were as follows:

	Fair Value Measurements at September 30, 2023			
	Level 1	Level 2	Level 3	Total
U.S. Treasury Bills	\$ 955,879	\$ -	\$ -	\$ 955,879
Investments in the Fair Value Hierarchy	\$ 955,879	\$ -	\$ -	955,879
Investments not carried at fair value- Certificates of deposit				10,910,343
Total Investments				\$11,866,222

	Fair Value Measurements at September 30, 2022			
	Level 1	Level 2	Level 3	Total
U.S. Treasury Bills	\$ 742,752	\$ -	\$ -	\$ 742,752
Investments in the Fair Value Hierarchy	\$ 742,752	\$ -	\$ -	742,752
Investments not carried at fair value- Certificates of deposit				1,250,000
Total Investments				\$ 1,992,752

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 8 - Leases

The WSBA leases office space under a long-term, noncancelable lease agreement which expires during the year ending September 30, 2027. The lease includes payments for common area maintenance, utilities, taxes and insurance that are considered variable lease payments and are excluded from determining the lease liability.

The components of lease expense for the year ended September 30, 2023 are as follows:

Operating lease cost	<u>\$ 1,656,038</u>
Total Leasing Expense	<u>\$ 1,656,038</u>

Supplemental cash flow information related to leases as of September 30, 2023 is as follows:

Cash paid for amounts included in the measurement of lease liabilities- Operating cash flows from operating leases	\$ 1,800,161
Right-of-use assets obtained in exchange for operating lease liabilities (due to adoption of FASB ASC Topic 842)	\$ 6,384,281
Weighted-average remaining lease term - operating lease	3.3 years
Weighted-average discount rate - operating lease	4.20%

Future minimum payments required under leases as of September 30, 2023 are as follows:

For the Year Ending September 30,

2024	\$ 1,850,751
2025	1,901,341
2026	1,951,931
2027	<u>493,252</u>
Total future minimum lease payments	6,197,275
Less present value discount	<u>(408,173)</u>
Total Operating Lease Liabilities	<u>\$ 5,789,102</u>

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2023 and 2022

Note 8 - Continued

Future minimum rental payments under noncancelable operating leases as of September 30, 2022 are as follows:

For the Year Ending September 30,

2023	\$ 1,800,161
2024	1,850,751
2025	1,901,341
2026	1,951,931
2027	<u>493,253</u>
Total Minimum Rental Payments	<u><u>\$ 7,997,437</u></u>

Rent expense under all lease agreements totaled \$1,656,038 and \$2,031,801 for the years ended September 30, 2023 and 2022, respectively.

Note 9 - Commitments and Contingencies

Contingencies - The WSBA is subject to various legal proceedings and claims which arise in the ordinary course of its business. Management believes that the final disposition of such matters will not have a material adverse effect on the financial position or results of operations of the WSBA.

Commitments - The WSBA is obligated to provide counsel for respondents in disability proceedings, pursuant to the Rule for Enforcement of Lawyer Conduct ("ELC") 8.3. Legal fees are incurred as a result of this obligation. In both the fiscal years 2023 and 2022, the WSBA paid a total of \$48,000, for outside counsel to represent various respondents in disability proceedings. The WSBA has liability for future legal fees related to ongoing and new disability proceedings, but the future cost is not determinable due to the nature of the proceedings. As such, no liability has been recognized in accordance with U.S. GAAP as of September 30, 2023 and 2022.

Note 10 - Liquidity and Availability of Financial Assets

As part of the WSBA's liquidity management, it has a policy to structure its financial assets to be available as its general expenditures, liabilities, and other obligations come due. In addition, as of both September 30, 2023 and 2022 the WSBA has an operating reserve that had a balance of \$2.0 million. This is a governing board-designated reserve with the objective of setting funds aside to be drawn upon in the event of financial distress or an immediate liquidity need resulting from events outside the typical life cycle of converting financial assets to cash or settling financial liabilities. The operating reserve funds are held in lower-risk cash and money market securities. The operating reserve balance is included in cash and cash equivalents in the consolidated statements of financial position.

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2023 and 2022**

Note 10 - Continued

The following reflects the WSBA's financial assets as of the date of the consolidated statements of financial position, reduced by amounts not available for general use within one year because of contractual or donor-imposed restrictions or internal designations. Amounts not available include amounts set aside for long-term investing in the operating and facilities reserve funds that could be drawn upon if the governing board approves that action.

	<u>2023</u>	<u>2022</u>
Total cash, cash equivalents and restricted cash	\$ 10,843,315	\$ 19,691,495
Receivables	<u>481,186</u>	<u>132,030</u>
Total financial assets	11,324,501	19,823,525
Contractual restrictions-		
Cash held restricted for Client Protection Fund	(2,586,192)	(4,917,392)
Board designations-		
Facilities Reserve Fund	(2,700,000)	(1,000,000)
Operating Reserve Fund	<u>(2,000,000)</u>	<u>(2,000,000)</u>
Financial Assets Available to Meet Cash Needs for General Expenditures Within One Year	<u>\$ 4,038,309</u>	<u>\$ 11,906,133</u>

SUPPLEMENTARY INFORMATION

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

**Washington State Bar Foundation Statement of Activities
For the Year Ended September 30, 2023**

Activities Without Donor Restrictions

Revenue:

Contributions	\$ 383,928
In-kind revenue from WSBA	146,915
Miscellaneous income	<u>26,639</u>

Total Revenue **557,482**

Expenses:

Program expenses	372,106
In-kind expenses from WSBA	<u>146,915</u>

Total Expenses **519,021**

Change in Net Assets Without Donor Restrictions **38,461**

Net assets without donor restrictions, beginning of year 426,837

Net Assets Without Donor Restrictions, End of Year **\$ 465,298**

WASHINGTON STATE BAR ASSOCIATION

Special Report on the Fiscal Year 2024 Budget Summary

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Independent Accountant's Report on Applying Agreed-Upon Procedures

**To the Board of Governors
Washington State Bar Association
Seattle, Washington**

We have performed the procedures enumerated below on the Washington State Bar Association (WSBA) Fiscal Year 2024 Budget Summary. The WSBA's management is responsible for the Fiscal Year 2024 Budget Summary.

The WSBA has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of assisting you in evaluating the consistency of the presentation of the Fiscal Year 2024 Budget Summary of revenues and expenses (2024 Budget) included in Exhibit A, with presentation of the Fiscal Year 2023 Budget Summary of revenues and expenses - As Amended (2023 Budget - As Amended) included in Exhibit B, and the presentation of revenues and expenses in the audited Statement of Activities for the fiscal year ended September 30, 2022 (2022 Statement of Activities) included in Exhibit C. This report is prepared to comply with Keller vs. State Bar of California, 496 U.S. 1 (1990), which prohibits using compulsory fees of any member who objects to that use for political or ideological activities that are not germane, or reasonably related, to regulating the legal profession or improving the quality of legal services ("nonchargeable" activities). Objecting members are offered a "Keller deduction" that represents the estimated portion of fees that is used for "nonchargeable" activities. The Keller deduction is calculated prospectively based on the coming year's budget and the previous year's political activity. The Special Report on the Budget Summary reports on the presentation of the coming year's budget, which is used to compute the Keller deduction, with the previous year's financial statements and current year budget by explaining differences in categories, budgeting methodologies, and significant revenues and expenses. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures and the associated findings are as follows:

1. We totaled all columns and rows of the 2024 and 2023 Budgets and the 2022 Statement of Activities to verify the mathematical accuracy.

Findings

None

2. We compared the 2024 Budget cost center descriptions to the 2023 Budget and the 2022 Statement of Activities cost center descriptions and explained differences.

Findings

The WSBA changed the following cost centers in the 2024 Budget compared to the 2022 Statement of Activities:

- The Equality and Justice Department FTE cost center was reallocated to existing Access to Justice and Diversity cost centers.



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- The Administration cost center was renamed to Finance.
 - The Communications FTE cost center was renamed Communications strategies FTE.
3. We inquired of management if there were any differences in the methodology used to budget for revenue and expense amounts for each cost center for the 2024 Budget as compared to the methodology used to budget for revenue and expense amounts for each cost center for the 2023 Budget and to account for revenue and expenses in the 2022 Statement of Activities.

Findings

The WSBA noted no differences in the methodology used to budget for revenue or expense amounts for each cost center for the 2024 Budget as compared to the methodology used to budget for revenue and expense amounts for each cost center for the 2023 Budget and to account for revenues and expenses in the 2022 Statement of Activities.

4. We compared total revenues and total expenses by cost center in the 2024 Budget to the total revenues and total expenses by cost center in the 2023 Budget and noted differences in amounts both greater than \$100,000 and 20%. We inquired of management for an explanation of those differences.

Findings

The following categories showed differences greater than \$100,000 and 20%:

Comparison of 2024 Budget to 2023 Budget

	<u>2024 Budget</u>	<u>2023 Budget - As Amended</u>	<u>Differences</u>	
			<u>Amount</u>	<u>Percentage</u>
Deskbooks				
a. Revenue	\$ 136,500	\$ 241,000	\$ (104,500)	-43%
Diversity				
b. Expense	\$ 476,883	\$ 370,269	\$ 106,614	29%
Finance				
c. Revenue	\$ 400,000	\$ 26,000	\$ 374,000	1438%

Management’s explanations for the differences are as follows:

- a. Deskbooks - It is anticipated that deskbook revenue will decline in FY24 as a result of rising eBook sales driven by online trends, a decline in the deskbook print version, and a decrease in Fastcase royalties.
- b. Diversity - FTE allocation was increased from 1.69 in FY23 to 2.69 in FY24.
- c. Finance - Interest rates increased significantly in FY23 and investment approach was modified resulting in much higher actual interest earned. The FY24 budget is based on the higher interest rates and maintenance of existing investment approach.

5. We compared total revenues and total expenses by cost center in the 2024 Budget to the total revenues and total expenses by cost center in the 2022 Statement of Activities and noted differences in amounts both greater than \$100,000 and 20%. We inquired of management for an explanation of those differences.

Findings

The following categories showed differences greater than \$100,000 and 20%:

Comparison of 2024 Budget to 2022 Statement of Activities

	2024 Budget	2022 SOA	Difference	
			Amount	Percentage
Access to Justice Board				
a. Expense	\$ 336,864	\$ 181,745	\$ 155,119	85%
Administration				
b. Expense	\$ -	\$ 1,037,027	\$ (1,037,027)	-100%
c. Revenue	\$ -	\$ 105,118	\$ (105,118)	-100%
Character & Fitness Board				
d. Expense	\$ 172,249	\$ 22,004	\$ 150,245	683%
Client Protection Fund				
e. Revenue	\$ 595,930	\$ 749,227	\$ (153,297)	-20%
Diversity				
f. Expense	\$ 476,883	\$ 316,278	\$ 160,605	51%
Equity and Justice Department FTE				
g. Expense	\$ -	\$ 210,059	\$ (210,059)	-100%
Finance				
h. Expense	\$ 1,138,582	\$ -	\$ 1,138,582	100%
i. Revenue	\$ 400,000	\$ -	\$ 400,000	100%
Mandatory continuing legal education administration				
j. Expense	\$ 915,904	\$ 685,944	\$ 229,960	34%
k. Revenue	\$ 1,113,800	\$ 1,464,350	\$ (350,550)	-24%
Office of the executive director				
l. Expense	\$ 817,261	\$ 511,510	\$ 305,751	60%
Practice Management Assistance				
m. Expense	\$ 213,298	\$ 75,196	\$ 138,102	184%
Public service programs				
n. Expense	\$ 527,889	\$ 398,468	\$ 129,421	32%
Sections Operations				
o. Expense	\$ 1,017,566	\$ 467,886	\$ 549,680	117%

Management's explanations for the differences are as follows:

- a. Access to Justice Board - The number of FTE's allocated to this cost center was increased from 1.30 to 1.64, and expenses are anticipated to be higher in FY24 due to an ongoing Board project as well as board travel expenses. FY22 actual expenditures for this cost center came in significantly under budget due to a longer than anticipated transition to in person board activities.
- b. Administration - This cost center name was changed from Administration to Finance.

- c. Administration - This cost center name was changed from Administration to Finance. In FY23, investment approach was modified based on market conditions to capture higher interest rates. In FY22, investments were held primarily in money market accounts, and transitioned to Certificates of Deposit and Treasuries in FY23, and are continuing this in FY24. The FY24 budget reflects anticipated higher interest based on these investments.
- d. Character and Fitness Board - The number of FTE's allocated to this cost center was increased from 0.40 to 0.75, and expenses are expected to be higher due to more in-person hearings and increased cost for board travel expenses in FY24.
- e. Client Protection Fund - Client protection member assessments are anticipated to decrease in FY24 due to the decrease in the member assessment amount from \$20 to \$15.
- f. Diversity - FTE for this cost center increased from 2.40 to 2.69, as well as direct expenses for consulting, surveys, and diversity events were underspent in FY22 due to timelines being pushed to FY23 and FY24.
- g. Equity and Justice Department FTE - This cost center was eliminated in FY23.
- h. Finance - This cost center name has been changed from Administration to Finance.
- i. Finance - This cost center name has been changed from Administration to Finance. In FY23, investment approach was modified based on market conditions to capture higher interest rates. In FY22, investments were held primarily in money market accounts, and transitioned to Certificates of Deposit and Treasuries in FY23, and are continuing this in FY24. The FY24 budget reflects anticipated higher interest based on these investments.
- j. Mandatory Continuing Legal Education Administration - Direct expense for depreciation is budgeted to increase significantly in FY24 due to the implementation of a new MCLE software system. FTE allocation for this cost center was increased from 4.88 to 5.88 in FY24.
- k. Mandatory Continuing Legal Education Administration - The revenue in FY22 was higher than FY24 due to a double reporting period overlap that happens from time to time and included in the results for FY22.
- l. Office of the Executive Director - FTE increased from 2 to 2.90 in FY24 and staff vacancies that existed in FY22 were filled in FY23 and maintained in FY24. Additionally, direct expenses for the Washington Leadership Institute increased significantly in FY23 and has continued with the same level of funding for FY24. Remaining direct expenses in FY22 were lower compared to FY24 as we transition to more in-person activities.
- m. Practice Management Assistance - FTE for this cost center increased from 0 to 0.95 in FY23 and was maintained in FY24.
- n. Public Service Programs - FTE allocation for this cost center was increased from 1.30 to 1.69. Moderate Means Program costs include staffing and direct expenses which increase each year, there is also additional work anticipated in FY24 to support the demand of this program.
- o. Sections Operations - The direct expenses in this cost center are expected to increase in FY24 due to having more in-person events than in FY22.

We were engaged by the WSBA to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the AICPA. We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on Fiscal Year 2024 Budget Summary. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the WSBA and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.



Certified Public Accountants
February 2, 2024

EXHIBIT A

WASHINGTON STATE BAR ASSOCIATION

Fiscal Year 2024 Budget Summary - Original

Cost Centers	Revenue	Expense	Net
Access to justice board	\$ -	\$ 336,864	\$ (336,864)
Administration			
Admissions/bar exam	1,300,740	1,361,425	(60,685)
Advancement		368,381	(368,381)
Bar news	610,100	708,164	(98,064)
Board of governors		566,110	(566,110)
Character and Fitness Board		172,249	(172,249)
Communications strategies	500	825,468	(824,968)
Communications strategies FTE		249,385	(249,385)
Discipline	119,000	6,314,089	(6,195,089)
Diversity	135,000	476,883	(341,883)
Finance	400,000	1,138,582	(738,582)
Foundation		161,208	(161,208)
Human resources		470,254	(470,254)
Law clerk program	207,200	184,130	23,070
Legal Lunchbox	29,000	51,696	(22,696)
Legislative		281,300	(281,300)
Licensing	17,320,499		17,320,499
Licensing and membership records	450,900	685,796	(234,896)
Limited license legal technician	20,712	91,840	(71,128)
Limited practice officers	202,000	131,982	70,018
Mandatory continuing legal education administration	1,113,800	915,904	197,896
Member services and engagement	10,800	390,771	(379,971)
Member Wellness Program	7,500	233,906	(226,406)
Mini CLE		110,349	(110,349)
New Member Education	67,000	99,137	(32,137)
Office of the executive director		817,261	(817,261)
Office of general counsel		1,078,051	(1,078,051)
Office of general counsel disciplinary board		315,741	(315,741)
Practice Management Assistance	62,000	213,298	(151,298)
Practice of law board		88,560	(88,560)
Professional responsibility program		239,590	(239,590)
Public service programs	130,000	527,889	(397,889)
Publication and design services		123,385	(123,385)
Regulatory services		540,945	(540,945)
Sections administration	297,786	300,489	(2,703)
Service center		733,618	(733,618)
Technology		2,094,122	(2,094,122)
Volunteer Engagement		113,992	(113,992)
Total General Fund	22,484,537	23,512,814	(1,028,277)
Operating Loss for FY 2024			(1,028,277)
Percent change from FY 2023 budget	3%	5%	
Depreciation			232,905
Straight line rent			2,065,775
Capital labor			(210,000)
Net Cash Flow From FY 2024 Operations			1,060,403
Continuing legal education	1,605,300	1,304,088	301,212
Deskbooks	136,500	280,371	(143,871)
Continuing Legal Education	1,741,800	1,584,459	157,341
Operating Loss for FY 2024			157,341
Percent change from FY 2023 budget	-8%	-6%	
Sections Operations	688,964	1,017,566	(328,602)
Client Protection Fund	595,930	688,630	(92,700)
	\$ 25,511,231	\$ 26,803,469	\$ (1,292,238)

EXHIBIT B

WASHINGTON STATE BAR ASSOCIATION

Fiscal Year 2023 Budget Summary - As Amended

Cost Centers	Revenue	Expense	Net
Access to justice board	\$ -	\$ 359,402	\$ (359,402)
Admissions/bar exam	1,362,940	1,306,852	56,088
Advancement		362,565	(362,565)
Bar news	602,700	695,967	(93,267)
Board of governors		563,600	(563,600)
Character and Fitness Board		166,623	(166,623)
Communications strategies	3,500	790,829	(787,329)
Communications strategies FTE		243,400	(243,400)
Discipline	119,000	6,214,728	(6,095,728)
Diversity	135,000	370,269	(235,269)
Finance	26,000	1,087,220	(1,061,220)
Foundation		152,797	(152,797)
Human resources		424,625	(424,625)
Law clerk program	188,200	146,999	41,201
Legal Lunchbox	23,000	52,617	(29,617)
Legislative		269,464	(269,464)
Licensing	17,053,467		17,053,467
Licensing and membership records	452,200	645,962	(193,762)
Limited license legal technician	29,722	100,748	(71,026)
Limited practice officers	195,088	120,347	74,741
Mandatory continuing legal education administration	1,125,250	781,344	343,906
Member services and engagement	11,800	342,478	(330,678)
Member Wellness Program	7,500	237,269	(229,769)
Mini CLE		114,412	(114,412)
New Member Education	85,000	96,869	(11,869)
Office of the executive director		697,034	(697,034)
Office of general counsel	963	1,057,534	(1,056,571)
Office of general counsel disciplinary board		320,639	(320,639)
Practice Management Assistance	50,000	206,683	(156,683)
Practice of law board		75,355	(75,355)
Professional responsibility program		153,571	(153,571)
Public service programs	130,000	486,257	(356,257)
Publication and design services		123,787	(123,787)
Regulatory services		560,458	(560,458)
Sections administration	290,543	298,596	(8,053)
Service center		713,681	(713,681)
Technology		1,996,602	(1,996,602)
Volunteer Engagement		115,489	(115,489)
Total General Fund	21,891,873	22,453,072	(561,199)
Operating Loss for FY 2023			(561,199)
Percent change from FY 2022 budget	2%	4%	
Depreciation			202,578
Straight line rent			2,131,247
Capital labor			(280,000)
Net Cash Flow From FY 2023 Operations			1,492,626
Continuing legal education	1,653,725	1,386,755	266,970
Deskbooks	241,000	290,735	(49,735)
Continuing Legal Education	1,894,725	1,677,490	217,235
Operating Loss for FY 2023			217,235
Percent change from FY 2022 budget	-9%	-5%	
Sections Operations	649,695	904,646	(254,951)
Client Protection Fund	730,000	684,212	45,788
	\$ 25,166,293	\$ 25,719,420	\$ (553,127)

EXHIBIT C

WASHINGTON STATE BAR ASSOCIATION

**Statement of Activities
For the Year Ended September 30, 2022**

	2022		Revenues Over (Under) Expenses
	Revenues	Expenses	
Without Donor Restriction Activities General:			
Access to justice board	\$ -	\$ 181,745	\$ (181,745)
Administration	105,118	1,037,027	(931,909)
Admissions/bar exam	1,228,615	1,239,607	(10,992)
Advancement		343,719	(343,719)
Bar news	661,041	656,367	4,674
Board of governors		497,512	(497,512)
Character and Fitness Board		22,004	(22,004)
Communications strategies	4,122	712,876	(708,754)
Communications strategies FTE		222,579	(222,579)
Discipline	105,767	5,743,648	(5,637,881)
Diversity	135,000	316,278	(181,278)
Equity and Justice Department FTE		210,059	(210,059)
Foundation		127,662	(127,662)
Human resources		481,345	(481,345)
Law clerk program	197,804	119,584	78,220
Legal Lunchbox	46,289	44,742	1,547
Legislative		225,920	(225,920)
Licensing	16,857,886		16,857,886
Licensing and membership records	455,695	612,252	(156,557)
Limited license legal technician	19,041	85,447	(66,406)
Limited practice officers	219,368	116,563	102,805
Mandatory continuing legal education administration	1,464,350	685,944	778,406
Member wellness program	9,375	186,670	(177,295)
Member benefits			
Member services and engagement	13,200	408,382	(395,182)
Mini CLE		99,382	(99,382)
New Member Education	45,915	85,773	(39,858)
Office of the executive director		511,510	(511,510)
Office of general counsel	1,126	975,098	(973,972)
Office of general counsel disciplinary board		258,656	(258,656)
Practice of law board		70,384	(70,384)
Practice Management Assistance	62,097	75,196	(13,099)
Professional responsibility program		258,987	(258,987)
Public service programs	130,000	398,468	(268,468)
Publication and design services		110,892	(110,892)
Regulatory services		493,218	(493,218)
Sections administration	273,426	271,205	2,221
Service center		655,946	(655,946)
Technology		1,751,613	(1,751,613)
Volunteer engagement		99,881	(99,881)
Total General	\$ 22,035,235	\$ 20,394,141	\$ 1,641,094
Continuing Legal Education:			
Products	\$ 1,302,806	\$ 207,313	\$ 1,095,493
Seminars	383,675	957,060	(573,385)
Deskbooks	114,668	243,519	(128,851)
Total Continuing Legal Education	\$ 1,801,149	\$ 1,407,892	\$ 393,257
Sections Operations	\$ 761,693	\$ 467,886	\$ 293,807
Client Protection Fund	\$ 749,227	\$ 731,972	\$ 17,256

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Terra Nevitt, Executive Director

Date: January 5, 2024

Subject: FY 2024 Budget Reallocations for Q1

Background

WSBA Fiscal Policies allows the Executive Director to approve the reallocation of budgeted and unbudgeted expenditures within certain limitations. Specifically, the policy states:

“The Executive Director approves and reports to the Board of Governors about certain unbudgeted expenses, including reallocations of budgeted expenditures where the intent is similar or varies slightly; unbudgeted expenditures that are fully offset by unbudgeted revenue or a reallocation of budgeted expenditures up to 5% of the approved operating budget to address operational, regulatory or programmatic needs; and necessary and prudent expenditures to implement WSBA’s Disaster Recovery Plan or to maintain WSBA’s operations. Per occurrence limit is \$215,000.00. Prior to taking action the Executive Director must notify the President and after taking action must report the reallocation of funds to the Board. Reallocations may not affect the annual budget’s bottom line.”¹

President Abell was notified of the October and December reallocations on November 14 and January 5. There were no reallocations for the month of November.

For FY 2024, the WSBA’s annual operating budget is \$26,803,468 and the Executive Director’s limit for reallocation is up to \$1,340,173.40 (5%). The total amount of funds reallocated from October 1 through December 31st are \$22,548 (0.09% of annual operating budget).

FY24 Budget Reallocations for Q1

1. *Computer software*- There is a need for additional funds for software licenses in the Technology budget to support additional licenses to support the work performed for Continuing Legal Education (CLE) coursebooks. The estimated amount needed for reallocation is \$1,000, which is available from CLE Seminar Facilities approved budget of \$160,500.
2. *Temporary Staff Salaries*- Funds for temporary staff on the MCLE team are needed to support the seasonal work performed through March each year. The FY24 budget assumed that we would hire temporary staff directly, which WSBA has done historically and costs less than hiring through a staffing agency. The goal was to directly hire to reduce costs, with the hope of finding people who would be able to come back on a recurring basis each year. Unfortunately, we did not have enough time between the budget being approved (early September) and when the temporary staff started working (beginning of

¹ Revisions to the policy language were subsequently approved at the January 12-13, 2024 Board of Governors meeting which remove the requirement of Executive Director notification to the President prior to taking action.

October) to directly hire temps and therefore needed to engage with an agency. There are salary savings of \$21,548 in the MCLE salaries budget (from an employee who is on unpaid leave) that will be reallocated to support the additional cost needed to provide seasonal temporary staffing support through March.

WASHINGTON STATE BAR ASSOCIATION

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: February 13, 2024
 Re: Litigation Update

No.	Name	Brief Description	Status
1.	<i>Iceberg v. WSBA</i> , No. 23-2-03825-34 (Thurston County Superior Court)	Alleges mishandling of grievance.	On 11/17/23, Mr. Iceberg filed a Petition for Review. WSBA filed a Motion to Dismiss. A hearing on the motion is scheduled for 02/16/24. The parties filed a joint stipulation to dismiss, which remains pending.
2.	<i>Komora v. James Elliot Lobsenz, et al.</i> , No. 23-2-02363-34 (Thurston County Superior Court)	Alleges mishandling of grievance.	On 7/26/23, Mr. Komora filed a Complaint. WSBA filed a Motion to Dismiss with prejudice, that was heard and granted on 01/26/24. This matter is now closed.
3.	<i>Langadinos v. WSBA, et al.</i> , No. 2:23-cv-00250-RSM (W.D. Wash.)	Alleges disability discrimination.	On 6/22/23, the WSBA filed a Motion to Dismiss. Plaintiff filed a response to WSBA's motion on 7/10/23. WSBA filed a reply in support of MTD on 7/14/23. On 7/21/23, Plaintiff filed an Emergency Motion Requesting to Postpone Decision on Defendant's MTD for 6 Weeks. WSBA filed a Response on 7/28/23. <u>Update since last report:</u> None.



WASHINGTON STATE BAR ASSOCIATION

MEMO

To: Board of Governors

From: Jennifer Olegario, Communications and Outreach Manager, and Sara Niegowski, Chief Communications Officer

Date: Feb. 12, 2024

Re: Summary of Media Contacts, Dec. 5, 2023 – Feb. 12, 2024

Date	Journalist and Media Outlet	Inquiry
Dec. 19, 2023	Christopher Ingalls, KING5 News	Public records request regarding disciplinary records.
Jan. 8, 2024	Rachel Riley, Law360.com	Inquired about attorney's Order of Suspension.
Jan. 12, 2024	Hana Kim, Fox13 Seattle (sent to WSBA Legislative Affairs Manager)	Looking for judges to provide insight on SB 5879, seeking funding to require judges to train to handle cases involving domestic violence and child abuse allegations. We directed her to lobbyists for several judges' associations, including AOC and SCJA.
Jan. 15, 2024	Sophia Gates, The Everett Herald	Looking into the 2013 discipline case involving Jason M. Feldman. Seeking to talk to someone about the disciplinary process and how the association handles sexual misconduct cases.
Jan. 17, 2024	Scarlet Hansen, Crosscut	Question about licensing requirements in Washington: Are social security numbers required for application to WSBA?

Feb. 8, 2024	Steve Abramowicz, Mill Creek View	Sought statement regarding employee opinion piece that appeared in King County Bar Bulletin.
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News Coverage and News Releases

- [“For some lawyers, rural life’s the best,”](#) Moscow-Pullman Daily News, Jan. 26
- [“Jonathan Sprouffske named Local Hero by the Washington State Bar”](#), Dec. 8



FY 2025 Budget Retreat

MARCH 7-8, 2024

RESOURCES

WSBA website:
www.wsba.org/about-wsba/finances

- Current and Previous 5 years of annual budgets
- Prior 3 months of financial statements
- Prior year end audited financial statements
- Fiscal Policies and Procedures

B&A Committee:
www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/budget-audit

- Historical budget and financial statements
- License fee information

2023 Budget Primer Video:
<https://youtu.be/bdlvicWoapc>

- WSBA Budget basics

RETREAT OBJECTIVES

3



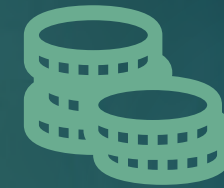
Understanding WSBA's Budget

- Funds and Reserves
- Mandatory vs. Non-Mandatory
- License Fees
- Historical Spending



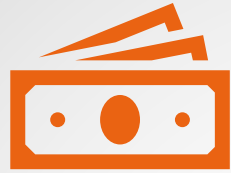
Budgeting Priorities

- FY24 Strategic Priorities
- FY24 Operational Priorities



Preparing for FY25 Budget

- Budget Process & Timeline
- FY25 Budget Considerations



Understanding WSBA's Budget

Funds and Reserves

5

GENERAL FUND

- 38 cost centers
- License fees funded
- Supports 133.73 FTEs (92.5% of WSBA staff)

RESERVES

- *Operating*: \$2,000,000
- *Facilities*: \$2,700,000
- *License Fee Stability*: \$0
- *Special Projects/Innovation*: \$0
- *Unrestricted*: \$4,121,215*

(*budgeted @ end of FY24)

Funds and Reserves

OTHER FUNDS

- Client Protection Fund
 - 1 cost center
 - Supports 1.23 FTEs (0.85% of WSBA staff)
- CLE Fund
 - 3 cost centers
 - Supports 9.54 FTEs (6.6% of WSBA staff)
- Sections Fund
 - Comprised of 29 Sections

RESERVES

- *Client Protection Fund*: \$4,420,698*
- *CLE Fund*: \$1,334,504*
- *Sections Fund*: \$1,641,801*

(*budgeted @ end of FY24) ¹²³

General Fund Reserves 2014-2024

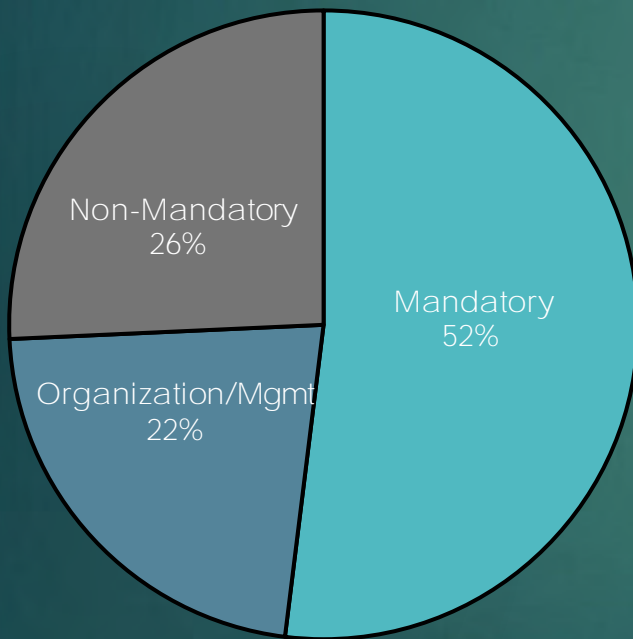
FISCAL YEAR	TOTAL GENERAL FUND RESERVES	OPERATING RESERVE	FACILITIES RESERVE	OTHER RESERVES*	UNRESTRICTED RESERVE
2014	\$7,803,070	\$1,500,000	\$3,340,000	\$337,582	\$2,625,488
2015	\$5,102,534	\$1,500,000	\$3,286,096	\$316,438	\$0
2016	\$3,918,536	\$1,500,000	\$2,114,427	\$304,109	\$0
2017	\$3,363,751	\$1,500,000	\$200,000	\$0	\$1,663,751
2018	\$3,795,858	\$1,500,000	\$450,000	\$0	\$1,845,858
2019	\$4,736,537	\$1,500,000	\$550,000	\$0	\$2,686,537
2020	\$5,528,234	\$1,500,000	\$550,000	\$0	\$3,478,234
2021	\$7,072,174	\$1,500,000	\$1,050,000	\$0	\$4,522,174
2022	\$8,713,268	\$2,000,000	\$1,000,000	\$0	\$5,713,268
2023	\$9,849,490	\$2,000,000	\$2,700,000	\$0	\$5,149,490
2024 BUDGET	\$8,821,215	\$2,000,000	\$2,700,000	\$0	\$4,121,215

*Other Reserves consist of: Capital Reserve and Board Program Reserve from 2014-2016; License Fee Stability Fund and Innovation Fund beginning 2023

Mandatory vs. Non-Mandatory Functions

► What are we required to do and how much does it cost?

FY 24 General Fund Budget
\$23,512,812



MANDATORY [52%, \$12,217,576]	NON-MANDATORY [26%, \$6,047,701]	ORGANIZATION/MGMT [22%, \$5,247,536]
<ul style="list-style-type: none"> • Admissions • Access to Justice • Character & Fitness • Discipline • Disciplinary Board • Law Clerk Program • Licensing & Membership Records • Limited License Legal Technicians • Limited Practice Officers • Mandatory CLE • Office of General Counsel • Practice of Law Board 	<ul style="list-style-type: none"> • Bar News • Communications • Diversity • Legal Lunchbox • Legislative Affairs • Member Services and Engagement • Member Wellness Program • New Member Education • Practice Management Assistance • Professional Responsibility Program • Public Service Programs • Publication and Design Services • Sections Administration • Service Center • Volunteer Engagement 	<ul style="list-style-type: none"> • Finance • Board of Governors • WSB Foundation • Human Resources • Office of ED • IT

License Fees

► FY25 License Fee Revenue

- Membership Year vs. Fiscal Year
- License fees set through 2025 membership year
- Fee has remained at \$458 since 2020

Years	Active Fee
2020-2025 (6 yrs)	\$458
2019	\$453
2018	\$449
2016-2017 (2 yrs)	\$385
2013-2015 (3 yrs)	\$325
2010-2012 (3 yrs)	\$450
2009	\$415
2008	\$407
2007	\$399
2006	\$391
2005	\$383
2004	\$375

Historical Spending

Fiscal Year	General Fund Budgeted Gain or (Loss)	Actual	Overall Difference Actual vs. Budget	Total Unrestricted Reserves
2014	\$ (1,928,485)	\$ (1,085,827)	\$ 842,658	\$ 2,625,488
2015	\$ (3,125,741)	\$ (2,679,392)	\$ 446,349	\$ 0
2016	\$ (2,325,568)	\$ (1,183,997)	\$ 1,141,571	\$ 0
2017	\$ (1,997,345)	\$ (554,785)	\$ 1,442,560	\$ 1,663,751
2018	\$ (732,275)	\$ 432,107	\$ 1,164,382	\$ 1,845,858
2019	\$ (101,616)	\$ 940,679	\$ 1,042,295	\$ 2,686,537
2020	\$ (591,915)	\$ 791,697	\$ 1,383,612	\$ 3,478,234
2021	\$ (202,779)	\$ 1,543,940	\$ 1,746,719	\$ 4,522,174
2022	\$ (89,563)	\$ 1,641,094	\$ 1,730,657	\$ 5,713,268
2023	\$ (561,197)	\$ 1,136,222	\$ 1,697,419	\$ 5,149,490
2024	\$ (1,028,275)	N/A	N/A	\$ 4,121,215



Budgeting Priorities

FY24 Strategic Priorities



Study member well-being and expand and improve resources for and assistance to legal professional and the legal community.



Assess technology-related opportunities and threats and determine WSBA's role vis-à-vis regulation, consumer protection, and support to legal professionals.



Improve the experience of belonging among legal professionals and in the legal community.



Support rural practice and access to justice in small towns and rural parts of the state.

FY24 OPERATIONAL PRIORITIES

- ▶ 6 Goals with 18 identified priorities/projects
- ▶ Timeline for completion varies (within one year, multi-year)

Goal		Priority Example
1	To provide relevant and valuable resources to help all of its members achieve professional excellence and success, in service to their clients and public, and to champion justice.	Develop and implement an ongoing process for WSBA Program Review
2	To uphold and elevate the standard of honor, respect and integrity among WSBA members in order to improve public confidence in the legal profession.	Explore alternatives to resignation
3	To promote access to justice and improve public confidence, trust and respect of members of the public in our legal system and bar association.	Determine how to develop a language access plan for WSBA
4	To promote diversity, equity and inclusion in the legal system and profession	Create an operational plan to further diversity, equity, and inclusion based on the results of the operational equity assessment completed in FY23
5	To manage the business of the State Bar Association in a prudent, efficient and cost-efficient manner.	Reassess WSBA's approach to physical document storage to reduce our physical footprint while maintaining the integrity of our records
6	Foster an organizational environment and culture that demonstrates a commitment to staff and embodies the organizational mission and stated values of the WSBA.	Develop norms and expectations for the hybrid workplace, delivered through a series of trainings

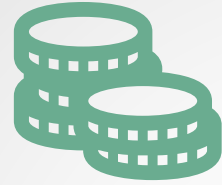
A blue ballpoint pen is positioned diagonally across the top left of the slide, resting on a document that features a bar chart with blue bars. The background of the slide is a dark teal color.

Budgeting Priorities

14

How do the strategic and operational priorities impact the annual budget?

- Priorities require resources and investment
- New priorities or changes in existing priorities may result in budget ask or require reallocation
- Resources are finite and allocated considering many factors such as:
 - Is it required? (Mandatory vs. Non-Mandatory)
 - What is the timeline? (time-limited pilot, multi-year commitment, etc.)
 - Are there any available funding sources outside of license fees?



Preparing for FY25 Budget

Budget Process & Timeline

- ▶ Internal process will begin early March
- ▶ Budget managers and staff liaisons gather data for budget needs
 - WSBA entities need to consider what work they want to accomplish next year and what resources are needed

DATE	MEETING	TOPIC
March 7-8, 2024	Board of Governors	Board Budget Retreat
May 31, 2024	Budget & Audit Committee	Presentation of baseline FY25 assumptions, PMC calculation review/approval
June 21, 2024	Budget & Audit Committee	First draft budget review
July 18-20, 2024	Board of Governors	First draft budget review
August 9, 2024	Budget & Audit Committee	Review of final draft
September 6-7, 2024	Board of Governors	Review and approval of final budget

FY25 Budget Considerations



Fiscal Projections of status quo result in use of reserves for FY25
~(\$1.5-\$2.1M)



What do we know of now that will change the projections for FY25?

Cost savings from WSBA office space lease renegotiations
Anticipated increase in fees charged for attorney admissions
Likely continuation of FY24 strategic priorities



What don't we know?

Bar Licensure Task Force Recommendations
Supreme Court mandated tasks
New/different FY25 Strategic Priorities
FY24 strategic priorities

Thank you!

TO: WSBA Board of Governors

CC: Terra Nevitt, Executive Director

FROM: Michael Chait, Chair, Court Rules and Procedures Committee
Nicole Gustine, Staff Liaison, Court Rules and Procedures Committee
Kyla Reynolds, Staff Liaison, Court Rules and Procedures Committee

DATE: February 13, 2024

RE: Proposed Comment from the Court Rules and Procedures Committee in Response to Proposed Amendments to CR 28 and 30

ACTION: Approve Court Rules and Procedures Committee’s Comment to CR 28 and 30.

Background

As part of the Supreme Court’s rules review cycle, the WSBA Court Rules and Procedures Committee (Committee) is actively reviewing the Civil Rules, Civil Rules for Courts of Limited Jurisdiction, and the Mandatory Arbitration Rules this year. The Committee is separated into subcommittees for each set of rules they are tasked with reviewing, and additionally, has a “Subcommittee X” that considers out-of-cycle rule requests.

The Civil Rules Subcommittee and Subcommittee X have been working to review all the proposed rule amendments that have been ordered for public comment period (available on the Court’s website; [here](#)). Comments to these rules are due by April 30, 2024. The Committee recommends submitting the enclosed comment in response to the proposals to [CR 28](#) and [CR 30](#), proposed by Byers & Anderson, Inc. There is a second proposal to [CR 30](#), proposed by the BJA Remote Proceedings Workgroup, that the Committee takes no position on.

Stakeholder Input

The Committee did not engage in any stakeholder input, outside out the Committee members. The Civil Rules subcommittee has a variety of attorney members that have expertise in the Civil Rules.

WSBA Risk Analysis

The Board of Governors is being asked to approve the Court Rules Committee’s request to comment on proposed rules pending before the Court for comment. Pursuant to WSBA Bylaws, in order to comment on behalf of the Bar, a committee must have prior written approval of the Board of Governors. Bylaw IV.E.4.

There is little to no risk to the WSBA in authorizing the Committee to comment. This proposed comment aligns with WSBA purposes and activities under GR 12.2. *See, e.g.,* GR 12.2(a)(2) and (11) (the WSBA strives to “promote an effective legal system” and “serve as a statewide voice to the public and the branches of government on matters relating to [its] purposes and ... “activities”) and GR 12.2(b)(3) (the WSBA may “provide periodic reviews and recommendations concerning court rules and procedures.”).

Unrelated to the proposal and for the Board's information, the statutory reference to RCW 42.44.010 in CR 28(-)(6) is now outdated, as that statute was repealed effective July 1, 2018 and replaced by a later enactment, RCW 42.45.

WSBA Fiscal Analysis

The proposed action to provide comment on proposed rules includes limited fiscal impact from staff time used to draft the proposal which is included in the overall duties of existing WSBA staff and did not require additional staff or allocation of resources from other internal sources. The proposed action does not generate any future fiscal impact to the WSBA.

WSBA Equity Analysis

The purpose of the equity analyses is to understand how entities incorporated an equity lens into the action items presented to the Board of Governors. An equity lens is 1) identifying and centering people and communities most impacted decisions and/or 2) meeting people and communities according to their specific needs to produce fair and equal outcomes for all. Without having more specific information like perspectives or input from marginalized communities who might be ultimately impacted by this change, it is difficult to do an equity analysis.

Attachments

Memo from the Civil Rules Subcommittee with Proposed Comment.

Proposed Amendments to CR 28

The proposed amendment to CR 28(a) adds to the definition of “officer” to specifically include a “certified court reporter.” The problem is that CR 28 already allows a deposition to be taken before “Notaries Public.” See RCW 5.28.010 and RCW 42.45.010.¹ RCW 5.28.010 provides, “Every court, judge, clerk of a court, **state-certified court reporter**, or notary public, is authorized to take testimony in any action, suit or proceeding, and such other persons in particular cases as authorized by law....” Therefore, the proposed amendment to CR 28(a) is unnecessary unless the pool of “certified court reporters” is intended to be broader than “state-certified court reporters.”

The proposed amendment to CR 28(d) would change the term “person” to “officer.”

The proposed amendment to CR 28(e) strikes through the term “court reporter” and replaces it with the term “officer.” This subsection applies to “Final Certification of the Transcript,” which is a task historically performed only by court reporters after the transcript is complete. By replacing “court reporter” with “officer,” it would appear that *any* of the officers included in this rule may certify a transcript including judges of various courts and court commissioners. This is inconsistent with current practice. This proposed amendment appears to open the door to unqualified individuals preparing and/or certifying transcripts.

¹ RCW 42.45.010 provides, in pertinent part:

(1) "Acknowledgment" means a statement by a person that the person has executed an instrument as the person's free and voluntary act for the uses and purposes stated therein and, if the instrument is executed in a representative capacity, a statement that the person signed the document with proper authority and executed it as the act of the person or entity represented and identified therein.

(7) "In a representative capacity" means acting as:

(a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(c) An agent or attorney-in-fact for a principal; or

(d) An authorized representative of another in any other capacity.

(8) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying the occurrence of an event or the performance of an act, and noting a protest of a negotiable instrument if the protest was prepared under the authority of an attorney licensed to practice law in this state or another state, or was prepared under the authority of a financial institution that is regulated by this state, another state, or the federal government.

(9) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(10) "Notary public" and "notary" mean any person appointed to perform notarial acts in this state.

(18) "Verification upon oath or affirmation" means a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation administered in accordance with chapter 5.28 RCW.

It appears the entirety of the proposed amendments to CR 28 are being proposed by a for-profit court reporting and video-recording business. The proposed changes would be overbroad in making otherwise unqualified “officers” able to certify transcripts.

The WSBA Court Rules and Procedures Committee recommends against the proposed amendments to CR 28(a), CR 28(d), and CR 28(e) because those amendments are inconsistent with current practice and theoretically would permit judges and commissioners of various courts who are also defined to be within the term “officers,” to certify transcripts in addition to “court reporters,” whether state-certified court reporters or “certified court reporters.”

Discussion on Proposed Amendments to CR 30

There are two proposed amendments to CR 30. The first is proposed by the court reporting firm of Byers & Anderson. The proposal purports to change the language of CR 30(b)(8)(A), which provides “Any party may video record the deposition of any party . . .,” to a restriction requiring a certification from the videographer that they have “no financial interest in this matter and nor are they an attorney for, nor are they a relative or employee of, any party or attorney in this action.”

The proponent instead advocates for the use of professional videographers such as the ones that can be provided by court reporting and videographic services providers. Such an amendment requiring professional videographers adds to the expense and difficulties of civil litigation.

The WSBA Court Rules and Procedures Committee takes no position on the second proposed amendment to CR 30.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: President Elect and Governor Sunitha Anjilvel, Co-Chair
Raina Wagner, Co-Chair
DATE: February 14, 2024
RE: Request for Approval of Amendments to DEI Council Charter

REQUEST FOR APPROVAL: The DEI Council requests approval of its proposed amendments to its charter which correct an inaccurate reference to the Bylaws and clarify that the new member selection shall go through the Nominations Committee rather than appointment by the President.

Background

The DEI Council created a new process for reviewing application materials in an effort to be fairer (see attached selection process document). In the process of determining how to implement the new process, we reviewed our Charter and discovered two issues: 1) the Charter provides that new members are to be approved by the President and confirmed by the BOG (as opposed to the nominations committee process); and 2) the Charter incorrectly references a bylaw (it says “In accordance with WSBA Bylaw Article IX.C, selection of persons to be appointed to the Council will be made by the President with confirmation by the Board of Governors” even though Bylaw Article IX.C doesn’t say anything about the President appointing council members).

It is Bylaw IX.B.2.a that references the President selecting new members, approved by the BOG. That process is usually used for short-term, project-based groups.

We have made edits to the Charter to address the issues. The proposed amendments provide that the new member selection process will go through the Nominations Committee instead of appointment by the President.

Community Input

We did not seek input from community outside of the DEI Council because the purpose of the proposed amendment is to correct a clerical error.

Information for Fiscal Analysis

The proposed amendment does not create any fiscal additions. If the amendment is approved, the staffing will remain the same. Shifting from a presidential appointment to the Nominations Committee will not change the staffing.

Information for Equity Analysis

The proposed amendments not only make clerical corrections, but also change the appointment process from President-appointed to the Nominations Committee. This change will bring in more people in reviewing the Council’s recommendations rather than limiting it to the President only.

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

The BOG is asked to approve amendments to the Charter that make the appointment process consistent with the WSBA Bylaws. These changes appear to decrease risk by bringing the Charter into alignment with the Bylaws. The Bylaw provisions relating to these appointments and nominations are below.

Chair Appointments-Bylaws Article IX.B.2.b

The Chair(s) of any other Bar entity shall be appointed by the President at the time of creation of the entity, with the BOG having the authority to accept or reject that selection, and will serve for the duration established by the BOG or until replaced.

Council Member Nominations-Bylaws Article IX.C.2

Nominations to councils are made as set forth in the council's charter or originating document, and are confirmed by the BOG.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

The fiscal impact to WSBA resulting from the proposed recommendation is limited as the request is focused on approving changes to provide clarifying language consistent with existing processes and correction for a clerical error. The fiscal impact includes staff time drafting the proposal and time used to incorporate any approved revisions to the relevant records. The staff time used is included in the overall duties of existing WSBA staff and would not require additional staff or allocation of resources from other internal sources.

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

There do not appear to be any issues regarding equity.

Attachments

Proposed Amended Charter
DEI Council Selection Process

WASHINGTON STATE BAR ASSOCIATION

CHARTER OF THE DIVERSITY, EQUITY, AND INCLUSION COUNCIL

Approved by the WSBA Board of Governors on July 21, 2022

Background

Under the delegated authority of the Washington Supreme Court and consistent with the WSBA mission, the DEI Council's purpose is to advance diversity, equity and inclusion in the legal profession and legal system.

Specifically, under Washington General Rule 12(1)(j), in regulating the practice of law, one of the Washington Supreme Court's objectives includes "diversity and inclusion among legal service providers and freedom from discrimination for those receiving legal services and in the justice system." Further, under Washington General Rule 12.2(6), the Washington Supreme Court has expressly delegated to the WSBA the responsibility to "promote diversity and equality in the courts and the legal profession."

In addition to carrying out the objectives and responsibilities outlined in the General Rules and other commitments like the Washington Race and Equity Justice Initiative [commitments](#), the Council also carries out the mission of the WSBA – 'to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice' – by advancing diversity, equity and inclusion in the legal profession and legal system.

Purpose

To advance diversity, equity and inclusion and address the problems of bias, systemic inequities and underrepresentation in the legal profession, the Council's work includes but is not limited to:

- Increasing and supporting members from underrepresented communities by developing and supporting diversity pipeline and mentorship programs and partnering with schools, students and members from underrepresented communities.
- Developing diversity, equity and inclusion educational content and programs for members, volunteers and members of the public.
- Developing diversity, equity and inclusion educational content and programs designed to offer members opportunities to learn, gain skills and fulfill the MCLE ethics requirement on the mitigation of bias.
- Implementing and updating the WSBA Diversity and Inclusion Plan.
- Supporting and collaborating with the Minority Bar Associations to promote mutual goals to advance diversity, equity and inclusion in the legal profession.
- Promoting leadership opportunities in the WSBA, legal profession and legal system by engaging in outreach to underrepresented members and the public, promoting diversity in the judiciary, and recommending candidates for At-Large Governors on the WSBA Board of Governors (BOG).
- Advising the BOG on examining issues through a diversity, equity and inclusion lens and fulfilling its responsibilities outlined in General Rule 12.2(a)(6), WSBA Strategic Goals, the Race and

Equity Justice Initiatives commitments, and approved resolutions concerning diversity, equity and inclusion.

The Council shall work with a variety of stakeholders interested people and communities to ensure it centers underrepresented members and communities, and will work collaboratively with WSBA staff who manage diversity, equity and inclusion programs.

Governance and Membership

The Council shall consist of up to 18 members who will include four BOG members and 14 members who may be WSBA active members, WSBA pro bono status members, WSBA judicial status members and judicial officers, law students, law school faculty and staff, and members of the public. Of the 14 non-BOG members, at least eight shall be active members.

The membership terms for non-BOG members shall be two years, renewable for a second consecutive term. Non-BOG members who serve two consecutive terms may serve again after at least a two-year hiatus.

The membership terms for BOG members shall be a one-year term, renewable with no limit on the number of terms.

The Council shall be co-chaired by a member of the BOG and a member of the Committee who is not on the BOG. -Per WSBA Bylaws, the co-chairs are appointed by the WSBA President. If an individual is appointed as the non-BOG co-chair but is not a new or returning member of the committee, they will be appointed as a member for one year, which may temporarily increase the size of the committee to 19.

The Council co-chairs shall nominate new members to the Board of Governors Nominations Committee. The Council co-chairs shall use the procedures for new member selection which includes reviewing all applications and seeking input from DEI Council members and staff liaisons to inform their nominations to the Board of Governors Nominations Committee for final appointment. In accordance with WSBA Bylaw Article IX.C, selection of persons to be appointed to the Council will be made by the President with confirmation by the Board of Governors.

Applications to serve on the Council shall be in accordance with WSBA Bylaws, policies, and procedures.

Voting

All members of the Council are eligible to vote. Judicial members may choose to recuse themselves from voting relating to any matters. If judicial members choose to recuse themselves from votes relating to court rules or legislation, on those occasions, and only on those occasions, the membership of the Council, for purposes of determining whether a supermajority have voted in favor or against a proposition, shall be reduced by the number of judges who have recused themselves. This provision does not apply if a judicial member is merely absent.

Membership Expectations

Council members are expected to serve on at least one Council workgroup. Council members who have three consecutive unexcused absences in any 12-month period will be considered as resigned from the Council. Council members may be excused for good cause by either co-chair; such an excuse should be sought prior to the meeting. The Council may seek a replacement member through the regular WSBA

volunteer process, unless the absent member was nominated by the WSBA President. In that case, the WSBA President will be asked to appoint a replacement.

DEI Council New Member Nomination Procedure

The DEI Council aims to promote diversity, inclusion and equity in its own process for recruitment and selection of new members. To that end, the procedure for determine the new member nominees includes the following:

- All applicants who are applying for a second term will be given priority during the selection process, provided they are not out of compliance with the attendance policy.
- All new applicants will be asked to submit written responses (limit to 600 words) to the following questions:
 - What level of capacity (e.g., approximate hours per month) do you have to engage in the DEI Council roles and responsibilities?
 - What most excites you about joining the DEI Council and what kind of work do you hope to do?
 - What do you think is the most challenging issue facing the legal profession as it relates to DEI?
- All DEI Council members (except for members who are reapplying for a second term) will be invited to anonymously rank the applicants based on their materials, submitted responses and volunteer job description and needs of the DEI Council .
- All application materials from new applicants will have the names redacted.
- The DEI Council Co-Chairs will review the redacted application materials with a lens toward increasing diversity among the Council and building more capacity to accomplish its work. The Co-Chairs will also consider the ranking submitted by Council members.
- The Council's Charter provides that six of the 18 members may be WSBA members in pro bono members, judicial status and judicial officers, law students, law school faculty and staff, and members of the public. To promote diversity, the Co-Chairs will make selections to have broad representation.

WASHINGTON STATE BAR ASSOCIATION

TO: WSBA Board of Governors

FROM: Francis Adewale, Co-Chair of the Member Engagement Council
Matthew Dresden, Co-Chair of the Member Engagement Council
Kristina Larry, Member of the Member Engagement Council
Kari Petrusek, WSBA Governor for District Two
Margeaux Green, WSBA Practice Management Advisor
Kevin Plachy, WSBA Advancement Department Director

CC: Terra Nevitt, WSBA Executive Director

DATE: February 9, 2023

RE: Adopt a WSBA Legal Technology Task Force Charter

<p><u>ACTION:</u> Approve the WSBA Legal Technology Task Force Charter</p>

Recommendation

Adopt the Legal Technology Task Force Charter and thereby establish a task force to make recommendations that support and strengthen the use of technology in members' practice, emphasizing effective, efficient, and ethical use of technology that enhances equitable access to justice.

Background

In November 2023, the Board of Governors voted to adopt the following statement as one of four strategic priorities for the 2023-24 fiscal year: "Assess technology-related opportunities and threats and determine WSBA's role vis-a-vis regulation, consumer protection, and support to legal professionals." Creating the Legal Technology Task Force is one step in acting on that priority.

The Task Force's Approach

Over the course of a 15-month timeline, the Task Force will conduct its own research, while also drawing on the considerable and influential existing body of work compiled by national and state legal organizations. New York, Florida, Texas, Minnesota, Kentucky, New Jersey, and Illinois, along with the American Bar Association, currently have active workgroups, task forces, and committees examining legal and ethical issues relating to AI in the legal industry. New York, Florida, and Arizona have legal technology committees that advise on challenges and opportunities related to technology in legal practice, review emerging technologies, and contribute to the development or recommendation of tools and education for lawyers. The State Bar of California's Standing Committee on Professional Conduct developed practical guidance on generative AI. In addition, the Washington

State Supreme Court Access to Justice Tech Principles shall help guide the Task Force's deliberations and work product.

Alignment with WSBA's Organizational Priorities and Strategic Goals

The BOG has adopted the assessment of legal technology as a strategic priority for the 2023-24 fiscal year; creating a Legal Technology Task Force aligns squarely with this priority.

Creating a Legal Technology Task Force also aligns with WSBA's overall strategic goals, most notably goals 1 and 3.

Goal 1: To provide relevant and valuable resources to help all its members achieve professional excellence and success, in service to their clients and public, and to champion justice.

The focus of the Legal Technology Task Force is to assess the legal technology environment and identify technology-related threats and opportunities affecting the various sectors of the legal profession, with the goal of improving and/or expanding member services programs. Such improved/expanded programs would be both relevant and valuable resources to WSBA members.

Goal 3: To promote access to justice and improve public confidence, trust and respect of members of the public in our legal system and bar association.

Included in the focus areas of the Legal Technology Task Force is an assessment of technology within the courts and broader legal profession and a report delivering recommendations to the BOG emphasizing fairness, equity, and advancement of technology to enhance access to justice for all. Utilization of technology to enhance access to justice will be a key consideration of the task force.

Objectives

The Task Force's primary objective will be to create a report recommending tangible steps WSBA can take to support and strengthen the use of technology within the legal profession in Washington state. Such steps may include proposing rule changes, identifying best practices, creating and/or maintaining resources for members, forming a standing technology committee, and/or providing educational material for the legal profession. This objective will be achieved by accomplishing two subsidiary objectives:

1. *Assess the Legal Technology Landscape Across the Various Sectors of the Legal Profession in Washington and the U.S.* This objective will be achieved by forming multiple workgroups to examine areas of interest. Workgroups could concentrate on areas within diverse segments of the legal profession, aiming to deliver recommendations on how to prioritize and integrate technology solutions within those specific sectors. Examples of sectors could include private practice, the courts and judiciary, public/government practice, civil legal aid organizations, law schools/APR6 law clerk program participants, WSBA Practice Management Program, WSBA Ethics Program, legal technology vendors and service providers, legal research providers, bar associations, and professional liability insurance carriers. Workgroup focus areas may include cybersecurity, AI, business management, legal research, education and training, access to justice, ethics, emerging technologies, client communication, and diversity and inclusion.

2. *Investigate the Technological Landscape among WSBA Members.* The Task Force will primarily achieve this objective by developing and administering a membership survey focused upon technology usage, member concerns about technology, and member understanding of various technological innovations. The Task Force may also solicit member feedback through listening sessions, focus groups, and other forms of interaction.

WSBA Risk Analysis (Prepared by Office of the General Counsel)

GR 12 Analysis

Centralizing efforts and communications relating to opportunities and barriers to effective use of legal technology in the delivery of legal services is supported by GR 12.2(a)(4)[foster and maintain high standards of competence, professionalism, and ethics among members] and (6) [promote diversity and equality in courts and the legal profession] and not prohibited by GR 12.2(c).

Legal Risks to Consider/Discuss

The risks relate to implementation and operation of the Task Force rather than its creation. Examples of risks to consider include:

- The WSBA's role in making recommendations to legal technology vendors and service providers. The WSBA should remain neutral and not recommend a specific vendor. However, the WSBA could point out barriers to technology use related to all vendors.
- Careful attention to data solicited from members to avoid unintentionally disclosing information about the WSBA's or any members technology architecture.
- The risks in the WSBA providing direct technology advice to members rather than highlighting useful resources.

Fiscal Analysis (Prepared by Director of Finance)

The fiscal impact to WSBA resulting from the proposed action could include expenses to administer a survey (approximately \$1,500) and general task force expenses to cover items such as travel costs (mileage, meals, lodging, etc.) and any other expenses associated with their work (approximately \$1,500). Additionally, WSBA staff time would be used to support this work which is included in the overall duties of existing staff and would not require additional new staff or reallocation of resources from other internal sources.

Equity Analysis (Prepared by Equity and Justice Team)

The charter outlines a goal of making recommendations that support and strengthen members' use of technology and enhances equitable access to justice. In addition to using the Access to Justice Technology Principles as a guide, we recommend to more clearly state how the research and development of the recommendations will include perspectives of the client community/public/legal services consumers. Consistent with the ATJ Technology Principles, we recommend you also include research on how technology can create barriers to accessing justice

(e.g., there is growing research on how AI and privacy can create unintended consequences of bias, discrimination and inequities and recommendations to remove those barriers. We also suggest you include some flexibility in the timeline given that seeking input particularly from the public can take time. Finally, we suggest a more inclusive task force make-up, being clear to include WSBA members beyond lawyers (e.g., many LLLTs use technology to run their practices) and allowing all members to vote. You might also consider clarifying what is meant by public members on the task force (e.g., will these public members include consumers and IT professionals or just IT professionals?).

Action Requested

We have enclosed the proposed charter for the WSBA Legal Technology Task Force in the materials. We thank the Board of Governors for its consideration of our recommendation and ask that the Board approve the formation of a WSBA Legal Technology Task Force and the proposed charter.

Respectfully submitted,

Francis Adewale, Co-Chair of the WSBA Member Engagement Council
Matthew Dresden, Co-Chair of the WSBA Member Engagement Council
Kristina Larry, Member of the WSBA Member Engagement Council
Kari Petrasek, WSBA Governor for District Two
Margeaux Green, WSBA Practice Management Advisor
Kevin Plachy, WSBA Advancement Department Director

WASHINGTON STATE BAR ASSOCIATION

Legal Technology Task Force DRAFT CHARTER

Background

In November 2023, the Board of Governors recognized the transformative impact of technology, particularly artificial intelligence (“AI”), on the legal profession, and adopted the following statement as one of four strategic priorities for the 2023-24 fiscal year: “Assess technology-related opportunities and threats and determine WSBA’s role vis-a-vis regulation, consumer protection, and support to legal professionals.” Creating the Legal Technology Task Force is one step in acting on that priority.

The Task Force aims to (1) assess the legal technology landscape, identifying threats and opportunities across various legal sectors, and (2) make recommendations that support and strengthen the understanding and use of technology in members’ practice, emphasizing effective, efficient, and ethical use of technology that enhances equitable access to justice.

Using the Washington State Supreme Court’s Access to Justice Tech Principles as a guide in its works and recommendations, the Task Force will make recommendations to the Board of Governors on tangible steps the WSBA can take to support and strengthen the use of technology within the legal profession in Washington state.

Task Force Objectives

Assess the Legal Technology Landscape Across the Various Sectors of the Legal Profession in Washington and the U.S.

As an initial step, the Task Force will develop a comprehensive plan to evaluate the legal technology environment, identifying threats and opportunities throughout the legal profession via specialized workgroups. The Chair of the Task Force, with the consent of a majority of Task Force members, will establish the workgroups. Workgroups will be comprised of Task Force members and additional non-voting members where appropriate to provide additional expertise or experience.

Workgroups shall examine diverse sectors of the legal profession, aiming to deliver recommendations on how to prioritize and integrate technology solutions within those sectors. Examples of sectors include private practice, the courts and judiciary, public/government practice, civil legal aid organizations, law schools/APR6 law clerk program participants, WSBA Practice Management Program, WSBA Ethics Program, legal technology vendors and service providers, legal research providers, bar associations (including local, specialty, and minority bar associations), professional liability insurance carriers, and professional regulatory systems.¹ Workgroup focus areas may include cybersecurity, AI, business

¹ In adopting this Charter, the Board of Governors recognizes that Washington State’s professional regulatory systems for legal practitioners are created by and answerable to the Washington Supreme Court exclusively. To the extent the Taskforce has ideas or recommendations that would implicate regulatory processes, procedures,

management, legal research, education and training, access to justice, ethics, emerging technologies, client communication, and diversity and inclusion including bias in technology. These examples of sectors and focus areas are not exhaustive, and “sectors” and “focus areas” should be defined broadly. Workgroups will take steps including the following:

- Recruit relevant contributors, both inside and outside of the profession, to ensure diverse perspectives in each workgroup’s research.
- Conduct outreach and receive feedback from sectors of the profession relevant to the workgroup.
- Review existing resources, data, and information and gather additional information as needed while ensuring technology design aligns with principles of fairness and access to justice.
- Evaluate technology recommendations nationwide, identifying those most relevant to legal practice in Washington, with a focus on equitable access, participation, opportunities, and transparency.
- Understand the state of research regarding technology impacting the legal field.
- Develop collaborative relationships with other WSBA and outside entities, including but not limited to the ATJ Board’s Technology Committee and the Practice of Law Board, as well as similarly situated non-WSBA entities (e.g., the JISC, technology committees/workgroups for other bar associations), with the intent of sharing information and working collectively towards common goals in addressing technology issues/projects within the legal profession.
- Provide a final report to the full Task Force, containing its findings and recommendations.
- After delivering a final report, work collaboratively with the full Task Force to provide recommendations to the BOG that emphasize fairness, equity, and advancement of technology to enhance access to justice for all.

Seek to Understand WSBA Members’ Use and Awareness of Technology

The Task Force will survey the membership to help guide its priorities. Areas of inquiry in the survey may include technology adoption, challenges faced, proficiency levels, as well as suggestions for the Task Force. The survey should be deployed within three months of the first meeting of the task force or as soon as practical thereafter. The development of the survey may require the formation of its own workgroup. Upon completion, the Task Force will share the results of its member survey and its analysis to the Board of Governors and Executive Director, whom will be responsible for sharing the results with the membership and the Washington legal community. The Task Force may also solicit feedback through other channels, such as focus groups, listening sessions, and other forms of interactions with members. The results from the survey and other feedback will inform the final recommendations of the Task Force.

Issuance of Final Report and Recommendations

Each Task Force workgroup will provide a final report to the full Task Force. The Task Force will then produce a final, comprehensive report regarding the Task Force’s observations and recommendations,

policies, or rules, the Taskforce should work collaboratively with the pertinent stakeholder(s) and direct any recommendations to the appropriate regulatory staff or Board, the Disciplinary Advisory Round Table, and/or the Supreme Court.

including proposed rule changes, best practice information, resources, and educational material for the legal profession.

Timeline

The Task Force will have a duration of 15 months from the date of its first meeting and will meet monthly or at other intervals as determined to be appropriate by the Chair. The Task Force will provide quarterly reports to the Member Engagement Council, an interim written report to the Board after its eighth month of operation, and a final report at the conclusion of its 15-month duration. The Task Force may also report to the Member Engagement Council or the Board on an interlocutory basis if urgent issues arise.

Composition

The Task Force shall consist of nine voting members and two non-voting judicial members, as follows:

- Chair, (voting)
- 1 Current or Former BOG Member (voting)
- 4 WSBA Members (voting)
- 2 Adjudicative Officers in Washington State (non-voting)
- 1 Law School Representative (student or employee; voting)
- 2 Public Members (voting)

Further membership criteria is detailed in the appendix below.

Nominations and Appointment

The WSBA President will appoint Task Force members in accordance with WSBA Bylaws Art. IX(B)(2), taking into account the recommendation of the Co-Chairs of the Member Engagement Council. The President shall appoint the Chair, taking into account the recommendation of the Co-Chairs of the Member Engagement Council. The WSBA Executive Director will designate a WSBA staff liaison(s).

Terms

Technology Task Force members will serve for the entire duration of the Task Force. The President will appoint any replacement members (if necessary), taking into account the recommendation of the Co-Chairs of the Member Engagement Council.

Final Report

At the end of its duration, the Technology Task Force will issue a final report to the Board of Governors. The report will (1) evaluate the scope and efficacy of the Task Force's achievements, and (2) provide feasible recommendations to support and strengthen the use of technology within the legal profession in Washington State.

APPENDIX

The following non-exclusive criteria shall be prioritized for membership on the Task Force:

Practice Types and Venues

The Task Force seeks participation from legal professionals from various practice types and venues. Legal professionals practicing in solo settings face unique challenges, including limited resources for technology implementation and pressure to balance cost-effectiveness. Legal professionals in mid-size or large firm settings face different challenges in engaging with legal technology and sometimes have less control over the types of technology they employ. Civil legal aid legal professionals and public defenders face challenges bridging the technology gap to ensure equitable access to legal services for vulnerable communities. Government legal professionals face challenges with integrating and updating technology within bureaucratic structures to enhance efficiency and service delivery.

Years of Bar Licensure

The Task Force seeks participation from legal professionals at all stages of their careers. Early career legal professionals could offer perspectives on technology trends. Mid-career legal professionals may provide insights into balancing established practices with new technologies. Late career legal professionals bring historical context.

Experience or Interest in Legal Technology

The Task Force seeks participation from legal professionals with an interest in enhancing their practices and access to justice through technology. Those who have demonstrated experience in leveraging legal technology within their practice and a comfort level in adopting technological solutions will be prioritized.

IT Legal Industry Professionals

The Task Force seeks participation from experienced information technology (IT) professionals who are not lawyers but have familiarity with implementing and supporting technological solutions within the legal profession. Their expertise will inform the Task Force's recommendations and decision-making.

Diversity, Equity, and Inclusion

The Task Force seeks participation from people from marginalized communities (e.g., people of color, people from the LGBTQ2S+ community, people with disabilities). Having a diverse group of members is vital to promote diversity, equity and inclusion goals, ensure that all perspectives are considered and contribute to the development of inclusive technological strategies.

Geography

The Task Force seeks participation from legal professionals and others throughout Washington to ensure consideration of technology issues in all parts of the state, with particular attention to the different issues in rural and urban areas. To obtain geographic diversity, at least two Task Force members must reside east of the Cascades and at least one other member must reside outside of King, Pierce, and Snohomish Counties.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Hunter Abell, President
Frances Adewale, Member Engagement Council Co-Chair
Matthew Dresden, Member Engagement Council Co-Chair
Kevin Plachy, Advancement Department Director
Margeaux Green, Practice Management Advisor
DATE: February 14, 2024
RE: Chair for Proposed Legal Technology Task Force

ACTION: Accept appointment of Jenny Durkan as Chair of the proposed Legal Technology Task Force.

The meeting materials contain a proposal to create a Legal Technology Task Force. Article IX.B.2b of the WSBA Bylaws state that '[t]he Chair(s) of any other Bar entity shall be appointed by the President at the time of the creation of the entity, with the BOG having the authority to accept or reject that selection and will serve for the duration establish by the BOG or until replaced.'


To recruit for the position, WSBA staff disseminated two eblasts, on February 2, 2024 and February 8, 2024 to over 21,000 members. WSBA received 7 applications by the February 9 deadline. Member Engagement Council Co-Chairs Francis Adewale, and Matthew Dresden as well as WSBA Director of Advancement Kevin Plachy and Practice Management Advisor Margeaux Green met to review and reconsider all applications. Upon review, the group nominated Jenny Durkan for appointment as Chair of the proposed Legal Technology Task Force if approved.

Attachment:

Jenny Durkan Applicant Materials

Jenny A. Durkan

4616 25th Ave NE
Seattle, Wa. 98105



February 8, 2024

Board of Governors — Washington State Bar Association

Re: Technology Task Force

Dear Governors,


Please accept my application as Chair, or as a member, of the proposed Technology Task Force. I believe the task force is an important idea for the future of our profession, our court system and equitable access to justice. We are in one of the most transformative times in human history. Technology has already fueled changes that touch every part of our lives and work. The rapid advancements in AI will only accelerate these changes. Many positive changes will occur that advance the state of justice, public health and the preservation of our planet. But technology has also had many unintended consequences, and led to many bad outcomes. The Bar needs to understand how technology will impact the practice of law, the lives of clients and access to our courts and what are the best ways to mitigate threats while enhancing the efficient and ethical use of technology.

Advances in AI will magnify all impacts. During the pandemic we saw how inequities in technology led to other inequities, including access to healthcare, employment and our legal system. The Supreme Court's Access to Justice Technology Principles provide an excellent framework to guide future work in this area. I believe the proposed task force could help provide WSBA bar leaders and the Supreme Court a strong roadmap for ensuring innovations that promote not just access to justice but the better delivery of legal services, while maintaining the professional standards of lawyers, as officers of the court.

I have had significant experience in this area leading work on the impacts of technology on: consumer privacy (Chair of an Attorney General Task force), cyber crime (Chair of a key US DOJ committee), the impacts of technology and innovation (Co-chair of a US Conference of Mayors Task Force) and on the future of work (Chair of a US Conference of Mayor's Task Force). I also have an appreciation of what is needed by BOG leaders and the Court as we navigate the new waters ahead. It would

be a privilege to serve on the committee, if approved. Regardless of your decisions, I stand ready to assist the BOG in any way that might be helpful.

Sincerely,

A handwritten signature in black ink that reads "Jenny A. Durkan". The signature is written in a cursive style with a large, looping initial "J".

Jenny A Durkan

Jenny A. Durkan

████████████████████ 4616 25th Avenue N.E., Seattle Washington 98105 USA

SUMMARY

Jenny Durkan is a broadly respected leader and lawyer, with a proven record of successfully addressing complicated national and international matters. She has a strong background in cybercrime and national security issues, and a strong interest in the rapid developments in artificial intelligence. She served as the Mayor of Seattle from 2017 through 2021, leading the city through the Covid-19 pandemic. Through her leadership, Seattle had the lowest incidence of disease, hospitalization and death of any US city, despite being the first area of diagnosed cases and deaths. While Mayor, she served on the international Steering Committee for C40 cities, a global organization of major cities committed to addressing climate change. She also served on C40's Global Mayors' Covid-19 Recovery Task force, with mayors from all global regions. Their agreed Statement of Principles was based on a vision of climate, health and economic benefits for all nations and people. She chaired the US Conference of Mayors Automation and Future of Work Task Force and co-chaired the conference's Technology and Innovation Task Force.

Before becoming mayor, Durkan was recognized as one of the top trial lawyers in the US and worked on many high-profile matters. In private practice, she worked on a number of trans-national investigations, including representing FIFA in an internal investigation of issues relating to governance and the World Cup selection practices. During the Obama administration, Durkan served as US Attorney for Western Washington and also served as an advisor to Attorney General Eric Holder. She was a member of the the Department of Justice subcommittee on National Security and chaired the subcommittee on Cybercrime, helping to revamp national strategies to detect and disrupt criminal and national security cyber threats. She testified before Congress on cybercrime issues for DOJ and worked closely with federal law enforcement and the European Cybercrime Center. Her office investigated and prosecuted some of the first international cybercrime cases. Durkan was a member of the national security subcommittee, held the highest national security clearances, and was regularly briefed on classified matters. After leaving her US Attorney position, she served on the US Secret Service Cyber Investigations Advisory Board. Durkan was known both for her proactive approach to law enforcement and her dedication to ensuring civil rights.

Seeing two areas of significant need for federal actions, she created both a cyber division and a civil rights department in her office.

RECENT EXPERIENCE

Mayor, City of Seattle — 2017 - 2021

- Chief Executive with approximately 14,000 employees and \$7B annual budget. Diverse business lines including public utilities, operational hydropower dams, social services, public safety, housing, transportation, arts and culture, economic development. and large real estate holdings
- Chair, US Conference of Mayors (USCM) Automation and Future of Work Task Force; Vice Chair, Technology and Innovation Task Force
- Led city through Covid-19 pandemic. Provided immediate assistance for small businesses and workers, meals for seniors and students, child care for healthcare providers and first responders and supports for impacted communities. Created free, large scale testing program and nation leading vaccination program. Retained agility to respond to various phases of the pandemic.
- Despite being first area to have diagnosed Covid-19 cases and deaths, Seattle's strong and balanced response resulted in the lowest incidence of disease, hospitalization and death of any major US city. *The New York Times* reported that had the nation followed Seattle's leadership, over 300k lives would have been saved.
- One of three Mayors named in World's 25 Greatest Leaders: Heroes of the Pandemic, Fortune Magazine (April 2020)
- Invested deeply in programs to increase economic opportunity: expanded access to free pre-K, created Seattle Promise that provides two years free college and support for public high-school graduates, provided free transit for youth and low income residents, expanded apprenticeship programs with high-paying trades and healthcare workers, passed new worker protections for domestic workers and gig economy workers, added over \$100M in new community based investments and worked with federal, state and local resources to commit \$2.5B in affordable housing
- Significant civic infrastructure investments, including construction of Climate Pledge Arena, removal of an elevated highway through the city to create a new waterfront park and closing and repairing the most used bridge that was failing,

- Member, Steering Committee of C40 Cities, the governing body for C40, an organization of global mayors dedicated to addressing climate change. Member, C40 Global Mayors Covid-19 Recovery Taskforce
- City Leader of the Year, Smart Cities Dive Award, 2019

Partner, Quinn, Emanuel and Urquhart — 2015-2017

- Co-managing Partner, Seattle office and Partner, Washington D.C. office
- Global Chair, Cyber and Privacy practice group
- Member, White Collar and Crisis Management practice groups
- Broad range of advice, litigation and investigations for individuals, corporations and Boards of Directors, including a number of cross-border investigations and disputes

United States Attorney, US. Department of Justice — 2009-2014

- Chief Federal Law Enforcement officer for Western Washington. Office responsible for federal prosecutions and for representing the United States in civil matters. Led nationally recognized enforcement programs targeting violent crime, white collar and environmental crimes, cyber crimes, and cartel drug organizations, Created a Civil Rights department in the office that brought civil and criminal civil rights cases, including an investigation and consent decree of the Seattle Police Department
- Member, Joint Terrorism Task Force Executive Committee. TS/SCI. clearances
- Member, US Attorney General Advisory Committee (AGAC), a small group of US Attorneys that met regularly with the Attorney General and DOJ leadership to discuss and formulate DOJ strategic, policy and operational issues
- Chair, AGAC Sub-committee on Cybercrime and Intellectual Property Enforcement. Worked to modernize and reorganize approaches to the detection, disruption, investigation and prosecution of cybercrime and national security cyber threats. Worked with National Security Division to create National Security Cyber Specialists network throughout the country. Partnered with international law enforcement and intelligence agencies, including the European Cyber Crime Center in The Hague

- Member, AGAC sub-committees on National Security, Civil Rights, Native American Issues

EDUCATION

University of Washington School of law — JD, 1985

University of Notre Dame, South Bend, Indiana — B.A, English, 1980

Law School, University of California at Berkeley Institute on Artificial Intelligence — (Introductory 3 day bootcamp) 2023

SKILLS AND ADDITIONAL EXPERIENCE

- In addition to experience above, worked in other nationally recognized law firms and operated own law firm, worked as counsel for a tech start-up, as Executive Counsel to the Washington State Governor, as an adjunct instructor at the University of Washington Law School and as a high School English teacher in a rural Alaskan “bush” village.
- Long history of civic involvement, including as Chair, Attorney General’s Consumer Privacy Task Force (1999-2000), which led to landmark legislation on identity theft and identified critical areas of potential fraud and abuse
- Strong communication skills, with the ability to synthesize complicated facts and issues, identify legal and operational challenges, and bring solutions to those challenges
- Dedicated collaborator who understands the importance of cross-functional teams and in identifying and empowering those with the expertise needed to address any range of challenges. A great co-worker and proven leader.
- Deep experience in identifying, preventing and mitigating cybersecurity threats to national security, critical infrastructure, business interests and individual monetary and privacy interests
- Broad experience in working with external and internal stakeholders on a range of complex issues

SELECTED BAR SERVICE

Strong involvement in legal activities and in promoting excellence in our courts and systems of justice, including:

- Governor, Washington State Bar Association (1993-1996)
- Lawyer Representative, 9th Circuit Judicial Conference (2005-2008, court appointed)
- Co-chair, Bipartisan United States Judicial Merit selection committee
- Helped establish King County Drug Court (1994), King County Mental Health Court (1999), United States District Court for the Western District of Washington Drug Court (2012)
- Frequent presenter at CLEs
- Member, Washington State Sentencing Guidelines Commission (1993 - 1996)

SELECTED AWARDS

- One of three Mayors named in *World's 25 Greatest Leaders: Heroes of the Pandemic*, Fortune Magazine (April 2020)
- *City Leader of the Year*, Smart Cities Dive Award, 2019
- *Outstanding Voices in Seattle*, Puget Sound Business Journal, 2016
- *Distinguished Alumni*, University of Washington School of Law, 2015
- *Woman of Influence*, Puget Sound Business Journal, 2015
- *Passing the Torch Award*, Washington Women Lawyers, 2015
- Warren G. Magnuson Award, Seattle Municipal League, 2014
- Inspiring Women, Seattle Storm WNBA, 2014
- Special Contribution to the Judiciary, Washington Women Lawyers, 2013

- Jaswant Singh Khalra Award for Social Justice, Sikh Community, 2013
- Leadership and Justice Award, Mother Attorneys Mentoring Association, 2012
- Seattle's Most Influential People, Seattle Magazine, 2011 and 2012
- Distinguished Alumni, School of Law, 2011; University of Washington
- Woman of the Year, 2011; Seattle University School of Law
- Woman of Power in Law, Women of Color, 2010
- Super Lawyer, Washington Law & Politics, 1999-2009
- Top 100 Irish Lawyers in America, Irish American Magazine, Nov. 2008
- Top Business Lawyers, Seattle Business Monthly, Apr. 2006
- "League of Justice: Washington's Most Amazing Attorneys,"
Seattle CEO Magazine, Mar. 2006 (March '06)
- Spirit Award, Urban League of Metropolitan Seattle, 2005

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Renata Garcia, Chief Regulatory Counsel; Bobby Henry, Associate Director for Regulatory Services
DATE: February 13, 2024
RE: Suggested Amendments to Remove Resident Agent Requirement

ACTION: Chief Regulatory Counsel requests the Board of Governors approve the suggested amendments to the Admission and Practice Rules (APR) and Rules for Enforcement of Lawyer Conduct (ELC) for submission to the Washington Supreme Court on expedited review under the procedures of Rule 9 of the General Rules (GR). The amendments would remove the requirement to designate a resident agent for the purpose of accepting service of process for WSBA members who do not have a physical street address in Washington.

FIRST READING: Related suggested WSBA Bylaws amendments are included for a required first reading. The WSBA Bylaws amendments will be presented at the next meeting for action subject to the Court adoption of the APR amendments.

Summary

Currently, APR 13(f) requires most members of the WSBA to designate a resident agent for the purpose of receiving service of process if their address of record is not a physical street address in Washington state. In response to WSBA’s effort to enforce this rule, members raised several concerns about the resident agent requirement including safety and privacy concerns, the difficulty in complying for military members, confusion about the wording of the rule, and the necessity for such a rule especially for members who are not actively practicing law in Washington.

Based on research into the history of the rule, the original purpose of the rule, the concerns raised by members, and the lack of a similar requirement in most if not all other U.S. jurisdictions, we determined the resident agent requirement is antiquated and no longer necessary. Other rules and WSBA Bylaws referring to the resident agent are included for amendment. The purpose and effect of all the suggested amendments are summarized in the table below.

Summary Table of Rules and Bylaws Referring to Resident Agent	
Citation	Effect/Purpose of Amendment
APR 5(a)	Removes the requirement for applicants to designate a resident agent.
APR 13(f)	Removes the requirement for WSBA members to designate a resident agent.
APR 17(a)(F)	Removes failing to designate a resident agent as a ground for administrative suspension.

Summary Table of Rules and Bylaws Referring to Resident Agent	
Citation	Effect/Purpose of Amendment
APR 17(b)	A new subsection which will make the act of WSBA recommending suspension of WSBA members, for failing to timely notify the WSBA of a change in contact information, a discretionary act instead of a mandatory act as currently required under the rule.
ELC 4.1(b)(3)(ii)	Removes the resident agent as an option for personal service in disciplinary proceedings.
WSBA Bylaws Art. III Sec. C.1-4	Removes the requirement for WSBA members to designate a resident agent.
WSBA Bylaws Art. III Sec. J.3.a.8)	Removes failing to designate a resident agent as a ground for administrative suspension.
WSBA Bylaws Art. VI Sec. C.2.a.	Removes eligibility for members who reside out-of-state to vote in the district of their designated resident agent and clarifies they may still vote for the At Large Governors. Note: members may continue to vote in the district of their primary Washington practice if they so designate to the Executive Director.

Background

The State Bar Act requires Washington residency for admission to practice law and we believe the resident agent rule was adopted in 1982 when the Court superseded the statutory residency requirement by adopting APR 5(b) which stated that residency was not required for applicants or members of the Bar. The Court adopted the resident agent requirement instead. At that time, the resident agent requirement only applied to members who did not live or maintain an office in Washington. As the requirement was set forth in the admissions rules, the designation of a resident agent, when necessary, was incorporated into the admissions process for all new admittees.

APR 5 relates to the admission process. Accordingly, designation of a resident agent has been required, when necessary, for all new admittees since adoption of the rule. Although APR 5(f) required every member except a judicial member of the WSBA to designate a resident agent, in practice WSBA did not enforce the rule with any members not on active status. This is most likely because the requirement was set forth in the admissions rules and members are only admitted in active status.

In 2017, when limited practice officers (LPOs) and limited license legal technicians (LLLTs) were first included as members of the WSBA, and as part of the effort to coordinate the licensing requirements for all license or member types, the resident agent requirement was moved from APR 5 (admissions) to APR 13 (address of record) and expanded to include all LPOs and LLLTs. Below is an excerpt from the GR 9 coversheet when the amendments to APR 5 and 13 were proposed to the Court:

The suggested amendments to APR 13 would also include the resident agent requirement that is currently in APR 5. Currently, the resident agent rule requires a resident agent if the lawyer does not reside or maintain an office in Washington. An issue arises when some lawyers use a post office box, resulting in no physical street address at which to serve the lawyer. The suggested amendment would require lawyers, LLLTs and LPOs to provide a resident agent when their address

of record is outside the state or is not a physical street address. These suggested amendments would ensure that all lawyers, LLLTs and LPOs have a tie to Washington and have an address at which the legal professional can actually be served.

We believe the primary purpose for moving the rule from APR 5 to APR 13 was to clarify that it was an ongoing licensing requirement, as opposed to an admissions requirement only. APR 13(f) currently states:

Resident Agent. If the address of record required under this rule is not in the state of Washington or is not a physical street address, the lawyer, LLLT, or LPO shall file with the Bar the name and address of an agent within this state for the purpose of receiving service of process or of any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer, LLLT, or LPO. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer, LLLT, or LPO. The name and address of the resident agent shall be a public record. If the address or name of the resident agent changes, the lawyer, LLLT, or LPO shall notify the Bar of the change within 10 days after the change. Judicial and honorary members of the Bar are exempt from the requirements of this section.

In addition to expanding its application and clarifying that the requirement of a resident agent was ongoing, the resident agent rule was further modified to specifically require a physical street address in Washington state.

Member Impact and Feedback

Accordingly, in early 2018, the WSBA sent a letter to approximately 3,300 members (active, inactive, and emeritus pro bono) whose addresses of record were not a physical street address in the state of Washington notifying them of the newly amended resident agent requirement. At that time the requirement was not incorporated into the annual license renewal and suspension process. Considering the large number of members impacted by this requirement, WSBA opted for a gradual approach to enforcing the rule. To date, there are still a significant number of members out of compliance. On October 16, 2023, we emailed approximately 4,756 members (active, inactive, and pro bono) to remind them of the resident agent requirement and to seek compliance. As of February 8, 2024, the number of non-compliant members has been reduced to 3,438, which is only a 28% decrease. In response to our most recent reminder, we received hundreds of phone calls and emails from concerned members. The feedback can be classified generally into the following categories:

- **Ambiguity:** Some members have shared a different interpretation of the rule with us. They have a shared that the rule as written (“not in the state of Washington or is not a physical street address”) can be interpreted as not applying to those with a physical street address outside of the state. In other words, those with a physical street address in another state are not required to provide the WSBA with a resident agent.
- **Privacy and safety concerns:** Members who do not have a brick-and-mortar office or work from home are reluctant to make their home address available to the public.
- **Inactive members:** Inactive members have questioned the reason for providing the WSBA with a resident agent because they are not practicing law in the state.
- **Military members:** Some military members have asked for an exception to the rule while serving in another state or overseas.

- **Use of PO Box or PMB:** Some members believe they are not required to provide a resident service so long as they list the physical street address of the post office or private mailbox in addition to the mailbox number.

Other U.S. Jurisdictions

We conducted a survey of other U.S. jurisdictions regarding residency requirements and to find out if other U.S. jurisdictions had a similar resident agent requirement. We heard back from 25 jurisdictions, including Oregon and Idaho, and none of the jurisdictions which responded have a resident agent requirement.

Other Rules and WSBA Bylaws Referring to Resident Agent

As identified in the summary table above, there are references to the resident agent in several rules and WSBA Bylaws. Most of the suggested amendments relate to removing the requirement to designate a resident agent, to notify the WSBA of change in resident agent, or removing the failure to designate a resident agent as a grounds for administrative suspension from the practice of law. Others suggested amendments include the following.

- Removing the option to serve the resident agent in disciplinary proceedings when personal service is required under the Rules for Enforcement of Lawyer Conduct (ELC). After consulting the Office of Disciplinary Counsel, which indicated that resort to resident-agent service is infrequent, it was agreed that the benefits of eliminating the resident agent requirement outweigh the minor burden of removing one alternative means of service in disciplinary proceedings.
- Making a recommendation for administrative suspension a discretionary act when a member fails to timely notify the WSBA of a change in contact information. Although the WSBA has not suspended a member solely on these grounds, the consequence of suspension is helpful in ensuring members update their contact information. However, we do not believe it should be required that the WSBA recommend the suspension of all members who do not update their contact information within ten days of the change. Instead, suspension should be limited to those who intentionally fail to comply after repeated warning.
- Removing the option to vote in the district of the member's resident agent. For members who reside out-of-state, they will not have the option to vote in Board of Governors elections for a Governor representing one of the state's districts. Out-of-state members will continue to be eligible to vote for At Large Governors, and, if they inform the Executive Director, to vote for a Governor in the district of their primary Washington practice.

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

The Board is asked to eliminate the registered agent requirement in both court rules and WSBA Bylaws. The Board can act on the court rule requests at this meeting, but the Bylaw changes require two meetings. Board action on the court rules authorizes sending the rules to the Court for consideration.

There is no legal requirement that the WSBA require a registered agent for members with out of state addresses. The important information is a reliable, current address for WSBA communications. Eliminating the requirement that WSBA members with out of state addresses also have a registered agent in Washington does not appear to

create legal risk for the WSBA. Although the WSBA has used registered agent addresses for service in discipline matters in the past, other alternatives exist.

The current Bylaws state that WSBA members residing out of state vote in the district “of the address of the agent they have designated within the State of Washington for the purpose of receiving service of process as required by APR 13, or specifically designated to the Executive Director, within the district of their primary Washington practice.” The proposed change eliminates the ability of these members to participate in the congressional district elections completely and limits their participation to at large elections. Given that these members do not reside in a Congressional District in Washington, it is logical that they do not participate in the Congressional District elections. However, in state WSBA members are eligible to vote in both Congressional District and at large governor elections. This is also currently true for out of state members. The change will exclude out of state members from participating in Congressional district elections-and therefore treat in state members differently from out of state members. The Board may wish to discuss whether alternatives exists that allow more equitable treatment of all WSBA members.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

The fiscal impact to WSBA resulting from the proposed recommendation is primarily limited to the amount of staff time used to incorporate any approved revisions to the relevant records and systems. The staff time that would be allocated to this work is included in the overall duties of existing WSBA staff and would not require additional staff or allocation of resources from other internal sources. After implementation of recommendations there would be a savings in staff time that is currently being used to respond to members about this requirement.

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

The purpose of the equity analyses is to understand how entities incorporated an equity lens into the action items presented to the Board of Governors. An equity lens is 1) identifying and centering people and communities most impacted decisions and/or 2) meeting people and communities according to their specific needs to produce fair and equal outcomes for all. It appears that the Chief Regulatory Counsel considered those most impacted include inactive members, members who lived out of state, members in the military and members who only use a PO Box and do not disclose a physical address for safety privacy reasons, and is making the proposal to remove the resident agent requirement to address their concerns. Based on our review, there does not appear to any concerns about inequitable outcomes.

Attachments

- Suggested amendments to APR 5, 13 and 17
- Suggested amendments to ELC 4.1
- Suggested amendments to the WSBA Bylaws

SUGGESTED AMENDMENTS TO ADMISION AND PRACTICE RULES

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 5. PRE-ADMISSION REQUIREMENTS; OATH; RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE LAW

(a) Preadmission Requirements. Before an applicant who has passed an examination for admission, or who qualifies for admission without passing an examination, may be admitted, the applicant must:

(1) pay to the Bar the annual license fee and any mandatory assessments ordered by the Supreme Court for the current year;

(2) file any and all licensing forms required of active lawyers, LLLTs or LPOs; and

(3) take the Oath of Attorney, the Oath for Limited Practice Officers, or the Oath of Limited License Legal Technician; and

~~————(4) designate a resident agent if required to do so by APR 13.~~

(b) – (m) [Unchanged.]

RULE 13. SIGNING OF PLEADINGS AND OTHER PAPERS; ADDRESS OF RECORD; ELECTRONIC MAIL ADDRESS; NOTICE OF CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME; RESIDENT AGENT

(a) – (e) [Unchanged.]

~~**(f) Resident Agent.** If the address of record required under this rule is not in the state of Washington or is not a physical street address, the lawyer, LLLT or LPO shall file with the Bar the name and address of an agent within this state for the purpose of receiving service of process or of any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer, LLLT or LPO. Service or delivery to such agent shall be deemed service~~

SUGGESTED AMENDMENTS TO ADMISION AND PRACTICE RULES

~~upon or delivery to the lawyer, LLLT or LPO. The name and address of the resident agent shall be a public record. If the address or name of the resident agent changes, the lawyer, LLLT or LPO shall notify the Bar of the change within 10 days after the change. Judicial and honorary members of the Bar are exempt from the requirements of this section.~~

RULE 17. ADMINISTRATIVE SUSPENSION FROM PRACTICE

(a) Basis for Suspension From Practice – Mandatory. The Bar shall request that the Supreme Court suspend a lawyer, LLLT, or LPO from the practice of law upon:

(1) notification from the Department of Social and Health Services that the lawyer, LLLT, or LPO is more than six months delinquent in noncompliance with a valid and enforceable order entered by a court of competent jurisdiction requiring the lawyer, LLLT, or LPO to pay child support; or

(2) failure of a lawyer, LLLT, or LPO to comply with licensing requirements under these rules, the applicable disciplinary rules, or the Bar’s Bylaws. This includes but is not limited to a lawyer’s, LLLT’s, or LPO’s:

(A) failure to pay the annual license fee or late payment fee to the Bar;

(B) failure to pay to the Bar any mandatory assessments ordered by the Supreme Court including the Client Protection Fund assessment;

(C) failure to comply with MCLE requirements;

(D) failure to comply with financial responsibility or professional liability insurance requirements; and

(E) failure to file annual trust account information;

~~(F) failure to designate a resident agent when required to do so; and~~

(b) Basis for Suspension From Practice – Discretionary. The Bar may request that the

SUGGESTED AMENDMENTS TO ADMISION AND PRACTICE RULES

1 Supreme Court suspend a lawyer, LLLT, or LPO from the practice of law upon ~~(G)~~ failure to
2 timely notify the Bar of a change in the lawyer's, LLLT's, or LPO's name, address, phone
3 number or e-mail address ~~or resident agent information~~ as required under APR 13.

4 **(bc) Notice and Order of Suspension.** The Bar shall provide at least 60 days written
5 notice of intent to seek suspension to a lawyer, LLLT, or LPO at the lawyer's, LLLT's, or LPO's
6 address of record with the Bar. The Bar shall establish notice procedures consistent with this
7 rule. A lawyer, LLLT, or LPO shall have a right to submit proof that the grounds for the
8 suspension do not exist or no longer exist. After such notice the Court may enter an order
9 suspending the lawyer, LLLT, or LPO from practice.

10 **(ed) Change of Status After Suspension Pursuant to This Rule.** A lawyer, LLLT, or
11 LPO who has been administratively suspended under this rule shall have a right to submit proof
12 to the Bar that the grounds for suspension no longer exist. The lawyer, LLLT, or LPO must
13 adhere to status change procedures established by the Bar. The Court may enter an order
14 changing status upon determination said proof is satisfactory and so long as the lawyer, LLLT, or
15 LPO meets all other requirements to practice law.

16 **(de) Rules of Professional Conduct Not Superseded.** Nothing in this rule supersedes
17 any of the Rules of Professional Conduct.

**SUGGESTED AMENDMENTS TO
RULES FOR ENFORCEMENT OF LAWYER CONDUCT**

TITLE

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

RULE 4.1. SERVICE OF PAPERS

(a) [Unchanged.]

(b) Methods of Service.

(1) – (2) [Unchanged.]

(3) *Personal Service.* Personal service on a respondent is accomplished as follows:

(A) [Unchanged.]

(B) if the respondent cannot be found in Washington State, service may be made either
by:

(i) [Unchanged.]

(ii) mailing by registered or certified mail, postage prepaid, a copy addressed to the
respondent at their last known place of abode, office address maintained for the practice of law,
post office address, or address on file with the Association, ~~or to the respondent's resident agent
whose name and address are on file with the Association under APR 5(f).~~

(C) [Unchanged.]

(4) [Unchanged.]

(c) – (d) [Unchanged.]

PROPOSED AMENDMENTS TO WSBA BYLAWS

1 III. MEMBERSHIP

2 *[Page 7 of WSBA Bylaws]*

3 C. REGISTER OF MEMBERS

4 1. All Bar members, including Judicial members who wish to preserve eligibility to transfer
5 to another membership status upon leaving service as a judicial officer, must furnish the
6 information below to the Bar:

7 a. physical residence address;

8 ~~b. physical street address for a resident agent if required to have one pursuant to these~~
9 ~~Bylaws or by court rule;~~

10 ~~e~~b. principal office address, telephone number, and email address;

11 ~~e~~c. such other data as the BOG or Washington Supreme Court may from time to time
12 require of each member

13 and must promptly advise the Executive Director in writing of any change in this
14 information within 10 days of such change. Judicial members are not required to provide
15 a physical residence address.

16 2. The Executive Director will keep records of all members of the Washington State Bar
17 Association, including, but not limited to:

18 a. physical residence address furnished by the member;

19 b. principal office address, telephone number, and email address furnished by the
20 member;

21 ~~e. physical street address of any resident agent for the member;~~

22 ~~e~~c. date of admittance;

23 ~~e~~d. type and status of membership;

PROPOSED AMENDMENTS TO WSBA BYLAWS

1 ~~fe.~~ date of transfer(s) from one status to another, if any;

2 ~~gf.~~ date and period(s) of administrative suspensions, if any;

3 *[Page 8 of WSBA Bylaws]*

4 ~~hg.~~ date and period of disciplinary actions or sanctions, if any, including suspension,
5 disbarment, and revocation;

6 ~~ih.~~ such other data as the BOG or Washington Supreme Court may from time to time
7 require of each member.

8 ~~3. Any Active member residing out of state must file with the Bar, in such form and manner~~
9 ~~as the Bar may prescribe, the name and physical street address of a designated resident~~
10 ~~agent within Washington State. The member must notify the Bar of any change in~~
11 ~~resident agent within 10 days of any such change.~~

12 43. Any member who fails to provide the Bar with the information required to be provided
13 pursuant to these Bylaws, or to notify the Bar of any changes in such information within
14 10 days, will be subject to administrative suspension pursuant to these Bylaws and/or the
15 Admission and Practice Rules. Judicial members are exempt from suspension pursuant
16 to this provision while eligible for Judicial membership and serving as a judicial officer.

18 **J. SUSPENSION**

19 1. – 2. [Unchanged.]

20 *[Page 15 of WSBA Bylaws]*

21 **3. Administrative Suspension**

22 a. Administrative suspensions are neither interim nor disciplinary suspensions, nor are
23 they disciplinary sanctions. Except as otherwise provided in the APR and these

PROPOSED AMENDMENTS TO WSBA BYLAWS

1 Bylaws, a member may be administratively suspended for the following reasons:

- 2 1) Nonpayment of license fees or late-payment fees;
- 3 2) Nonpayment of any mandatory assessment (including without limitation the
- 4 assessment for the Client Protection Fund);
- 5 3) Failure to file a trust account declaration;
- 6 4) Failure of a lawyer to file a professional liability insurance disclosure;
- 7 5) Failure of a LLLT or LPO to provide proof of financial responsibility;
- 8 6) Failure to comply with mandatory continuing legal education requirements;
- 9 7) Nonpayment of child support;
- 10 ~~8) Failure to designate a resident agent or notify the Bar of change in resident agent~~
- 11 ~~or the agent's address;~~
- 12 98) Failure to provide current information required by APR 13 or to notify the Bar of
- 13 a change of information required by APR 13 within 10 days after the change; and
- 14 ~~109)~~ For such other reasons as may be approved by the BOG and the Washington
- 15 Supreme Court.

16 b. – d. [Unchanged.]

17 4. [Unchanged.]

18
19 *[Page 29 of WSBA Bylaws]*

20 VI. ELECTIONS

21 C. ELECTION OF GOVERNORS

- 22 1. [Unchanged.]
- 23 2. Voting in the Election of Governors from Congressional Districts will be conducted in

PROPOSED AMENDMENTS TO WSBA BYLAWS

1 the following manner:

2 a. Eligibility to Vote. All Active members, as of March 1st of each year, are eligible to
3 vote in the BOG election for their district, subject to the election schedule shown
4 above. Active members residing in the State of Washington may only vote in the
5 district in which they reside. Active members residing outside the State of
6 Washington may only vote for the At Large Governors ~~in the district of the address of~~
7 ~~the agent they have designated within the State of Washington for the purpose of~~
8 ~~receiving service of process as required by APR 13, or, if specifically designated to~~
9 the Executive Director, within the district of their primary Washington practice.

10 b. – i. [Unchanged.]

11 3. – 4. [Unchanged.]



To: Washington State Bar Association Board of Governors
Washington State Bar Foundation Trustees

From: Brian Anderson, Treasurer

Date: January 29, 2024

Re: Treasurer's Report, Year Ending September 30, 2023

As required by the Washington State Bar Foundation (WSBF) Bylaws¹, I am pleased to present the WSBF Treasurer's report. Attached are the audited financial statements for the WSBF for the fiscal year 2023. The Washington State Bar Association (WSBA) provides for overhead costs including staffing, equipment and technical support to the WSBF in order for it to fulfill its mission to support WSBA programs that promote diversity within the legal profession and enhance the public's access to, and understanding of, the justice system. This support also includes the time and expertise of WSBA's Controller, who keeps the Foundation's books.

WSBF Cash Fund Balances

For the WSBF Cash Fund balances as of September 30, 2023, please see the attached financial statement dated January 26, 2024.

Notes and Comments

The Foundation had \$530,843 in income during FY23, which was \$24,868 more (approximately 5% higher) than the prior year. This is partially due to \$64,305 in sponsorships raised for the 2023 Access to Justice Conference, which is an every-other-year occurrence. (Sponsorships raised for the previous Conference, held in 2021, totaled \$57,304.)

Support including salaries, benefits and overhead provided by WSBA as in-kind support totaled \$146,915, representing an increase of \$19,293 from FY22. The majority of the in-kind expense is for indirect costs which typically increase each year due to compensation rate changes made in line with the WSBA's compensation structure and as corresponding increases in associated payroll taxes and compensation-based benefits. The FY23 in-kind expenses included an increase of 0.05 FTE of WSBA staff time allocated to the Foundation (1.0 FTE in FY22, 1.05 FTE in FY23). This increase, along with other expenses for healthcare, rent, insurance, etc., typically see annual increases contribute to the overall increase of in-kind expenses from FY22 to FY23.

The Foundation's FY24² allocation for WSBA programs includes \$265,000 paid directly to WSBA in support of its Public Service & Pro Bono programs, and Diversity, Equity & Inclusion initiatives. An additional \$36,000 will be used to fund seven FY24 Powerful Communities grants, as well as pay community members with lived experience that served on the grant selection panel.

Conclusion

In the thirteen years since the first professional staff dedicated solely to the Foundation was hired, the Foundation has continued to seek operational efficiencies while expanding its support of WSBA programs. Its financial systems and policies appear appropriate to its current capacity; execution of and updates to the Fund Development and Disbursement and Fiscal Policies will continue to ensure that the Foundation fulfills its mission and that donor wishes are met.

¹ Article VI, Section 5.

² Funds raised in the previous year are disbursed to WSBA and WSBA grantees for the coming fiscal year.



Advancing WSBA's Vision of a Just Washington

To: Terra Nevitt
 From: Maggie Yu, Controller
 Re: Audited Foundation Financial Statements as of September 30, 2023
 Date: January 26, 2024

Attached are the audited financial statements for the Washington State Bar Foundation as of September 30, 2023.

**WSBF Fund Balances¹
 As of September 30, 2023**

Fund Name	Cash	Committed Funds	Available Funds
ELUL Midyear Scholarship Fund	793	(793)	0
McMahon	8,352	0	8,352
ATJ-LFW Race Equity	24,930	0	24,930
Peter Greenfield Internship	7,904	0	7,904
WSBA Justice & Diversity Opportunities	101	0	101
ATJ Conference	93,729	0	93,729
Powerful Communities Project	3,688	0	3,688
Unrestricted	311,400	0	311,400
Total Fund Balances	<u>\$450,897</u>	<u>(793)</u>	<u>\$450,104</u>

¹ Excludes fixed assets (\$14,400 in artwork).

WSBA Foundation
Statement of Activities (Profit & Loss)
 October 2022 through September 2023

	Oct '22 - Sep 23
Ordinary Income/Expense	
Income	
Contributions & Grants Income	
Corporate	36,680
Foundations & Nonprofits	32,234
Government	9,500
Individuals/Private Donors	294,372
Other	11,142
Total Contributions & Grants Income	383,928
In Kind Donations	
WSBA Staff Time	142,554
WSBA Expenses	4,361
Total In Kind Donations	146,915
Total Income	530,843
Expense	
Donor Database Expense	2,388
In Kind Expenses	
WSBA Staff Support	142,554
WSBA Expenses	4,361
Total In Kind Expenses	146,915
Dues	180
Insurance	2,088
Licenses and Permits	60
Miscellaneous	3,000
Program Expense	
Powerful Communities Project	13,594
Taxation Scholarship	5,000
WSBA Justice & Div. Opportunity	8,899
WSBA Funding	265,000
Peter Greenfield Scholarship	8,000
Access to Justice Projects	15,570
Total Program Expense	316,063
Total Expense	470,694
Net Ordinary Income	60,149
Other Income/Expense	
Other Income	
Interest Income	14,639
Other Income	12,000
Total Other Income	26,639
Other Expense	
Other Expenses	48,328
Total Other Expense	48,328
Net Other Income	-21,688
Net Income	38,460

WSBA Foundation
Balance Sheet
As of September 30, 2023

	<u>Sep 30, 23</u>
ASSETS	
Current Assets	
Checking/Savings	
Certificates of Deposit	196,821.56
Wells Fargo Checking	37,164.78
Wells Fargo Heritage Money Mkt	216,911.00
Total Checking/Savings	<u>450,897.34</u>
Total Current Assets	450,897.34
Fixed Assets	
Artwork	14,400.00
Total Fixed Assets	<u>14,400.00</u>
TOTAL ASSETS	<u><u>465,297.34</u></u>
LIABILITIES & EQUITY	
Equity	
Increase/Decrease Fund Balance	426,837.02
Net Income	38,460.32
Total Equity	<u>465,297.34</u>
TOTAL LIABILITIES & EQUITY	<u><u>465,297.34</u></u>

WASHINGTON STATE
BAR ASSOCIATION

Financial Reports

(Unaudited)

Year to Date December 31, 2023

Prepared by
Maggie Yu, Controller

Submitted by
Tiffany Lynch, Director of Finance
January 24th, 2024

Washington State Bar Association Financial Summary
Compared to Fiscal Year 2024 Budget
For the Period from December 1, 2023 to December 31, 2023

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	-	-	64,296	242,764	10,681	94,100	74,977	336,864	(74,977)	(336,864)
Admissions/Bar Exam	397,040	1,300,740	220,052	912,180	11,982	449,245	232,034	1,361,425	165,006	(60,685)
Advancement FTE	-	-	91,651	359,957	-	8,424	91,651	368,381	(91,651)	(368,381)
Bar News	162,073	610,100	86,498	343,204	113,471	364,960	199,969	708,164	(37,896)	(98,064)
Board of Governors	-	-	34,908	180,310	42,361	385,800	77,269	566,110	(77,269)	(566,110)
Character & Fitness Board	-	-	36,649	139,249	-	33,000	36,649	172,249	(36,649)	(172,249)
Communications Strategies	-	500	160,632	691,453	7,878	134,015	168,511	825,468	(168,511)	(824,968)
Communications Strategies FTE	-	-	62,565	249,385	-	-	62,565	249,385	(62,565)	(249,385)
Discipline	19,046	119,000	1,464,378	6,095,389	36,968	218,700	1,501,345	6,314,089	(1,482,299)	(6,195,089)
Diversity	-	135,000	66,443	359,183	232	117,700	66,675	476,883	(66,675)	(341,883)
Finance	198,499	400,000	276,846	1,135,942	1,832	2,640	278,679	1,138,582	(80,180)	(738,582)
Foundation	-	-	41,982	150,558	3,958	10,650	45,941	161,208	(45,941)	(161,208)
Human Resources	-	-	158,724	470,254	-	-	158,724	470,254	(158,724)	(470,254)
Law Clerk Program	40,900	207,200	41,199	164,394	2,150	19,735	43,349	184,130	(2,449)	(23,070)
Legislative	-	-	63,635	255,565	3,865	25,735	67,500	281,300	(67,500)	(281,300)
Legal Lunchbox	19,012	29,000	12,859	44,021	551	7,675	13,410	51,696	5,602	(22,696)
Licensing and Membership Records	135,471	450,900	160,183	653,019	4,042	32,777	164,225	685,796	(28,754)	(234,896)
Licensing Fees	4,146,854	17,320,499	-	-	-	-	-	-	4,146,854	17,320,499
Limited License Legal Technician	3,459	20,712	20,188	77,600	-	14,240	20,188	91,840	(16,729)	(71,128)
Limited Practice Officers	52,894	202,000	27,551	107,357	788	24,625	28,339	131,982	24,555	70,018
Mandatory CLE	360,772	1,113,800	200,420	775,905	26,840	139,999	227,260	915,904	133,513	197,896
Member Wellness Program	3,500	7,500	59,264	230,294	372	3,612	59,636	233,906	(56,136)	(226,406)
Member Services & Engagement	2,400	10,800	73,583	296,376	529	94,395	74,111	390,771	(71,711)	(379,071)
Mini CLE	-	-	28,963	110,349	-	-	28,963	110,349	(28,963)	(110,349)
New Member Education	78,798	67,000	26,246	97,387	-	1,750	26,246	99,137	52,552	(32,137)
Office of General Counsel	4	-	233,719	1,052,227	1,612	25,824	235,331	1,078,051	(235,326)	(1,078,051)
Office of the Executive Director	-	-	174,890	702,639	12,202	114,622	187,093	817,261	(187,093)	(817,261)
OGC-Disciplinary Board	-	-	55,452	217,741	21,999	98,000	77,451	315,741	(77,451)	(315,741)
Practice of Law Board	-	-	21,156	76,560	29	12,000	21,186	88,560	(21,186)	(88,560)
Practice Management Assistance	17,928	62,000	34,255	137,538	-	75,760	34,255	213,298	(16,327)	(151,298)
Professional Responsibility Program	-	-	58,493	236,590	805	3,000	59,298	239,590	(59,298)	(239,590)
Public Service Programs	-	130,000	53,875	230,480	25,189	297,409	79,064	527,889	(79,064)	(397,889)
Publication and Design Services	-	-	30,709	119,085	4,752	4,300	35,460	123,385	(35,460)	(123,385)
Regulatory Services FTE	-	-	127,346	520,795	1,757	20,150	129,102	540,945	(129,102)	(540,945)
Sections Administration	92,795	297,786	74,288	297,439	25	3,050	74,312	300,489	18,482	(2,703)
Service Center	-	-	180,547	729,058	594	4,560	181,141	733,618	(181,141)	(733,618)
Volunteer Engagement	-	-	24,937	96,192	1,139	17,800	26,076	113,991.59	(26,076)	(113,992)
Technology	-	-	535,398	2,094,122	-	-	535,398	2,094,122	(535,398)	(2,094,122)
Subtotal General Fund	5,731,445	22,484,537	5,084,779	20,652,560	338,603	2,860,252	5,423,382	23,512,812	308,063	(1,028,275)
Expenses using reserve funds	-	-	-	-	-	-	-	-	-	-
Total General Fund - Net Result from Operations									308,063	(1,028,275)
Percentage of Budget	25%		25%		12%		23%			
CLE-Seminars and Products	784,504	1,605,300	260,973	1,008,971	35,616	295,117	296,589	1,304,088	487,915	301,212
CLE - Deskbooks	3,485	136,500	64,369	253,996	155	26,375	64,524	280,371	(61,039)	(143,871)
Total CLE	787,990	1,741,800	325,342	1,262,967	35,771	321,492	361,113	1,584,459	426,877	157,341
Percentage of Budget	45%		26%		11%		23%			
Total All Sections	158,071	688,964	-	-	131,631	1,017,566	131,631	1,017,566	26,440	(328,603)
Client Protection Fund-Restricted	243,652	595,930	47,150	183,430	1,672	505,200	48,822	688,630	194,830	(92,700)
Totals	6,921,159	25,511,231	5,457,271	22,098,957	507,677	4,704,510	5,964,948	26,803,468	956,210	(1,292,237)
Percentage of Budget	27%		25%		11%		22%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2023	2024 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	4,513,398	4,420,698	4,708,228
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	1,177,163	1,334,504	1,604,040
Section Funds	1,970,404	1,641,801	1,996,844
Board-Designated Funds (General Fund):			
Operating Reserve Fund	2,000,000	2,000,000	2,000,000
Facilities Reserve Fund	2,700,000	2,700,000	2,700,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	5,149,490	4,121,215	5,457,553
Total General Fund Balance	9,849,490	8,821,215	10,157,553
Net Change in Total General Fund Balance		(1,028,275)	308,063
Total Fund Balance	17,510,455	16,218,218	18,466,665
Net Change in Fund Balance		(1,292,237)	956,210

**Washington State Bar Association
Analysis of Cash Investments
As of December 31, 2023**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	<u>3,222,600</u>

Total

<u>Investments</u>	<u>Rate (yield)</u>	<u>Amount</u>
Wells Fargo Money Market	5.49%	3,411,194
UBS Financial Money Market	5.43%	870,878
Morgan Stanley Money Market	4.93%	3,599,355
Merrill Lynch Money Market	4.99%	1,381,214
CDs/Treasuries	see list	6,164,703

General Fund Total 18,649,945

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	355,569

<u>Investments</u>	<u>Rate (yield)</u>	<u>Amount</u>
Wells Fargo Money Market	5.49%	2,119,032
Morgan Stanley Money Market	4.96%	113,617
CDs/Treasuries	see list	2,495,088

Client Protection Fund Total 5,083,307

Grand Total Cash & Investments 23,733,252

**Washington State Bar Association
Analysis of Cash Investments
As of December 31, 2023**

General Fund

<u>Bank</u>	<u>Yield</u>	<u>Term Months</u>	<u>Trade Date</u>	<u>Settle Date</u>	<u>Maturity Date</u>	<u>Amount</u>
<i>From WF</i>						
FHDN CD	4.75%	11	2/10/2023	2/13/2023	1/11/2024	239,533
FFCB CD	4.75%	12	2/1/2023	2/2/2023	1/18/2024	241,148
JP Morgan Chase Bank CD	4.95%	11	2/22/2023	2/28/2023	1/31/2024	250,000
FHLBDN CD	4.75%	12	2/10/2023	2/13/2023	2/2/2024	250,325
TowneBank CD	4.65%	12	2/1/2023	2/8/2023	2/8/2024	250,000
Millyard Bank CD	4.65%	12	2/1/2023	2/9/2023	2/9/2024	250,000
Encore Bank CD	5.35%	9	5/30/2023	6/7/2023	3/7/2024	250,000
Customers Bank CD	5.20%	12	3/28/2023	3/30/2023	3/28/2024	250,000
Truist Bank CD	5.25%	12	5/30/2023	6/2/2023	5/31/2024	250,000
US Treasury Bill	5.25%	11	7/11/2023	7/13/2023	6/13/2024	238,368
Texas Capital Bank CD	5.25%	12	8/9/2023	8/16/2023	8/15/2024	250,000
ESSA Bank & Trust PA CD	5.25%	12	8/9/2023	8/22/2023	8/21/2024	250,000
Bank of America CD	5.30%	12	8/25/2023	8/30/2023	8/29/2024	250,000
BMO Bank NA CD	5.45%	12	10/4/2023	10/11/2023	10/11/2024	250,000
Regions Bank CD	4.85%	12	12/15/2023	12/22/2023	12/20/2024	250,000
Leader Bank CD	4.90%	9	12/21/2023	12/29/2023	9/30/2024	250,000
Total from WF						3,969,373
<i>From ML</i>						
Bank of China NY CD	5.30%	6	7/12/2023	7/20/2023	1/22/2024	243,000
TBK bank CD	5.25%	9	6/6/2023	6/12/2023	3/11/2024	240,000
Synchrony bank CD	5.35%	6	9/12/2023	9/15/2023	3/15/2024	243,000
Banner bank CD	5.25%	12	6/6/2023	6/12/2023	6/11/2024	237,000
PNC bank, National Association CD	5.35%	9	9/14/2023	9/20/2023	6/20/2024	240,000
Bank hapoalim B.M CD	5.20%	18	6/6/2023	6/12/2023	12/9/2024	243,000
Total from ML						1,446,000
<i>From MS</i>						
Goldman Sacks Bank USA New York CD	5.27%	6	9/28/2023	10/5/2023	4/5/2024	250,000
Wells Fargo CD	5.36.%	12	9/26/2023	9/28/2023	9/9/2024	249,330
Total from MS						499,330
<i>From UBS</i>						
US Treasury Bill	4.50%		12/20/2023	12/21/2023	11/30/2024	250,000
Total from UBS						250,000
Total						6,164,703

**Washington State Bar Association
Analysis of Cash Investments
As of December 31, 2023**

Client Fund Protection Fund

<u>Bank</u>	<u>Yield</u>	<u>Term Months</u>	<u>Trade Date</u>	<u>Settle Date</u>	<u>Maturity Date</u>	<u>Amount</u>
Bank OZK CD	5.10%	6	6/29/2023	7/7/2023	1/8/2024	250,000
Beal Bank CD	5.10%	6	6/29/2023	7/12/2023	1/10/2024	250,000
Midfirst Bank CD	5.15%	6	6/29/2023	7/12/2023	1/12/2024	250,000
US Treasury Note	4.95%	11	3/1/2023	3/2/2023	1/31/2024	245,088
Western Alliance Bank CD	5.00%	12	3/1/2023	3/9/2023	3/8/2024	250,000
DMB Community Bank CD	5.30%	12	9/11/2023	9/25/2023	9/24/2024	250,000
Everbank CD	5.45%	12	9/25/2023	9/29/2023	9/27/2024	250,000
Citibank CD	5.50%	12	9/25/2023	9/29/2023	9/27/2024	250,000
FHLB (Federal Home Loan Bank) CD	5.50%	11	10/11/2023	10/12/2023	8/26/2024	250,000
Charles Schwab Bank CD	5.10%	12	12/4/2023	12/8/2023	12/10/2024	250,000
Total						2,495,088

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Terra Nevitt, Executive Director; Tiffany Lynch, Director of Finance; Maggie Yu, Controller

Re: Key Financial Benchmarks for the Preliminary Fiscal Year to Date (YTD) through December 31, 2023
As % of Completion to Annual Budget

	% of Year	Current Year % YTD	Current Year \$ Difference Favorable/(Unfavorable)	Prior Year YTD	Comments
Total Salaries & Benefits	25%	25%	\$45,941	24%	Favorable to budget from open positions.
Other Indirect Expenses*	25%	25%	\$21,528	23%	Favorable to budget due to timing of payments for rent and legal fees.
Total Indirect Expenses	25%	25%	\$67,468	24%	Favorable to budget resulting from a combination of reasons described above.

General Fund Revenues	25%	25%	\$110,311	26%	Favorable to budget from higher interest income, new member product sales, and timing of revenue collection for bar exam fees and MCLE revenue.
General Fund Indirect Expenses	25%	25%	\$78,361	24%	Favorable to budget as described for indirect expenses above.
General Fund Direct Expenses	25%	12%	\$376,460	10%	Favorable to budget due to timing of program activities and meetings/events.
General Fund Net	25%	130%	\$565,132	140%	Favorable to budget for the reasons described above.

CLE Revenue	25%	45%	\$352,540	36%	Favorable to budget due to increased product sales and seminar registrations consistent with seasonal revenue trend.
CLE Direct Expenses	25%	11%	\$44,602	8%	Favorable to budget due to timing of expenses for seminar activities.
CLE Indirect Expenses	25%	26%	(\$9,600)	23%	Unfavorable to budget due to budgeting miscalculation for medical coverage.
CLE Net	25%	271%	\$387,542	158%	Favorable to budget primarily due to increased product sales.

*Workplace benefits, Human Resources, meeting support, rent, taxes, furniture & maintenance, office supplies, depreciation, insurance, equipment, professional fees (legal & audit), internet & telephone, postage, storage, bank fees, Technology

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LICENSE FEES						
REVENUE:						
LICENSE FEES	17,320,499	1,381,101	4,146,854	13,173,645	24%	(183,271)
TOTAL REVENUE:	17,320,499	1,381,101	4,146,854	13,173,645	24%	(183,271)

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ADVANCEMENT FTE						
REVENUE:	_____	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:	_____	_____	_____	_____	_____	_____
STAFF CONFERENCE & TRAINING	8,424	-	-	8,424	0%	2,106
TOTAL DIRECT EXPENSES:	8,424	-	-	8,424	0%	2,106
INDIRECT EXPENSES:						
SALARY EXPENSE (1.89 FTE)	244,054	21,013	61,073	182,981	25%	(60)
BENEFITS EXPENSE	58,985	5,891	16,608	42,376	28%	(1,862)
OTHER INDIRECT EXPENSE	56,918	4,574	13,970	42,948	25%	260
TOTAL INDIRECT EXPENSES:	359,957	31,477	91,651	268,305	25%	(1,662)
TOTAL ALL EXPENSES:	368,381	31,477	91,651	276,729	25%	444
NET INCOME (LOSS):	(368,381)	(31,477)	(91,651)	(276,729)	25%	444

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ADMISSIONS						
REVENUE:						
EXAM SOFTWARE REVENUE	27,500	-	-	27,500	0%	(6,875)
BAR EXAM FEES	1,215,000	23,937	388,655	826,345	32%	84,905
RULE 9/LEGAL INTERN FEES	12,000	500	1,600	10,400	13%	(1,400)
SPECIAL ADMISSIONS	46,240	3,720	6,785	39,455	15%	(4,775)
TOTAL REVENUE:	1,300,740	28,157	397,040	903,700	31%	71,855
DIRECT EXPENSES:						
POSTAGE	1,000	138	759	241	76%	(509)
STAFF TRAVEL/PARKING	20,000	-	-	20,000	0%	5,000
STAFF MEMBERSHIP DUES	400	-	-	400	0%	100
SUPPLIES	1,500	-	-	1,500	0%	375
FACILITY, PARKING, FOOD	94,000	-	(8,967)	102,967	-10%	32,467
EXAMINER FEES	34,000	-	-	34,000	0%	8,500
UBE EXMINATIONS	113,000	-	-	113,000	0%	28,250
BOARD OF BAR EXAMINERS	39,000	-	-	39,000	0%	9,750
BAR EXAM PROCTORS	21,000	-	-	21,000	0%	5,250
DISABILITY ACCOMMODATIONS	55,967	-	-	55,967	0%	13,992
CHARACTER & FITNESS INVESTIGATIONS	1,000	-	-	1,000	0%	250
LAW SCHOOL VISITS	1,700	216	372	1,328	22%	53
DEPRECIATION-SOFTWARE	11,038	2,038	6,112	4,926	55%	(3,353)
SOFTWARE HOSTING	41,140	1,317	10,717	30,423	26%	(432)
EQUIPMENT, HARDWARE & SOFTWARE	1,000	-	-	1,000	0%	250
STAFF CONFERENCE & TRAINING	13,500	322	2,989	10,511	22%	386
TOTAL DIRECT EXPENSES:	449,245	4,031	11,982	437,263	3%	100,329
INDIRECT EXPENSES:						
SALARY EXPENSE (6.75 FTE)	522,057	44,775	129,581	392,476	25%	933
BENEFITS EXPENSE	186,844	15,846	40,670	146,174	22%	6,041
OTHER INDIRECT EXPENSE	203,278	16,304	49,800	153,478	24%	1,019
TOTAL INDIRECT EXPENSES:	912,180	76,925	220,052	692,128	24%	7,993
TOTAL ALL EXPENSES:	1,361,425	80,957	232,034	1,129,391	17%	108,322
NET INCOME (LOSS):	(60,685)	(52,800)	165,006	(225,691)	-272%	180,177

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ACCESS TO JUSTICE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
ATJ BOARD RETREAT	4,000	-	-	4,000	0%	1,000
LEADERSHIP TRAINING	4,000	-	1,453	2,547	36%	(453)
ATJ BOARD EXPENSE	65,000	6,646	6,889	58,111	11%	9,361
STAFF TRAVEL/PARKING	2,800	20	149	2,651	5%	551
STAFF CONFERENCE & TRAINING	3,300	-	842	2,458	26%	(17)
PUBLIC DEFENSE	4,000	2	1,348	2,652	34%	(348)
RECEPTION/FORUM EXPENSE	11,000	-	-	11,000	0%	2,750
TOTAL DIRECT EXPENSES:	94,100	6,667	10,681	83,419	11%	12,844
INDIRECT EXPENSES:						
SALARY EXPENSE (1.64 FTE)	145,500	15,103	39,075	106,425	27%	(2,700)
BENEFITS EXPENSE	47,875	4,967	13,171	34,704	28%	(1,202)
OTHER INDIRECT EXPENSE	49,389	3,945	12,050	37,339	24%	297
TOTAL INDIRECT EXPENSES:	242,764	24,015	64,296	178,468	26%	(3,605)
TOTAL ALL EXPENSES:	336,864	30,683	74,977	261,887	22%	9,239
NET INCOME (LOSS):	(336,864)	(30,683)	(74,977)	(261,887)	22%	9,239

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
BAR NEWS						
REVENUE:						
ROYALTIES	2,500	-	-	2,500	0%	(625)
DISPLAY ADVERTISING	400,000	46,000	136,000	264,000	34%	36,000
SUBSCRIPT/SINGLE ISSUES	100	36	72	28	72%	47
CLASSIFIED ADVERTISING	7,500	-	680	6,820	9%	(1,195)
JOB TARGET ADVERTISING	200,000	15,289	25,321	174,679	13%	(24,679)
TOTAL REVENUE:	610,100	61,325	162,073	448,027	27%	9,548
DIRECT EXPENSES:						
POSTAGE	110,000	13,266	39,704	70,296	36%	(12,204)
PRINTING, COPYING & MAILING	250,000	23,910	72,644	177,356	29%	(10,144)
DIGITAL/ONLINE DEVELOPMENT	2,000	-	-	2,000	0%	500
GRAPHICS/ARTWORK	100	-	1,103	(1,003)	1103%	(1,078)
EDITORIAL ADVISORY COMMITTEE	-	-	20	(20)		(20)
STAFF CONFERENCE & TRAINING	2,500	-	-	2,500	0%	625
STAFF MEMBERSHIP DUES	135	-	-	135	0%	34
SUBSCRIPTIONS	225	-	-	225	0%	56
TOTAL DIRECT EXPENSES:	364,960	37,176	113,471	251,489	31%	(22,231)
INDIRECT EXPENSES:						
SALARY EXPENSE (2.23 FTE)	213,007	18,368	53,386	159,621	25%	(134)
BENEFITS EXPENSE	63,040	5,946	16,690	46,350	26%	(930)
OTHER INDIRECT EXPENSE	67,157	5,377	16,422	50,735	24%	367
TOTAL INDIRECT EXPENSES:	343,204	29,691	86,498	256,705	25%	(697)
TOTAL ALL EXPENSES:	708,164	66,867	199,969	508,195	28%	(22,928)
NET INCOME (LOSS):	(98,064)	(5,541)	(37,896)	(60,168)	39%	(13,380)

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
BOARD OF GOVERNORS						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
BOG MEETINGS	190,000	711	18,438	171,562	10%	29,062
BOG COMMITTEES' EXPENSES	2,500	9	9	2,491	0%	616
BOG RETREAT	35,000	405	15,620	19,380	45%	(6,870)
BOG CONFERENCE ATTENDANCE	60,000	1,419	1,667	58,333	3%	13,333
BOG TRAVEL & OUTREACH	22,000	183	6,437	15,563	29%	(937)
LEADERSHIP TRAINING	20,000	-	-	20,000	0%	5,000
BOG ELECTIONS	26,900	-	-	26,900	0%	6,725
PRESIDENT'S DINNER	15,000	85	190	14,810	1%	3,560
NEW GOVERNOR ORIENTATION	10,000	-	-	10,000	0%	2,500
PRESIDENT'S PHOTO	3,300	-	-	3,300	0%	825
LONG RANGE STRATEGIC PLANNING COU!	600	-	-	600	0%	150
SUPPLIES	500	-	-	500	0%	125
TOTAL DIRECT EXPENSES:	385,800	2,811	42,361	343,439	11%	54,089
INDIRECT EXPENSES:						
SALARY EXPENSE (1.50 FTE)	104,320	6,337	18,009	86,311	17%	8,071
BENEFITS EXPENSE	30,817	2,158	5,809	25,008	19%	1,895
OTHER INDIRECT EXPENSE	45,173	3,631	11,090	34,082	25%	203
TOTAL INDIRECT EXPENSES:	180,310	12,126	34,908	145,402	19%	10,169
TOTAL ALL EXPENSES:	566,110	14,937	77,269	488,841	14%	64,259
NET INCOME (LOSS):	(566,110)	(14,937)	(77,269)	(488,841)	14%	64,259

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CHARACTER & FITNESS BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CHARACTER & FITNESS BOARD EXP	18,000	-	-	18,000	0%	4,500
COURT REPORTERS	15,000	-	-	15,000	0%	3,750
TOTAL DIRECT EXPENSES:	33,000	-	-	33,000	0%	8,250
INDIRECT EXPENSES:						
SALARY EXPENSE (0.75 FTE)	93,739	8,160	23,711	70,028	25%	(276)
BENEFITS EXPENSE	22,924	2,603	7,393	15,530	32%	(1,662)
OTHER INDIRECT EXPENSE	22,586	1,815	5,545	17,041	25%	101
TOTAL INDIRECT EXPENSES:	139,249	12,579	36,649	102,600	26%	(1,837)
TOTAL ALL EXPENSES:	172,249	12,579	36,649	135,600	21%	6,413
NET INCOME (LOSS):	(172,249)	(12,579)	(36,649)	(135,600)	21%	6,413

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CONTINUING LEGAL EDUCATION (CLE)						
(CLES - CLEP)						
REVENUE:						
SEMINAR REGISTRATIONS	825,000	124,219	244,785	580,215	30%	38,535
SEMINAR REVENUE-OTHER	20,000	-	1,271	18,729	6%	(3,729)
SEMINAR SPLITS W/ CLE	(150,000)	-	-	(150,000)	0%	37,500
SHIPPING & HANDLING	300	9	27	273	9%	(48)
COURSEBOOK SALES	10,000	115	220	9,780	2%	(2,280)
MP3 AND VIDEO SALES	900,000	337,135	538,201	361,799	60%	313,201
TOTAL REVENUE:	1,605,300	461,478	784,504	820,796	49%	72,307
DIRECT EXPENSES:						
COURSEBOOK PRODUCTION	500	-	-	500	0%	125
DEPRECIATION	2,040	170	510	1,530	25%	-
ONLINE EXPENSES	53,000	4,368	11,166	41,834	21%	2,084
ACCREDITATION FEES	3,000	(60)	(180)	3,180	-6%	930
EQUIPMENT, HARD.& SOFTWARE **	1,000	184	184	816	18%	66
FACILITIES **	159,500	14,794	20,462	139,038	13%	19,413
DISABILITY ACCOMMODATIONS	7,000	-	584	6,416	8%	1,166
SPEAKERS & PROGRAM DEVELOP	45,000	3,258	2,787	42,213	6%	8,463
HONORARIA	3,000	-	-	3,000	0%	750
CLE SEMINAR COMMITTEE	200	-	-	200	0%	50
STAFF TRAVEL/PARKING	15,000	89	89	14,911	1%	3,661
STAFF CONFERENCE & TRAINING	2,465	-	-	2,465	0%	616
STAFF MEMBERSHIP DUES	1,000	-	-	1,000	0%	250
SUPPLIES	500	-	-	500	0%	125
COST OF SALES - COURSEBOOKS	1,100	7	15	1,085	1%	260
POSTAGE & DELIVERY-COURSEBOOKS	500	-	-	500	0%	125
STAFF TRAVEL/PARKING	312	-	-	312	0%	78
TOTAL DIRECT EXPENSES:	295,117	22,810	35,616	259,500	12%	38,163
INDIRECT EXPENSES:						
SALARY EXPENSE (7.89 FTE)	583,378	51,005	147,286	436,092	25%	(1,441)
BENEFITS EXPENSE	187,984	19,792	55,462	132,522	30%	(8,466)
OTHER INDIRECT EXPENSE	237,609	19,063	58,225	179,385	25%	1,178
TOTAL INDIRECT EXPENSES:	1,008,971	89,859	260,973	747,998	26%	(8,730)
TOTAL ALL EXPENSES:	1,304,088	112,669	296,589	1,007,499	23%	29,433
NET INCOME (LOSS):	301,212	348,809	487,915	(186,703)	162%	412,612

**Budget reallocations apply to this line item. For details, see FY24 Budget Reallocations memo(s) included in the Board of Governors meeting materials.

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CLIENT PROTECTION FUND						
REVENUE:						
CPF RESTITUTION	10,000	1,732	19,633	(9,633)	196%	17,133
CPF MEMBER ASSESSMENTS	525,930	86,325	159,495	366,435	30%	28,013
INTEREST INCOME	60,000	21,946	64,525	(4,525)	108%	49,525
TOTAL REVENUE:	595,930	110,003	243,652	352,278	41%	94,670
DIRECT EXPENSES:						
BANK FEES - WELLS FARGO	3,000	262	1,552	1,448	52%	(802)
GIFTS TO INJURED CLIENTS	500,000	-	-	500,000	0%	125,000
CPF BOARD EXPENSES	2,000	43	120	1,880	6%	380
STAFF MEMBERSHIP DUES	200	-	-	200	0%	50
TOTAL DIRECT EXPENSES:	505,200	305	1,672	503,528	0%	124,628
INDIRECT EXPENSES:						
SALARY EXPENSE (1.23 FTE)	110,717	9,660	28,073	82,644	25%	(394)
BENEFITS EXPENSE	35,671	3,546	10,012	25,659	28%	(1,094)
OTHER INDIRECT EXPENSE	37,042	2,968	9,064	27,977	24%	196
TOTAL INDIRECT EXPENSES:	183,430	16,174	47,150	136,280	26%	(1,292)
TOTAL ALL EXPENSES:	688,630	16,479	48,822	639,808	7%	123,335
NET INCOME (LOSS):	(92,700)	93,524	194,830	(287,530)	-210%	218,005

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
COMMUNICATION STRATEGIES						
REVENUE:						
50 YEAR MEMBER TRIBUTE LUNCH	500	-	-	500	0%	(125)
TOTAL REVENUE:	500	-	-	500	0%	(125)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	5,895	198	1,431	4,464	24%	43
STAFF MEMBERSHIP DUES	1,120	-	-	1,120	0%	280
SUBSCRIPTIONS	4,000	164	464	3,536	12%	536
APEX DINNER	50,000	-	-	50,000	0%	12,500
50 YEAR MEMBER TRIBUTE LUNCH	30,000	-	-	30,000	0%	7,500
BAR OUTREACH	18,000	-	735	17,265	4%	3,765
COMMUNICATIONS OUTREACH	15,000	944	966	14,034	6%	2,784
EQUIPMENT, HARDWARE & SOFTWARE	2,500	-	-	2,500	0%	625
STAFF CONFERENCE & TRAINING	7,500	-	4,283	3,217	57%	(2,408)
TOTAL DIRECT EXPENSES:	134,015	1,306	7,878	126,137	6%	25,625
INDIRECT EXPENSES:						
SALARY EXPENSE (5.20 FTE)	398,702	32,929	90,958	307,744	23%	8,717
BENEFITS EXPENSE	136,152	11,528	31,284	104,868	23%	2,754
OTHER INDIRECT EXPENSE	156,599	12,569	38,390	118,209	25%	760
TOTAL INDIRECT EXPENSES:	691,453	57,025	160,632	530,820	23%	12,231
TOTAL ALL EXPENSES:	825,468	58,331	168,511	656,957	20%	37,856
NET INCOME (LOSS):	(824,968)	(58,331)	(168,511)	(656,457)	20%	37,731

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	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
COMMUNICATION STRATEGIES FTE						
INDIRECT EXPENSES:						
SALARY EXPENSE (1.00 FTE)	171,146	14,961	43,485	127,660	25%	(699)
BENEFITS EXPENSE	48,124	4,112	11,721	36,402	24%	310
OTHER INDIRECT EXPENSE	30,115	2,409	7,358	22,757	24%	171
TOTAL INDIRECT EXPENSES:	<u>249,385</u>	<u>21,482</u>	<u>62,565</u>	<u>186,820</u>	<u>25%</u>	<u>(219)</u>
NET INCOME (LOSS):	<u>(249,385)</u>	<u>(21,482)</u>	<u>(62,565)</u>	<u>(186,820)</u>	<u>25%</u>	<u>(219)</u>

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DESKBOOKS						
REVENUE:						
DESKBOOK SALES	30,000	-	75	29,925	0%	(7,425)
LEXIS/NEXIS ROYALTIES	75,000	-	-	75,000	0%	(18,750)
SECTION PUBLICATION SALES	1,500	-	-	1,500	0%	(375)
FASTCASE ROYALTIES	30,000	3,410	3,410	26,590	11%	(4,090)
TOTAL REVENUE:	136,500	3,410	3,485	133,015	3%	(30,640)
DIRECT EXPENSES:						
COST OF SALES - DESKBOOKS	4,000	-	-	4,000	0%	1,000
COST OF SALES - SECTION PUBLICATION	500	-	-	500	0%	125
SPLITS TO SECTIONS	300	-	-	300	0%	75
DESKBOOK ROYALTIES	300	-	155	145	52%	(80)
OBSOLETE INVENTORY	21,000	-	-	21,000	0%	5,250
STAFF MEMBERSHIP DUES	225	-	-	225	0%	56
SUBSCRIPTIONS	50	-	-	50	0%	13
TOTAL DIRECT EXPENSES:	26,375	-	155	26,220	1%	6,439
INDIRECT EXPENSES:						
SALARY EXPENSE (1.65 FTE)	155,883	13,625	39,606	116,277	25%	(635)
BENEFITS EXPENSE	48,424	4,478	12,607	35,817	26%	(501)
OTHER INDIRECT EXPENSE	49,690	3,980	12,157	37,533	24%	266
TOTAL INDIRECT EXPENSES:	253,996	22,084	64,369	189,627	25%	(870)
TOTAL ALL EXPENSES:	280,371	22,084	64,524	215,847	23%	5,569
NET INCOME (LOSS):	(143,871)	(18,673)	(61,039)	(82,833)	42%	(25,071)

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	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DISCIPLINE						
REVENUE:						
AUDIT REVENUE	1,000	-	-	1,000	0%	(250)
RECOVERY OF DISCIPLINE COSTS	100,000	1,431	14,726	85,274	15%	(10,274)
DISCIPLINE HISTORY SUMMARY	18,000	1,170	4,320	13,680	24%	(180)
TOTAL REVENUE:	119,000	2,601	19,046	99,954	16%	(10,704)
DIRECT EXPENSES:						
DEPRECIATION-SOFTWARE	45,608	-	-	45,608	0%	11,402
PUBLICATIONS PRODUCTION	300	-	-	300	0%	75
STAFF TRAVEL/PARKING	15,000	450	2,099	12,901	14%	1,651
STAFF MEMBERSHIP DUES	7,365	250	5,743	1,622	78%	(3,902)
TELEPHONE	4,800	281	842	3,958	18%	358
COURT REPORTERS	60,000	6,295	14,685	45,315	24%	315
OUTSIDE COUNSEL/AIC	1,000	-	250	750	25%	0
LITIGATION EXPENSES	40,000	2,721	8,142	31,858	20%	1,858
DISABILITY EXPENSES	9,000	507	507	8,493	6%	1,743
TRANSLATION SERVICES	1,000	889	889	111	89%	(639)
STAFF CONFERENCE & TRAINING	34,627	110	3,811	30,816	11%	4,846
TOTAL DIRECT EXPENSES:	218,700	11,504	36,968	181,732	17%	17,707
INDIRECT EXPENSES:						
SALARY EXPENSE (38.00 FTE)	3,795,327	317,335	912,814	2,882,514	24%	36,018
BENEFITS EXPENSE	1,155,682	98,415	271,424	884,258	23%	17,496
OTHER INDIRECT EXPENSE	1,144,380	91,717	280,140	864,240	24%	5,955
TOTAL INDIRECT EXPENSES:	6,095,389	507,467	1,464,378	4,631,012	24%	59,470
TOTAL ALL EXPENSES:	6,314,089	518,971	1,501,345	4,812,744	24%	77,177
NET INCOME (LOSS):	(6,195,089)	(516,370)	(1,482,299)	(4,712,790)	24%	66,473

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DIVERSITY						
REVENUE:						
DONATIONS	135,000	-	-	135,000	0%	(33,750)
TOTAL REVENUE:	135,000	-	-	135,000	0%	(33,750)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,500	96	142	1,358	9%	233
STAFF MEMBERSHIP DUES	550	-	90	460	16%	48
COMMITTEE FOR DIVERSITY	3,800	-	-	3,800	0%	950
DIVERSITY EVENTS & PROJECTS	31,800	-	-	31,800	0%	7,950
SURVEYS	11,500	-	-	11,500	0%	2,875
STAFF CONFERENCE & TRAINING	2,000	-	-	2,000	0%	500
CONSULTING SERVICES	66,550	-	-	66,550	0%	16,638
TOTAL DIRECT EXPENSE:	117,700	96	232	117,468	0%	29,193
INDIRECT EXPENSES:						
SALARY EXPENSE (2.69 FTE)	212,559	11,985	35,262	177,297	17%	17,878
BENEFITS EXPENSE	65,613	4,157	11,346	54,268	17%	5,058
OTHER INDIRECT EXPENSE	81,010	6,494	19,835	61,175	24%	418
TOTAL INDIRECT EXPENSES:	359,183	22,635	66,443	292,740	18%	23,353
TOTAL ALL EXPENSES:	476,883	22,731	66,675	410,208	14%	52,546
NET INCOME (LOSS):	(341,883)	(22,731)	(66,675)	(275,208)	20%	18,796

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	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ETHICS, WELLNESS, & PRACTICE (MWP-PMA-PRP) REVENUE:						
DIVERSIONS	7,500	500	3,500	4,000	47%	1,625
ROYALTIES	62,000	-	17,928	44,072	29%	2,428
TOTAL REVENUE:	69,500	500	21,428	48,072	31%	4,053
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	1,350	41	41	1,309	3%	297
MEMBER WELLNESS COUNCIL	1,000	-	-	1,000	0%	250
STAFF TRAVEL/PARKING	2,250	-	419	1,831	19%	144
STAFF CONFERENCE & TRAINING	572	-	-	572	0%	143
SUBSCRIPTIONS	1,200	110	331	869	28%	(31)
CPE COMMITTEE	1,000	-	386	614	39%	(136)
FASTCASE	75,000	-	-	75,000	0%	18,750
TOTAL DIRECT EXPENSES:	82,372	151	1,176	81,196	1%	19,417
INDIRECT EXPENSES:						
SALARY EXPENSE (3.53 FTE)	355,322	30,984	90,009	265,313	25%	(1,179)
BENEFITS EXPENSE	142,794	12,582	35,876	106,918	25%	(178)
OTHER INDIRECT EXPENSE	106,307	8,554	26,127	80,180	25%	450
TOTAL INDIRECT EXPENSES:	604,423	52,120	152,012	452,410	25%	(907)
TOTAL ALL EXPENSES:	686,795	52,271	153,189	533,606	22%	18,510
NET INCOME (LOSS):	(617,295)	(51,771)	(131,760)	(485,534)	21%	22,563

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FINANCE						
REVENUE:						
INTEREST INCOME	400,000	64,191	198,499	201,501	50%	98,499
TOTAL REVENUE:	400,000	64,191	198,499	201,501	50%	98,499
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,500	386	956	544	64%	(581)
STAFF CONFERENCE & TRAINING	520	263	263	257	51%	(133)
STAFF MEMBERSHIP DUES	620	-	613	7	99%	(458)
TOTAL DIRECT EXPENSES:	2,640	649	1,832	808	69%	(1,172)
INDIRECT EXPENSES:						
SALARY EXPENSE (6.92 FTE)	714,291	62,407	175,150	539,141	25%	3,423
BENEFITS EXPENSE	213,253	18,476	50,617	162,636	24%	2,696
OTHER INDIRECT EXPENSE	208,398	16,723	51,080	157,318	25%	1,019
TOTAL INDIRECT EXPENSES:	1,135,942	97,606	276,846	859,095	24%	7,139
TOTAL ALL EXPENSES:	1,138,582	98,255	278,679	859,903	24%	5,967
NET INCOME (LOSS):	(738,582)	(34,064)	(80,180)	(658,402)	11%	104,466

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FOUNDATION						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CONSULTING SERVICES	3,000	3,000	3,000	-	100%	(2,250)
PRINTING & COPYING	700	-	422	278	60%	(247)
STAFF TRAVEL/PARKING	900	-	-	900	0%	225
SUPPLIES	150	-	-	150	0%	38
BOARD OF TRUSTEES	3,250	75	299	2,951	9%	513
EQUIPMENT/HARDWARE/SOFTWARE	-	199	199	(199)		(199)
POSTAGE	350	-	38	312	11%	49
STAFF CONFERENCE & TRAINING	2,300	-	-	2,300	0%	575
TOTAL DIRECT EXPENSES:	10,650	3,274	3,958	6,692	37%	(1,296)
INDIRECT EXPENSES:						
SALARY EXPENSE (1.05 FTE)	100,026	8,588	24,963	75,063	25%	43
BENEFITS EXPENSE	18,911	3,256	9,234	9,676	49%	(4,507)
OTHER INDIRECT EXPENSE	31,621	2,549	7,785	23,836	25%	121
TOTAL INDIRECT EXPENSES:	150,558	14,393	41,982	108,575	28%	(4,343)
TOTAL ALL EXPENSES:	161,208	17,667	45,941	115,267	28%	(5,639)
NET INCOME (LOSS):	(161,208)	(17,667)	(45,941)	(115,267)	28%	(5,639)

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HUMAN RESOURCES						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	700	-	-	700	0%	175
STAFF MEMBERSHIP DUES	1,000	244	488	512	49%	(238)
SUBSCRIPTIONS	1,000	1,741	1,741	(741)	174%	(1,491)
STAFF TRAINING- GENERAL	12,912	-	960	11,952	7%	2,268
RECRUITING AND ADVERTISING	8,000	60	364	7,636	5%	1,636
PAYROLL PROCESSING	50,000	3,185	9,542	40,458	19%	2,958
SALARY SURVEYS	1,500	-	-	1,500	0%	375
CONSULTING SERVICES	2,000	-	-	2,000	0%	500
TRANSFER TO INDIRECT EXPENSE	(77,112)	(5,230)	(13,095)	(64,017)	17%	(6,183)
TOTAL DIRECT EXPENSES:	-	-	-	-		-
INDIRECT EXPENSES:						
SALARY EXPENSE (4.00 FTE)	454,865	33,098	96,190	358,675	21%	17,526
ALLOWANCE FOR OPEN POSITIONS	(200,000)	-	-	(200,000)	0%	(50,000)
BENEFITS EXPENSE	94,928	11,664	32,995	61,933	35%	(9,263)
OTHER INDIRECT EXPENSE	120,461	9,671	29,539	90,922	25%	576
TOTAL INDIRECT EXPENSES:	470,254	54,433	158,724	311,530	34%	(41,160)
TOTAL ALL EXPENSES:	470,254	54,433	158,724	311,530	34%	(41,160)
NET INCOME (LOSS):	(470,254)	(54,433)	(158,724)	(311,530)	34%	(41,160)

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LAW CLERK PROGRAM						
REVENUE:						
LAW CLERK FEES	204,000	25,567	39,400	164,600	19%	(11,600)
LAW CLERK APPLICATION FEES	3,200	300	1,500	1,700	47%	700
TOTAL REVENUE:	207,200	25,867	40,900	166,300	20%	(10,900)
DIRECT EXPENSES:						
SUBSCRIPTIONS	250	-	-	250	0%	63
DEPRECIATION	4,675	-	-	4,675	0%	1,169
CHARACTER & FITNESS INVESTIGATIONS	100	-	-	100	0%	25
LAW CLERK BOARD EXPENSE	8,000	2	1,738	6,262	22%	262
STAFF TRAVEL/PARKING	500	24	24	476	5%	101
SOFTWARE HOSTING	1,210	315	315	895	26%	(13)
LAW CLERK OUTREACH	5,000	73	73	4,927	1%	1,177
TOTAL DIRECT EXPENSES:	19,735	414	2,150	17,585	11%	2,784
INDIRECT EXPENSES:						
SALARY EXPENSE (1.23 FTE)	100,677	8,530	24,790	75,886	25%	379
BENEFITS EXPENSE	26,676	2,716	7,345	19,332	28%	(676)
OTHER INDIRECT EXPENSE	37,042	2,968	9,064	27,978	24%	196
TOTAL INDIRECT EXPENSES:	164,394	14,213	41,199	123,195	25%	(100)
TOTAL ALL EXPENSES:	184,130	14,627	43,349	140,781	24%	2,683
NET INCOME (LOSS):	23,070	11,240	(2,449)	25,519	-11%	(8,216)

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LEGISLATIVE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	2,500	-	-	2,500	0%	625
STAFF MEMBERSHIP DUES	450	-	-	450	0%	113
JUD RECOMMEND COMMITTEE	2,250	-	-	2,250	0%	563
SUBSCRIPTIONS	2,000	1,985	1,985	16	99%	(1,485)
TELEPHONE	485	48	144	341	30%	(23)
OLYMPIA RENT	1,500	-	-	1,500	0%	375
CONTRACT LOBBYIST	12,500	-	-	12,500	0%	3,125
LEGISLATIVE COMMITTEE	1,250	-	-	1,250	0%	313
BOG LEGISLATIVE COMMITTEE	300	-	-	300	0%	75
STAFF CONFERENCE & TRAINING	2,500	-	1,736	764	69%	(1,111)
TOTAL DIRECT EXPENSES:	25,735	2,033	3,865	21,870	15%	2,569
INDIRECT EXPENSES:						
SALARY EXPENSE (1.70 FTE)	152,783	13,180	38,303	114,480	25%	(107)
BENEFITS EXPENSE	51,586	4,529	12,748	38,837	25%	148
OTHER INDIRECT EXPENSE	51,196	4,120	12,583	38,613	25%	216
TOTAL INDIRECT EXPENSES:	255,565	21,829	63,635	191,930	25%	256
TOTAL ALL EXPENSES:	281,300	23,862	67,500	213,800	24%	2,825
NET INCOME (LOSS):	(281,300)	(23,862)	(67,500)	(213,800)	24%	2,825

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LICENSING & MEMBERSHIP RECORDS						
REVENUE:						
STATUS CERTIFICATE FEES	27,000	2,375	7,500	19,500	28%	750
INVESTIGATION FEES	20,000	2,100	5,800	14,200	29%	800
PRO HAC VICE	400,000	28,396	119,996	280,004	30%	19,996
MEMBER CONTACT INFORMATION	3,700	-	2,175	1,525	59%	1,250
PHOTO BAR CARD SALES	200	-	-	200	0%	(50)
TOTAL REVENUE:	450,900	32,871	135,471	315,429	30%	22,746
DIRECT EXPENSES:						
POSTAGE	17,652	-	102	17,550	1%	4,311
SOFTWARE HOSTING	15,125	3,940	3,940	11,185	26%	(159)
TOTAL DIRECT EXPENSES:	32,777	3,940	4,042	28,735	12%	4,152
INDIRECT EXPENSES:						
SALARY EXPENSE (3.83 FTE)	401,688	34,423	98,733	302,955	25%	1,689
BENEFITS EXPENSE	135,989	11,814	33,190	102,799	24%	807
OTHER INDIRECT EXPENSE	115,341	9,252	28,259	87,082	25%	576
TOTAL INDIRECT EXPENSES:	653,019	55,490	160,183	492,837	25%	3,072
TOTAL ALL EXPENSES:	685,796	59,430	164,225	521,572	24%	7,224
NET INCOME (LOSS):	(234,896)	(26,559)	(28,754)	(206,143)	12%	29,970

Washington State Bar Association

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For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM						
REVENUE:						
SEMINAR REGISTRATIONS	2,000	-	-	2,000	0%	(500)
LLLT LICENSE FEES	18,562	1,151	3,459	15,103	19%	(1,182)
MCLE LATE FEES	150	-	-	150	0%	(38)
TOTAL REVENUE:	20,712	1,151	3,459	17,253	17%	(1,719)
DIRECT EXPENSES:						
LLLT BOARD	14,240	-	-	14,240	0%	3,560
TOTAL DIRECT EXPENSES:	14,240	-	-	14,240	0%	3,560
INDIRECT EXPENSES:						
SALARY EXPENSE (0.53 FTE)	51,460	4,424	12,857	38,604	25%	8
BENEFITS EXPENSE	10,179	1,217	3,386	6,793	33%	(841)
OTHER INDIRECT EXPENSE	15,961	1,292	3,946	12,015	25%	45
TOTAL INDIRECT EXPENSES:	77,600	6,933	20,188	57,412	26%	(788)
TOTAL ALL EXPENSES:	91,840	6,933	20,188	71,652	22%	2,772
NET INCOME (LOSS):	(71,128)	(5,781)	(16,729)	(54,399)	24%	1,053

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LIMITED PRACTICE OFFICERS						
REVENUE:						
INVESTIGATION FEES	200	-	300	(100)	150%	250
MCLE LATE FEES	4,000	-	-	4,000	0%	(1,000)
LPO EXAMINATION FEES	25,300	(100)	13,200	12,100	52%	6,875
LPO LICENSE FEES	170,000	13,084	39,394	130,606	23%	(3,106)
LPO LATE LICENSE FEES	2,500	-	-	2,500	0%	(625)
TOTAL REVENUE:	202,000	12,984	52,894	149,106	26%	2,394
DIRECT EXPENSES:						
FACILITY, PARKING, FOOD	6,300	-	-	6,300	0%	1,575
EXAM WRITING	9,000	-	-	9,000	0%	2,250
LPO BOARD	4,000	-	-	4,000	0%	1,000
LPO OUTREACH	1,000	-	-	1,000	0%	250
OFFICE SUPPLIES	1,000	-	-	1,000	0%	250
PRINTING & COPYING	200	-	-	200	0%	50
SUPPLIES	100	-	-	100	0%	25
SOFTWARE HOSTING	3,025	63	788	2,237	26%	(32)
TOTAL DIRECT EXPENSES:	24,625	63	788	23,837	3%	5,368
INDIRECT EXPENSES:						
SALARY EXPENSE (0.78 FTE)	69,420	5,913	17,185	52,235	25%	170
BENEFITS EXPENSE	14,447	1,727	4,607	9,839	32%	(996)
OTHER INDIRECT EXPENSE	23,490	1,885	5,758	17,731	25%	114
TOTAL INDIRECT EXPENSES:	107,357	9,526	27,551	79,806	26%	(712)
TOTAL ALL EXPENSES:	131,982	9,590	28,339	103,643	21%	4,656
NET INCOME (LOSS):	70,018	3,395	24,555	45,463	35%	7,050

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MANDATORY CONTINUING LEGAL EDUCATION						
REVENUE:						
ACTIVITY APPLICATION FEE	550,000	54,500	186,400	363,600	34%	48,900
ACTIVITY APPLICATION LATE FEE	220,000	23,050	77,000	143,000	35%	22,000
MCLE LATE FEES	190,000	-	750	189,250	0%	(46,750)
ANNUAL ACCREDITED SPONSOR FEES	36,000	36,000	36,000	-	100%	27,000
ATTENDANCE LATE FEES	90,000	18,650	47,750	42,250	53%	25,250
COMITY CERTIFICATES	27,800	6,700	12,872	14,928	46%	5,922
TOTAL REVENUE:	1,113,800	138,900	360,772	753,028	32%	82,322
DIRECT EXPENSES:						
DEPRECIATION	130,449	10,736	26,840	103,609	21%	5,772
STAFF MEMBERSHIP DUES	500	-	-	500	0%	125
MCLE BOARD	5,000	-	-	5,000	0%	1,250
STAFF TRAVEL/PARKING	50	-	-	50	0%	13
STAFF CONFERENCE & TRAINING	4,000	-	-	4,000	0%	1,000
TOTAL DIRECT EXPENSES:	139,999	10,736	26,840	113,159	19%	8,160
INDIRECT EXPENSES:						
SALARY EXPENSE (5.88 FTE)	454,500	45,037	123,755	330,745	27%	(10,130)
BENEFITS EXPENSE	144,327	12,112	33,263	111,064	23%	2,819
OTHER INDIRECT EXPENSE	177,078	14,210	43,402	133,676	25%	868
TOTAL INDIRECT EXPENSES:	775,905	71,359	200,420	575,485	26%	(6,443)
TOTAL ALL EXPENSES:	915,904	82,095	227,260	688,644	25%	1,716
NET INCOME (LOSS):	197,896	56,805	133,513	64,383	67%	84,039

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER SERVICES & ENGAGEMENT						
TEAM						
(LLB-MINI-MSE-NME)						
REVENUE:						
ROYALTIES	10,800	1,200	2,400	8,400	22%	(300)
NMP PRODUCT SALES	40,000	33,728	78,798	(38,798)	197%	68,798
DIGITAL VIDEO SALES	20,000	12,887	19,012	988	95%	14,012
SPONSORSHIPS	9,000	-	-	9,000	0%	(2,250)
SEMINAR REGISTRATIONS	15,000	-	-	15,000	0%	(3,750)
TRIAL ADVOCACY PROGRAM	12,000	-	-	12,000	0%	(3,000)
TOTAL REVENUE:	106,800	47,815	100,210	6,590	94%	73,510
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	2,500	-	-	2,500	0%	625
STAFF CONFERENCE & TRAINING	250	-	-	250	0%	63
SMALL TOWN AND RURAL COMMITTEE	5,000	-	-	5,000	0%	1,250
PRINTING & COPYING	1,300	-	-	1,300	0%	325
NEW LAWYER OUTREACH	1,000	-	-	1,000	0%	250
DISABILITY ACCOMMODATIONS	2,000	-	-	2,000	0%	500
HONORARIUM	1,500	-	-	1,500	0%	375
YLL SECTION PROGRAM	1,500	-	-	1,500	0%	375
SMALL TOWN AND RURAL COMMITTEE OUTREACH AND ACTIVITIES	55,000	-	-	55,000	0%	13,750
ON24 OVERAGE CHARGE	4,500	-	551	3,949	12%	574
MEMBER ENGAGEMENT COUNCIL	1,000	-	-	1,000	0%	250
WYLC CLE COMPS	1,000	-	-	1,000	0%	250
WYLC OUTREACH EVENTS	1,500	-	-	1,500	0%	375
SPEAKERS & PROGRAM DEVELOP	100	-	-	100	0%	25
WYL COMMITTEE	13,500	-	492	13,008	4%	2,883
TRIAL ADVOCACY EXPENSES	1,500	-	-	1,500	0%	375
RECEPTION/FORUM EXPENSE	1,000	-	-	1,000	0%	250
INSURANCE REBATE	(425)	-	-	(425)	0%	(106)
WYLC SCHOLARSHIPS/DONATIONS/GRANT	5,000	-	-	5,000	0%	1,250
STAFF MEMBERSHIP DUES	845	-	-	845	0%	211
LENDING LIBRARY	4,000	16	37	3,963	1%	963
NMP SPEAKERS & PROGRAM DEVELOPMENT	250	-	-	250	0%	63
TOTAL DIRECT EXPENSES:	103,820	16	1,080	102,740	1%	24,875
INDIRECT EXPENSES:						
SALARY EXPENSE (4.64 FTE)	322,883	27,704	80,492	242,391	25%	229
BENEFITS EXPENSE	89,576	9,688	26,928	62,648	30%	(4,534)
OTHER INDIRECT EXPENSE	139,735	11,207	34,231	105,504	24%	703
INSURANCE REBATE	(4,060)	-	-	(4,060)	0%	(1,015)
TOTAL INDIRECT EXPENSES:	548,134	48,600	141,651	406,483	26%	(4,617)
TOTAL ALL EXPENSES:	651,954	48,615	142,731	509,223	22%	20,258
NET INCOME (LOSS):	(545,154)	(800)	(42,521)	(502,633)	8%	93,768

Washington State Bar Association
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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF THE EXECUTIVE DIRECTOR						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
LEADERSHIP TRAINING	15,000	-	9,800	5,200	65%	(6,050)
WASHINGTON LEADERSHIP INSTITUTE	80,000	-	-	80,000	0%	20,000
ED TRAVEL & OUTREACH	4,000	1,655	1,796	2,204	45%	(796)
STAFF TRAVEL/PARKING	4,450	198	606	3,844	14%	507
STAFF CONFERENCE & TRAINING	9,282	-	-	9,282	0%	2,321
STAFF MEMBERSHIP DUES	1,890	-	-	1,890	0%	473
TOTAL DIRECT EXPENSES:	114,622	1,853	12,202	102,420	11%	16,453
INDIRECT EXPENSES:						
SALARY EXPENSE (2.90 FTE)	491,121	44,088	121,579	369,542	25%	1,201
BENEFITS EXPENSE	124,183	11,641	31,877	92,306	26%	(831)
OTHER INDIRECT EXPENSE	87,334	7,018	21,434	65,900	25%	399
TOTAL INDIRECT EXPENSES:	702,639	62,746	174,890	527,749	25%	769
TOTAL ALL EXPENSES:	817,261	64,599	187,093	630,168	23%	17,223
NET INCOME (LOSS):	(817,261)	(64,599)	(187,093)	(630,168)	23%	17,223

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF GENERAL COUNSEL						
REVENUE:						
COPY FEES	-	-	4	(4)		4
TOTAL REVENUE:	-	-	4	(4)		4
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	2,868	-	1,450	1,418	51%	(733)
COURT RULES COMMITTEE	1,000	-	-	1,000	0%	250
CUSTODIANSHIPS	5,000	-	-	5,000	0%	1,250
WILLS	2,000	-	-	2,000	0%	500
LITIGATION EXPENSES	200	-	-	200	0%	50
TRANSCRIPTION SERVICES	2,100	-	-	2,100	0%	525
DISABILITY ACCOMMODATIONS	6,000	-	162	5,838	3%	1,338
STAFF CONFERENCE & TRAINING	6,656	-	-	6,656	0%	1,664
TOTAL DIRECT EXPENSES:	25,824	-	1,612	24,212	6%	4,844
INDIRECT EXPENSES:						
SALARY EXPENSE (6.07 FTE)	675,398	50,570	146,983	528,415	22%	21,867
BENEFITS EXPENSE	194,029	15,019	41,948	152,082	22%	6,560
OTHER INDIRECT EXPENSE	182,800	14,664	44,788	138,011	25%	912
TOTAL INDIRECT EXPENSES:	1,052,227	80,252	233,719	818,508	22%	29,338
TOTAL ALL EXPENSES:	1,078,051	80,252	235,331	842,720	22%	34,182
NET INCOME (LOSS):	(1,078,051)	(80,252)	(235,326)	(842,724)	22%	34,186

Washington State Bar Association

Statement of Activities

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSE:						
STAFF MEMBERSHIP DUES	100	-	-	100	0%	25
DISCIPLINARY BOARD EXPENSES	4,000	-	-	4,000	0%	1,000
CHIEF HEARING OFFICER	40,000	3,333	9,999	30,001	25%	1
COURT REPORTERS	500	-	-	500	0%	125
HEARING OFFICER EXPENSES	4,000	-	-	4,000	0%	1,000
HEARING OFFICER TRAINING	400	-	-	400	0%	100
OUTSIDE COUNSEL	48,000	4,000	12,000	36,000	25%	-
DISCIPLINARY SELECTION PANEL	1,000	-	-	1,000	0%	250
TOTAL DIRECT EXPENSES:	98,000	7,333	21,999	76,001	22%	2,501
INDIRECT EXPENSES:						
SALARY EXPENSE (1.40 FTE)	136,708	11,903	34,598	102,110	25%	(421)
BENEFITS EXPENSE	38,872	3,750	10,511	28,361	27%	(793)
OTHER INDIRECT EXPENSE	42,161	3,387	10,344	31,817	25%	196
TOTAL INDIRECT EXPENSES:	217,741	19,039	55,452	162,289	25%	(1,017)
TOTAL ALL EXPENSES:	315,741	26,372	77,451	238,290	25%	1,484
NET INCOME (LOSS):	(315,741)	(26,372)	(77,451)	(238,290)	25%	1,484

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PRACTICE OF LAW BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
PRACTICE OF LAW BOARD	12,000	-	29	11,971	0%	2,971
TOTAL DIRECT EXPENSES:	12,000	-	29	11,971	0%	2,971
INDIRECT EXPENSES:						
SALARY EXPENSE (0.55 FTE)	47,419	4,129	12,002	35,417	25%	(148)
BENEFITS EXPENSE	12,578	1,781	5,101	7,476	41%	(1,957)
OTHER INDIRECT EXPENSE	16,563	1,327	4,052	12,511	24%	89
TOTAL INDIRECT EXPENSES:	76,560	7,237	21,156	55,404	28%	(2,016)
TOTAL ALL EXPENSES:	88,560	7,237	21,186	67,375	24%	955
NET INCOME (LOSS):	(88,560)	(7,237)	(21,186)	(67,375)	24%	955

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PUBLIC SERVICE PROGRAMS						
REVENUE:						
DONATIONS & GRANTS	130,000	-	-	130,000	0%	(32,500)
TOTAL REVENUE:	130,000	-	-	130,000	0%	(32,500)
DIRECT EXPENSES:						
DONATIONS/SPONSORSHIPS/GRANTS	292,309	24,649	24,883	267,426	9%	48,195
STAFF TRAVEL/PARKING	500	20	56	444	11%	69
SURVEYS	100	-	-	100	0%	25
PRO BONO & PUBLIC SERVICE COMMITTEE	2,500	-	-	2,500	0%	625
PRO BONO CERTIFICATES	2,000	-	250	1,750	13%	250
TOTAL DIRECT EXPENSES:	297,409	24,669	25,189	272,220	8%	49,164
INDIRECT EXPENSES:						
SALARY EXPENSE (1.62 FTE)	128,379	10,757	31,623	96,756	25%	472
BENEFITS EXPENSE	53,314	3,663	10,309	43,005	19%	3,020
OTHER INDIRECT EXPENSE	48,787	3,910	11,943	36,843	24%	253
TOTAL INDIRECT EXPENSES:	230,480	18,330	53,875	176,604	23%	3,744
TOTAL ALL EXPENSES:	527,889	42,999	79,064	448,825	15%	52,908
NET INCOME (LOSS):	(397,889)	(42,999)	(79,064)	(318,825)	20%	20,408

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PUBLICATION & DESIGN SERVICES						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
SUBSCRIPTIONS	200	-	-	200	0%	50
IMAGE LIBRARY	4,100	-	4,752	(652)	116%	(3,727)
TOTAL DIRECT EXPENSES:	4,300	-	4,752	(452)	111%	(3,677)
INDIRECT EXPENSES:						
SALARY EXPENSE (0.89 FTE)	72,960	6,361	18,484	54,476	25%	(244)
BENEFITS EXPENSE	19,323	2,022	5,613	13,710	29%	(782)
OTHER INDIRECT EXPENSE	26,803	2,165	6,612	20,191	25%	89
TOTAL INDIRECT EXPENSES:	119,085	10,547	30,709	88,377	26%	(937)
TOTAL ALL EXPENSES:	123,385	10,547	35,460	87,925	29%	(4,614)
NET INCOME (LOSS):	(123,385)	(10,547)	(35,460)	(87,925)	29%	(4,614)

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
REGULATORY SERVICES FTE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	-	-	350	(350)		(350)
STAFF CONFERENCE & TRAINING	19,500	-	1,304	18,196	7%	3,571
STAFF TRAVEL/PARKING	650	36	103	547	16%	60
TOTAL DIRECT EXPENSES:	20,150	36	1,757	18,393	9%	3,631
INDIRECT EXPENSES:						
SALARY EXPENSE (2.60 FTE)	357,120	31,153	83,938	273,182	24%	5,342
BENEFITS EXPENSE	85,375	8,582	24,213	61,162	28%	(2,869)
OTHER INDIRECT EXPENSE	78,300	6,284	19,195	59,105	25%	380
TOTAL INDIRECT EXPENSES:	520,795	46,020	127,346	393,449	24%	2,853
TOTAL ALL EXPENSES:	540,945	46,056	129,102	411,842	24%	6,484
NET INCOME (LOSS):	(540,945)	(46,056)	(129,102)	(411,842)	24%	6,134

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25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SERVICE CENTER						
REVENUE:						
	_____	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	-	-
DIRECT EXPENSES:						
	_____	_____	_____	_____	_____	_____
STAFF TRAVEL/PARKING	2,376	198	594	1,782	25%	-
STAFF CONFERENCE & TRAINING	2,184	-	-	2,184	0%	546
TOTAL DIRECT EXPENSES:	4,560	198	594	3,966	13%	546
INDIRECT EXPENSES:						
SALARY EXPENSE (5.78 FTE)	394,527	34,538	99,389	295,138	25%	(758)
BENEFITS EXPENSE	160,465	13,801	38,502	121,962	24%	1,614
OTHER INDIRECT EXPENSE	174,066	13,965	42,655	131,411	25%	861
TOTAL INDIRECT EXPENSES:	729,058	62,304	180,547	548,511	25%	1,718
TOTAL ALL EXPENSES:	733,618	62,502	181,141	552,477	25%	2,264
NET INCOME (LOSS):	(733,618)	(62,502)	(181,141)	(552,477)	25%	2,264

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SECTIONS ADMINISTRATION						
REVENUE:						
REIMBURSEMENTS FROM SECTIONS	297,786	1,779	92,795	204,991	31%	18,348
TOTAL REVENUE:	297,786	1,779	92,795	204,991	31%	18,348
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,000	-	25	975	2%	225
SUBSCRIPTIONS	350	-	-	350	0%	88
SECTION/COMMITTEE CHAIR MTGS	1,000	-	-	1,000	0%	250
STAFF CONFERENCE & TRAINING	500	-	-	500	0%	125
STAFF MEMBERSHIP DUES	200	-	-	200	0%	50
TOTAL DIRECT EXPENSES:	3,050	-	25	3,025	1%	738
INDIRECT EXPENSES:						
SALARY EXPENSE (2.58 FTE)	159,053	13,794	39,973	119,080	25%	(210)
BENEFITS EXPENSE	60,688	5,475	15,226	45,463	25%	(54)
OTHER INDIRECT EXPENSE	77,697	6,249	19,088	58,609	25%	336
TOTAL INDIRECT EXPENSES:	297,439	25,519	74,288	223,151	25%	72
TOTAL ALL EXPENSES:	300,489	25,519	74,312	226,177	25%	810
NET INCOME (LOSS):	(2,703)	(23,740)	18,482	(21,185)	-684%	19,158

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2023 to December 31, 2023

25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SECTIONS OPERATIONS						
REVENUE:						
SECTION DUES	438,431	2,710	148,468	289,963	34%	38,860
SEMINAR PROFIT SHARE	153,875	-	-	153,875	0%	(38,469)
INTEREST INCOME	17,147	-	-	17,147	0%	(4,287)
PUBLICATIONS REVENUE	1,500	-	-	1,500	0%	(375)
OTHER	78,010	3,915	9,603	68,407	12%	(9,900)
TOTAL REVENUE:	688,964	6,625	158,071	530,892	23%	(14,170)
DIRECT EXPENSES:						
DIRECT EXPENSES OF SECTION ACTIVITIES	733,096	5,493	38,837	694,260	5%	144,437
REIMBURSEMENT TO WSBA FOR INDIRECT EXPENSES	284,470	1,779	92,795	191,675	33%	(21,677)
TOTAL DIRECT EXPENSES:	1,017,566	7,272	131,631	885,935	13%	122,760
NET INCOME (LOSS):	(328,603)	(647)	26,440	(355,043)	-8%	108,591

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
TECHNOLOGY						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CONSULTING SERVICES	115,000	3,446	3,559	111,441	3%	25,191
STAFF TRAVEL/PARKING	1,000	68	276	724	28%	(26)
STAFF MEMBERSHIP DUES	200	-	-	200	0%	50
TELEPHONE	95,000	6,781	20,015	74,985	21%	3,735
COMPUTER HARDWARE	65,000	764	13,272	51,728	20%	2,978
COMPUTER SOFTWARE	320,000	57,939	159,530	160,470	50%	(79,530)
HARDWARE SERVICE & WARRANTIES	45,000	360	18,305	26,695	41%	(7,055)
SOFTWARE MAINTENANCE & LICENSING	345,000	13,561	125,703	219,297	36%	(39,453)
THIRD PARTY SERVICES	10,000	245	1,012	8,988	10%	1,488
CLOUD INFRASTRUCTURE	130,000	3,421	10,387	119,613	8%	22,113
STAFF CONFERENCE & TRAINING	8,000	25	25	7,975	0%	1,975
TRANSFER TO INDIRECT EXPENSES	(1,134,200)	(86,611)	(352,083)	(782,117)	31%	68,533
TOTAL DIRECT EXPENSES:	-	-	-	-		-
INDIRECT EXPENSES:						
SALARY EXPENSE (13.00 FTE)	1,434,388	126,941	353,495	1,080,893	25%	5,102
BENEFITS EXPENSE	478,236	40,071	107,637	370,599	23%	11,922
CAPITAL LABOR & OVERHEAD	(210,000)	(7,975)	(21,709)	(188,291)	10%	30,791
OTHER INDIRECT EXPENSE	391,498	31,422	95,975	295,523	25%	1,900
TOTAL INDIRECT EXPENSES:	2,094,122	190,459	535,398	1,558,724	26%	49,715
TOTAL ALL EXPENSES:	2,094,122	190,459	535,398	1,558,724	26%	49,715
NET INCOME (LOSS):	(2,094,122)	(190,459)	(535,398)	(1,558,724)	26%	(11,867)

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
VOLUNTEER ENGAGEMENT						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
POSTAGE	-	-	571	(571)		(571)
STAFF MEMBERSHIP DUES	450	-	568	(118)	126%	(455)
STAFF CONFERENCE & TRAINING	2,600	-	-	2,600	0%	650
SUBSCRIPTIONS	750	-	-	750	0%	188
ABA DELEGATES	14,000	-	-	14,000	0%	3,500
TOTAL DIRECT EXPENSES:	17,800	-	1,139	16,661	6%	3,311
INDIRECT EXPENSES:						
SALARY EXPENSE (0.60 FTE)	60,485	5,262	15,296	45,190	25%	(174)
BENEFITS EXPENSE	17,637	1,827	5,162	12,475	29%	(753)
OTHER INDIRECT EXPENSE	18,069	1,466	4,479	13,590	25%	38
TOTAL INDIRECT EXPENSES:	96,192	8,556	24,937	71,255	26%	(889)
TOTAL ALL EXPENSES:	113,992	8,556	26,076	87,916	23%	(889)
NET INCOME (LOSS):	(113,992)	(8,556)	(26,076)	(87,916)	23%	2,422

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
INDIRECT EXPENSES:						
SALARIES	13,743,352	1,154,989	3,304,373	10,438,979	24%	131,465
TEMPORARY SALARIES	142,512	24,050.58	57,734	84,778	41%	(22,106)
CAPITAL LABOR & OVERHEAD	(210,000)	(7,975)	(21,709)	(188,291)	10%	(30,791)
ALLOWANCE FOR OPEN POSITIONS	(200,000)	-	-	(200,000)	0%	(50,000)
EMPLOYEE ASSISTANCE PLAN	4,800	-	1,200	3,600	25%	-
EMPLOYEE SERVICE AWARDS	1,680	180	800	880	48%	(380)
TRANSPORTATION ALLOWANCE	34,000	26,165	26,639	7,361	78%	(18,139)
INSURANCE REBATE	(4,060)	-	-	(4,060)	0%	(1,015)
L&I INSURANCE	71,948	15,403	15,403	56,545	21%	2,584
FICA (EMPLOYER PORTION)	1,015,935	77,709	232,223	783,712	23%	21,761
MEDICAL (EMPLOYER PORTION)	1,743,648	151,920	448,918	1,294,730	26%	(13,006)
WA STATE FAMILY MEDICAL LEAVE (EMPLOYER PORTION)	29,351	2,227	6,702	22,649	23%	636
RETIREMENT (EMPLOYER PORTION)	1,292,648	104,851	309,835	982,814	24%	13,327
UNEMPLOYMENT INSURANCE	81,488	2,399	8,766	72,722	11%	11,606
TOTAL SALARY & BENEFITS EXPENSE:	17,747,303	1,551,918	4,390,885	13,356,419	25%	45,941
WORKPLACE BENEFITS	52,710	258	9,476	43,234	18%	3,701
RENT	2,065,775	161,743	482,428	1,583,347	23%	34,016
OFFICE SUPPLIES & EQUIPMENT	21,500	542	4,045	17,455	19%	1,330
INSURANCE	272,643	22,232	66,696	205,947	24%	1,465
TELEPHONE & INTERNET	33,000	2,750	8,010	24,990	24%	240
POSTAGE - GENERAL	18,300	746	2,005	16,295	11%	2,570
BANK FEES	50,000	4,977	12,568	37,432	25%	(68)
PERSONAL PROP TAXES-WSBA	6,650	442	1,326	5,324	20%	336
COMPUTER HARDWARE DEPRECIATION	49,926	3,444	10,335	39,591	21%	2,147
RECORDS STORAGE	30,000	4,522	8,531	21,469	28%	(1,031)
MEETING SUPPORT EXPENSES	7,500	215	836	6,664	11%	1,039
ONLINE LEGAL RESEARCH	24,359	5,574	9,053	15,306	37%	(2,963)
FURNITURE, MAINT, LH IMP	45,000	7,479	9,515	35,485	21%	1,735
COMPUTER POOLED EXPENSES	1,134,200	86,611	352,083	782,117	31%	(68,533)
HUMAN RESOURCES POOLED EXP	77,112	5,230	13,095	64,017	17%	6,183
FURN & OFFICE EQUIP DEPRECIATION	111,192	9,718	29,152	82,040	26%	(1,354)
COMPUTER SOFTWARE DEPRECIATION	71,787	3,916	11,748	60,039	16%	6,199
PRODUCTION MAINTENANCE & SUPPLIES	12,500	(7)	3,759	8,741	30%	(634)
PROFESSIONAL FEES-AUDIT	35,000	28,500	28,500	6,500	81%	(19,750)
WORK HOME FURNITURE & EQUIP	14,000	-	1,297	12,703	9%	2,203
TRANSLATION SERVICES	12,000	186	762	11,238	6%	2,238
PROFESSIONAL FEES-LEGAL	200,000	54	1,164	198,836	1%	48,836
ACCOMODATIONS FUND	6,500	-	-	6,500	0%	1,625
TOTAL OTHER INDIRECT EXPENSES:	4,351,654	349,132	1,066,386	3,285,268	25%	21,527
TOTAL INDIRECT EXPENSES:	22,098,957	1,901,049	5,457,271	16,641,687	25%	67,469

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2023 to December 31, 2023
25% OF YEAR COMPLETE

SUMMARY PAGE	FISCAL 2024 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE
ACCESS TO JUSTICE	(336,864)	(30,683)	(74,977)	(261,887)
ADMISSIONS/BAR EXAM	(60,685)	(52,800)	165,006	(225,691)
ADVANCEMENT FTE	(368,381)	(31,477)	(91,651)	(276,729)
BAR NEWS	(98,064)	(5,541)	(37,896)	(60,168)
BOARD OF GOVERNORS	(566,110)	(14,937)	(77,269)	(488,841)
CLE - PRODUCTS	686,807	317,700	482,414	204,393
CLE - SEMINARS	(385,594)	31,109	5,502	(391,096)
CLIENT PROTECTION FUND	(92,700)	93,524	194,830	(287,530)
CHARACTER & FITNESS BOARD	(172,249)	(12,579)	(36,649)	(135,600)
COMMUNICATIONS	(824,968)	(58,331)	(168,511)	(656,457)
COMMUNICATIONS FTE	(249,385)	(21,482)	(62,565)	(186,820)
DESKBOOKS	(143,871)	(18,673)	(61,039)	(82,833)
DISCIPLINE	(6,195,089)	(516,370)	(1,482,299)	(4,712,790)
DIVERSITY	(341,883)	(22,731)	(66,675)	(275,208)
FINANCE	(738,582)	(34,064)	(80,180)	(658,402)
FOUNDATION	(161,208)	(17,667)	(45,941)	(115,267)
HUMAN RESOURCES	(470,254)	(54,433)	(158,724)	(311,530)
LAW CLERK PROGRAM	23,070	11,240	(2,449)	25,519
LEGISLATIVE	(281,300)	(23,862)	(67,500)	(213,800)
LEGAL LUNCHBOX	(22,696)	8,477	5,602	(28,298)
LICENSE FEES	17,320,499	1,381,101	4,146,854	13,173,645
LICENSING AND MEMBERSHIP	(234,896)	(26,559)	(28,754)	(206,143)
LIMITED LICENSE LEGAL TECHNICIAN	(71,128)	(5,781)	(16,729)	(54,399)
LIMITED PRACTICE OFFICERS	70,018	3,395	24,555	45,463
MANDATORY CLE ADMINISTRATION	197,896	56,805	133,513	64,383
MEMBER WELLNESS PROGRAM	(226,406)	(19,972)	(56,136)	(170,270)
MINI CLE	(110,349)	(9,933)	(28,963)	(81,386)
MEMBER SERVICES & ENGAGEMENT	(379,971)	(24,065)	(71,711)	(308,260)
NEW MEMBER EDUCATION	(32,137)	24,721	52,552	(84,689)
OFFICE OF GENERAL COUNSEL	(1,078,051)	(80,252)	(235,326)	(842,724)
OFFICE OF THE EXECUTIVE DIRECTOR	(817,261)	(64,599)	(187,093)	(630,168)
OGC-DISCIPLINARY BOARD	(315,741)	(26,372)	(77,451)	(238,290)
PRACTICE OF LAW BOARD	(88,560)	(7,237)	(21,186)	(67,375)
PRACTICE MANAGEMENT ASSISTANCE	(151,298)	(11,760)	(16,327)	(134,972)
PROFESSIONAL RESPONSIBILITY PROGRAM	(239,590)	(20,040)	(59,298)	(180,292)
PUBLIC SERVICE PROGRAMS	(397,889)	(42,999)	(79,064)	(318,825)
PUBLICATION & DESIGN SERVICES	(123,385)	(10,547)	(35,460)	(87,925)
REGULATORY SERVICES FTE	(540,945)	(46,056)	(129,102)	(411,842)
SECTIONS ADMINISTRATION	(2,703)	(23,740)	18,482	(21,185)
SECTIONS OPERATIONS	(328,603)	(647)	26,440	(355,043)
SERVICE CENTER	(733,618)	(62,502)	(181,141)	(552,477)
TECHNOLOGY	(2,094,122)	(190,459)	(535,398)	(1,558,724)
VOLUNTEER EDUCATION	(113,992)	(8,556)	(26,076)	(87,916)
INDIRECT EXPENSES	22,098,957	1,901,049	5,457,271	16,641,687
TOTAL OF ALL	(20,806,720)	(2,231,417)	(6,413,481)	(14,393,239)
NET INCOME (LOSS)	(1,292,237)	330,368	956,210	(2,248,448)

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**

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.]

2023-2024 WSBA BOARD OF GOVERNORS MEETING SCHEDULE

MEETING DATE	LOCATION	DESCRIPTION	MATERIALS DEADLINE
October 20-21, 2023	WSBA Conference Center Seattle, WA	Team Building Retreat	n/a
November 2-3, 2023	University of Washington School of Law Seattle, WA	BOG Meeting	October 10, 2023
January 12-13, 2024	WSBA Conference Center Seattle, WA	BOG Meeting MLK Luncheon Jan. 12	December 5, 2023
March 7-8, 2024	Gonzaga University School of Law Spokane, WA	BOG Meeting	February 13, 2024
May 2-3, 2024	Lodge at Columbia Point Richland, WA	BOG Meeting	April 9, 2024
July 18-19, 2024	Lucy F. Covington Government Center Nespelem, WA	BOG Meeting	June 18, 2024
September 6-7, 2024	Olympia Hotel at Capitol Lake Olympia, WA	BOG Meeting	August 13, 2024

NEW!

Beginning in fiscal year 2024 (October 1, 2023 – September 30, 2024), all proposed agenda items and materials must be submitted by the deadline stated above. Materials can be submitted through 1) a staff liaison, 2) staff supervisor or department director, 3) staff member identified by the Office of the Executive Director or, if none of those are applicable, 4) directly to the Executive Director (terran@wsba.org). Submitters will be notified of the status of their request after the materials deadline. All meeting materials will be published appx. two weeks prior to the meeting.

Materials should include: 1) a cover memo, 2) additional/supplemental materials, 3) be inclusive of all WSBA analyses, if relevant and, 4) be in final form suitable for publication. Click [here](#) for more information.



WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



Hunter Abell
President



Sunitha Anjilvel
President-Elect



Dan Clark
Immediate Past
President



Francis Adewale
Treasurer



Terra Nevitt
Executive Director
& Secretary

2023-2024



Kari Petrusek
Governor District 2



Sunitha Anjilvel
Governor District 1



Todd A. Bloom
Governor District 6



Matthew Dresden
Governor District 7-North



Serena Sayani
Governor District 7-South



Kristina Larry
Governor District 8



Kevin Fay
Governor District 9



Nam Nguyen
Governor District 10



Mary Rathbone
Governor District 4



Allison Widney
Governor District 3



Jordan Couch
Governor At-Large



Tom Ahearne
Governor At-Large



Brent Williams-Ruth
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 ¹	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No ²	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 ³
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 ⁴	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes ⁴	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



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

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.



BOARD OF GOVERNORS

Anthony David Gipe
President

phone: 206.386.4721
e-mail: 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

Working Together to Champion Justice

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Jason Schwarz, Chair WSBA Council on Public Defense
Maia Vanyo, Vice-Chair WSBA Council on Public Defense
DATE: February 23, 2024
RE: Indigent Defense Standards

ACTION: Adopt revisions to the WSBA Standards for Indigent Defense Services and recommend adoption of the Standards by the Washington Supreme Court.

Summarize the problem and the proposed solution in the first paragraph(s).

The WSBA Council on Public Defense (CPD) has approved the attached updated and revised WSBA Standards for Indigent Defense Services. We ask that the Board of Governors review and adopt these revised WSBA Standards. We also ask that you approve transmission of the Standards to the Washington Supreme Court with the recommendation that the Standards be adopted in the Supreme Court Standards for Indigent Defense, codified in CrR 3.1, CrRLJ 3.1, JuCR 9.1, and CCR 2.1.

Public defense in Washington is facing a crisis of attrition and inability to recruit brought about by excessive workloads and poor compensation. Repeatedly, we hear from law students that they do not want to enter public defense because of the volume of work with little staff support. And we hear from our resigning colleagues that they cannot continue the work given the volume of cases they are expected to handle, with or without improved compensation. Moreover, defendants in criminal prosecutions have a Constitutional right to representation by counsel and that representation must be meaningful. Not only do untenable caseloads create a personal career crisis for dedicated public defense civil servants, but they create a Constitutional crisis when there are insufficient numbers of public defense lawyers to represent the accused and others who are eligible for appointed counsel.

This crisis is not a distant fear. These proposed revisions are prompted by an unignorable shift in workloads and working conditions in public defense nationwide that has brought public defense to a very public crisis. Post-COVID, some Washington jurisdictions have experienced a surge in criminal case filings and simply do not have enough qualified defense attorneys. In other jurisdictions, public defense lawyers are within caseload limits, but the exponential increase in the time required to review the large volumes of electronic and technical discovery generated in each case demonstrates that the current caseload standards are outdated.

The current criminal caseload standards are based on 50-year-old national standards. They put public defenders in an unsustainable position where attorneys simply lack the time and resources necessary to provide Constitutionally adequate defense to their clients. The deprivation of the Sixth Amendment right to counsel can

result in dismissal of cases or, worse, the months-long pretrial detention of the innocent accused while awaiting appointment of an attorney.

Defenders recognize that high caseloads and the low level of staff support prevent them from meeting their ethical responsibilities, including to respond promptly to their clients and opposing counsel and to investigate cases. These conditions have made for dreadful working conditions and our public defenders are rapidly leaving the profession. In a three-month span, the King County Department of Public Defense lost ten Class A qualified lawyers and eighteen total lawyers requiring the transfer of 700 cases from departing attorneys to remaining staff attorneys. Benton and Franklin Counties were unable to recruit enough attorneys to represent charged defendants such that the accused sat in jails for months waiting for a lawyer for an arraignment.

Washington is not alone in this crisis. Nationally, jurisdictions have arrived at this point due to decades of insufficient funding for public defense lawyers and other essential staff and functions. For example, Oregon is facing a public and political reckoning brought about by years of underfunding public defense. In Washington, the problem is exacerbated by the minimal investment in public defense provided by the State. Moreover, the diverse and decentralized delivery of public defense in Washington presents significant challenges to ensuring that the quality of representation does not vary by geography. Given this backdrop, informed state-wide standards that reflect the current demands of public defense are necessary to meet the Constitutional and ethical requirements to provide competent defense to individuals eligible for public defense services. While this crisis was not created overnight and will take time to correct, the CPD believes the adoption of these Standards will begin to bring our public defense delivery system into alignment with Sixth Amendment standards.

With this backdrop, in January of 2022, the CPD Standards Committee convened public defense lawyers, investigators, and administrators; directors of Washington's public defense agencies; and law professors with expertise in public defense to discuss responses to increased caseloads. We held a listening session and heard public defense practitioners overwhelmingly speak of the need for support staff to assist lawyers, investigators, and social workers in responding to increased discovery (particularly hours of police body camera footage and other digital discovery), pleadings, and other tasks. We gathered this feedback and began a lengthy process of revising the Indigent Defense Standards with the modern public defense practice in mind.

Our work to provide revised Indigent Defense Standards that comply with the Sixth Amendment was further informed by the publication in September 2023 of a National Public Defense Workload Study (NPDWS). Published by a coalition of the RAND Corporation, the American Bar Association, the National Center for State Courts, and nationally recognized public defense expert Steve Hanlon, this report is a groundbreaking national study into public defense workload standards that meet Constitutional requirements. The NPDWS employed quantitative research techniques with a panel of thirty-three expert criminal defense attorneys to reach a consensus on the number of hours required to provide effective defense in several categories of criminal cases. The resulting product is a valuable tool for understanding the significant gap between the time available now for attorneys to spend on cases compared to the amount of time necessary to spend on cases. The NPDWS also assists with forecasting current and future staffing needs. The NPDWS effectively concludes that the current caseload standards used by a majority

of states, including Washington, do not meet the Constitutional standards for effective public defense delivery. Given the robust foundations for the NPDWS conclusions, we have incorporated the NPDWS standards into the proposed revision of criminal public defense attorney caseload standards.

Although the CPD's revisions to the Standards began two years ago in a discussion session hosted by the CPD and our revisions are comprehensive, our work has become increasingly pressing as we face the mounting crisis in public defense. Following the release of the NPDWS report, the WSBA received a request by the Justices of the Washington State Supreme Court for Proposed Revisions to CrR 3.1, CrRLJ 3.1, and JuCr 9.1 - Public Defense Caseload Standards. The Justices, cognizant of the shortage of lawyers and the consequences to the criminal legal system, asked for updated caseload standards by November of 2023. The CPD asked for and was granted additional time to adapt the NPDWS workload measures to Washington law and to gather feedback from public defense professionals.

Taking into consideration the evolution of defense practice since the last time a holistic review of the Standards was conducted, these revised Standards address three distinct concerns:

1. SUPPORT STAFF

At the first January 2022 meeting of public defense Directors and lawyers convened by CPD's Standards Committee, attendees asked for additional clarification about the expectation that each defense attorney is fully supported by staff, investigators, and social workers who can provide expertise and efficiencies that the lawyers do not possess. This request was driven by changes in the practice, which involved increased management of digital discovery as well as increased demands for mitigation and other social work services. Many public defense lawyers are contractors who run small or solo practitioner firms with little to no staff support and little access to funds to retain such support. The lack of support staff, including access to investigators and social workers, is often centralized to rural and smaller jurisdictions, particularly where public defense is not administered by a lawyer with knowledge of and an obligation to fulfill these Standards. The CPD continued to gather input on these issues throughout our revision process. The CPD's Standards Committee members include non-lawyer public defenders who provided input from their SEIU-supported staff. We also conducted a survey of public defenders (lawyers and non-lawyers) for feedback on these revisions. Responses to that survey from both lawyers and non-lawyers showed overwhelming support for our revisions to the sections impacting support staff.

2. ATTORNEY QUALIFICATIONS:

The Indigent Defense Standards provide the required qualifications attorneys must meet prior to handling cases at various stages of difficulty. Revisions to these standards are needed due to the attrition of attorneys qualified to represent clients in the most serious cases throughout the State. The COVID-19 pandemic made matters worse by preventing attorneys from becoming trial-qualified while cases were put on hold. Therefore, the CPD's goal was to balance providing a clearer and faster path for attorneys to qualify to handle cases of increasing difficulty, while ensuring lawyers have the experience necessary to represent clients at those levels. If lawyers can more easily become qualified to represent the accused in

more serious cases, there will be a larger pool of lawyers available to take those cases, averting the shortages that result in unrepresented defendants. Our revisions incorporate changes in practice and the need for additional training and supervision to supplement trial experience, particularly in jurisdictions where trials are relatively rare. The revision of the qualifications standard was approved by the CPD. They are overwhelmingly supported by surveyed public defense practitioners.

3. CASELOADS

The NPDWS report was published in September 2023. The Study proposes new national caseload standards for public defense using rigorous, consensus-building research techniques with 33 experienced, well-respected lawyers with decades experience in criminal defense and public defense. The NPDWS also compared its results to 19 prior studies of public defense lawyers' time on criminal cases. In October 2023, the CPD received a letter from the Supreme Court of Washington asking the CPD for revised public defense Caseload Standards by November of 2023. Given the extensive nature of reviewing the NPDWS and incorporating it and other revisions, the Court granted CPD additional time to review and adapt the NPDWS into Standard 3.

The revised Standards represent two years of work by members of the CPD comprised of law professors, private and public defense attorneys from every level of court, public defense administrators, retired defenders, prosecutors, judges, impacted community members and professionals, and public defense investigators. The Standards are a product of years of feedback from Washington public defense practitioners, prosecutors, judges, community members, and other legally adjacent professionals. We have heard from over 300 public defense practitioners (lawyers, paralegals, investigators, social workers, and administrators) and they overwhelmingly support our revisions to these Standards. Their support is critical to getting in front of this crisis.

For too long, public defense attorneys have not seen a light at the end of their career tunnel, with no caseload relief in sight. Attorneys who in the past chose public defense as their practice area on admission to the WSBA increasingly are choosing other practice areas, primarily due to excessive public defense caseloads, lack of sufficient support services, and compensation. These revised Standards will provide that hope and will allow us to immediately retain qualified lawyers and begin *nationally* recruiting a new generation of public defenders. Most importantly, these Standards reflect the work needed to effectively represent the thousands of individuals entitled to public defense representation each year.

Lastly, changes to these Standards are only one piece in a web of complex public defense systems statewide, primarily in delivery systems administered and funded on a county and city level. Additional work by a diverse range of stakeholders will be necessary to bring Washington out of this public defense crisis. These additional efforts, however, go beyond the scope of the present revision of the Standards. The CPD's and BOG's primary role is to promulgate standards for public defense practice. But the CPD cannot implement the Standards locally or advocate for funding with State or local funders. The CPD alone is not capable of requiring changes to local delivery systems to bring them into alignment with recommendations or best practices. Nonetheless, the proposed revisions to the Standards of Indigent Defense are an important and necessary first step in that process.

Please see the attached report for additional information about the proposed revisions.

Background

Provide the procedural background as well as any supporting data or information in this section. Describe the proposing entity and any relevant policies, procedures, rules or court orders that impact this decision or grant authority to take action. This information will help inform the Risk Analysis.

- *Has the request come to the Board before? If so, what has been done since then? How has the proposal changed?*

The BOG has previously adopted and subsequently revised public defense standards. The BOG has adopted the following policies developed by the CPD concerning the Standards:

- WSBA Standards for Indigent Defense Services, adopted in 2011, most recent revision September 2021
- Implementation of the Standards for Indigent Defense During the Coronavirus Emergency, September 2020
- Council on Public Defense Advisory Notice: Response to the Emergency Caused by Pandemic-Driven Increase in Public Defender Caseloads, January 2021
- Council on Public Defense Statement on Workloads, January 2022
- Council on Public Defense Statement: Public Defense Lawyers Should Seek Relief From Excessive Workloads, July 2022

These have been indispensable to public defense providers and their funders in responding to challenges resulting from the COVID-19 pandemic. The current proposal is for a complete revision of the existing Standards.

- *Has WSBA ever taken a position on this issue/had a program to address this? What was it? Has anything changed since then?*

As outlined above, the BOG has long been involved in the adoption of public defense standards. The Board of Governors first adopted the Washington Defender Association Standards for Public Defense Services in 1984, and a revised version in January 1990. The BOG adopted revisions to Standard 18 and a new Standard 19 in May 2021. The caseload standards, however, have not substantially changed since they were first adopted in 1984, at levels first issued nationally in the early 1970s.

Much has changed in public defense since the last major revision of the WSBA Standards. Changes in technology, COVID backlogs, and “upstream” changes to police and prosecution practices result in heavy workloads that have led to significant challenges in providing a Constitutionally acceptable level of defense, and relatedly, in recruiting and retaining public defense attorneys. A corollary of this problem is that many accused persons have languished in jail awaiting appointment of counsel because the local defense lawyers had reached their caseload limits and could not take new cases. The revised Standards are necessary to address the current demands of public defense cases.

- *How did you learn about the problem?*

Excessively high caseloads and a lack of public defense support staff have long been concerns for public defense providers in Washington and across the nation. After COVID-19 created an additional backlog of unresolved criminal prosecutions, the CPD began exploring a revision of the Standards of Indigent Defense. The CPD

consistently heard from attorneys about the challenges posed by excessive caseloads and staffing shortages at the following outreach events:

- Listening Sessions
 - January 2022 – PD lawyers and administrators discuss support staff shortages and overwhelming digital discovery processing demands
 - October 2023, December 2023, and February 2024 – Open Listening Session in response to Revisions in Support Staff and Qualifications Standards.
 - January 2024 – Technical Listening Session with King and Whatcom Co attorneys about RCW and NPDWS case-type classifications
 - January 2024 – Listening Session in response to Revisions by WDA Board of Directors and County-level public defense agency directors
- CLEs
 - April 2023 – CLE by Professor Boruchowitz about the NPDWS Standards compared to current WSBA Standards
 - December 2023 – Ethics CLE by CPD Chair Jason Schwarz about the ethical standards and assumptions in the NWPDS setting new standards for public defense practice
- Surveys
 - April 2023 – State OPD survey showing practitioners’ largest concerns impacting their employment was being underpaid and having excessive workloads
 - February 2024 – CPD survey where over 300 respondents overwhelmingly supported revisions to the standards
- Open Meetings
 - All CPD Standards Meetings are open. We have received increased attendance and participation by practitioners and directors throughout the process.
 - We have received countless emails and phone calls from colleagues recommending substantive and technical changes throughout the two-year process.

Notes were taken at all these meetings. Survey results and all comments and emails were sent to the CPD Standards Committee for review, deliberation, and potential adoption. The Standards Committee scheduled over 60 hours of volunteer meeting time in 2023 in addition to time spent at CPD meetings, other listening sessions and small group standards drafting sessions. Feedback from practitioners, particularly non-lawyer staff, were essential to determining necessary support staff language.

- ***What data or information supports the existence of a problem?***

As previously noted, untenable caseloads and staffing shortages are a longstanding problem in public defense. This is confirmed by many sources including the NPDWS workload study, as well as similar studies of public defense workloads in 19 other states. Specifically in Washington, these issues have been repeatedly raised by public defense practitioners and documented in news articles throughout Washington in 2023 about defendants going unrepresented because of the shortage of qualified public defense attorneys.

- ***What steps have been taken to arrive at the proposed solution? Were any alternative solutions considered and why were they rejected?***

Please refer to the CPD Report on Proposed Revisions to the Standards of Indigent Defense for a thorough discussion of the methodology and data that was considered while formulating the revisions.

SUPPORT STAFF & QUALIFICATIONS: The CPD has spent two years revising the Standards. During that revision, the Standards Committee members spoke with practitioners in specific practice areas about needed qualifications and standards for support staff. The Standards Committee is made of public defenders, private defense attorneys, public defense administrators, law school professors, public defense investigators, all of whom brought their extensive experience to the development of the revised Standards.

CASELOADS: The revisions to caseload standards, were informed by the NPDWS report. Current Washington standards assume a maximum caseload limit of 150 felony cases per attorney or 400 misdemeanor non-weighted cases. The current standards make no distinction between the seriousness of cases, such that each felony is valued the same even though some case types take more time, experience, and skill to resolve. The workloads included in the NPDWS report better reflect the actual time required to adequately investigate and defend cases at several levels of difficulty. Making a distinction between case types will allow public defense administrators to distribute cases more equitably and better forecast future attorney and staffing needs. In this way, the NPDWS more closely aligns with the reality of public defense and allocation of the time necessary to effectively represent individuals, as opposed to the amount of time public defense attorneys can triage workloads that allow minimal time to represent clients.

The NPDWS report recommends, and the CPD undertook, to adapt the NPDWS numbers to Washington law, as well as to account for the actual annual hours available to lawyers to devote to client representation. Local laws can impact the amount of time a lawyer spends on a particular case type. To adapt the NPDWS to Washington law required 1) mapping the criminal code to the NPDWS Case Categories (*See Appendix B*); 2) comparing national hour assumptions with available local data or commencing a timekeeping study; and 3) creating implementation standards for estimating future FTE needs, expected annual billable hours worked and means of regulation in a decentralized public defense system with a variety of public defense delivery systems (government agencies, non-profit public defense firms, for-profit public defense firms, solo practitioners or small firms who take some public defense, flat-fee contractors, hourly contractors, etc.).

The NPDWS was adapted to Washington by members of the Standards Committee with review and feedback provided by: practitioners through a survey, meetings with practitioners and public defense Directors, CLE presentations to Washington Defender Association members, and public defenders who solicited emails and other less formal suggestions (of which there were many). In preparation for the NPDWS publication, the CPD heard presentations from authors, accountants, experts, and participants in the NPDWS and other state public defense workload studies, including from local experts on topics such as the disparities between legal outcomes for rural v. urban defendants, and understanding new technology that allows defenders to access data on disproportionate sentencing outcomes for BIPOC clients. We have also heard from experts about the impact of secondary trauma on defenders and how that trauma can, in turn, result in less just outcomes and worse experiences for their clients in the legal system.

As mentioned above, there is a current shortage of public defense attorneys and adding increased demand to short supply will only result in more defendants being charged with crimes without there being enough defense attorneys to represent the accused. Without intervention, this pattern will continue and increase. Thus, the CPD is recommending a multi-year implementation to allow local jurisdictions time to plan for additional costs and spread costs over multiple years without creating immediate excessive unfillable demand resulting in unrepresented defendants. Without question, the implementation portion of this revision has been the most discussed and contested. While there is pressing need to implement these standards immediately, the CPD sought to weigh this need against the practical concerns of public defense administrators and local jurisdictions who worry about the cost and ability to secure funding to bring their jurisdiction into compliance with the revised standards. An additional practical concern is the general shortage of lawyers facing many public service law firms and government offices. Revisions to the caseload standards should provide some additional assistance in recruiting. Other states have opted for a multi-year study of local timekeeping habits before revising and implementing standards, but many of those states have centralized public defense delivery systems that require that lawyers keep time. Concerns about accessing sufficient local and state funding to meet qualifications is not new in public defense; few jurisdictions are currently in full compliance with the WSBA Standards. Adoption of these Standards will spark increased funding for public defense, supporting increased compliance. This correction in funding is critical and long overdue, though it will admittedly be a challenge for local public defense administrators, local governments and the State.

- *Have you considered the issue through an equity lens? How has that informed your understanding of the problem and/or the proposed solution?*

The CPD Standards Committee has been grounded in our awareness that these revisions most greatly impact public defense clients. While revisions in Standards will assist in retaining and recruiting future public defenders, it will have the greatest impact on public defense clients. These clients are indigent, often suffering from trauma, mental illness and/or addiction, and are disproportionately Black, Indigenous, and other people of color. Public defenders have historically served these populations, but attorney and non-attorney staffing and funding have been insufficient to provide the level of representation that meets modern standards of practice. The CPD itself is a diverse body composed of public defenders, prosecutors, judges from District, Superior, and the Supreme Court, professors, public defense investigators, and formerly legally involved people. Among the presentations that have informed our discussions are trainings by the Washington State OPD DEI Trainer, Barbara Harris, as well as sponsorship and participation in CLEs about the role of an attorney in advocating system change for racial justice by Jeffrey Robinson. Additional presentations also informed the CPD about the role that secondary trauma has on defenders, creating unjust legal outcomes as well as real human resource concerns for offices and law firms representing the accused.

- *Any barriers to the proposed solution? How will they be addressed?*

Although there do not appear to be barriers to adopting the revised Standards, the CPD recognizes that implementing the Standards in local jurisdictions will increase the cost of public defense services. The CPD's role, however, is limited and we do not have authority to address funding concerns at either the local or state level. To

alleviate some of the funding pressures, the revised Standards provide for a gradual implementation to allow time for agencies to request additional funding and hire staff and for counties and cities to adjust budgets. The changes will impact jurisdictions differently and each of those unique impacts must be navigated. As part of our work, the CPD has created spreadsheets for local practitioners to forecast future FTE needs as well as real-time case assignment management tools for supervisors and lawyers.

Information for Fiscal Analysis

Provide information to help inform the Fiscal Analysis.

- *Is a similar project or program already in the WSBA budget?*

No

- *If implemented, what is your estimated budget for the project?*

None

- *If implemented, will this project require staff time?*

No

- *Is this a new technology? Have other similar technologies been explored?*

No

- *If implemented, will this project save the WSBA money?*

No

- *Would this project bring in any revenue?*

No

Information for Equity Analysis

The purpose of the equity assessments is to understand entities incorporated an equity lens into the action items presented to the Board of Governors. Equity is meeting impacted parties according to their needs to produce fair and equal outcomes for all. Please answer all questions completely in order to receive a comprehensive equity assessment.

- *IMPACTED GROUPS: Please describe the direct and indirect impacts of 1) the overall work of your entity and 2) this specific action on the categories below. If you do not believe the action has a direct or indirect impact on any of these categories, please explain why.*
 - *The general WSBA membership*

The overall work of the CPD and the revised Standards will increase access to justice and provide better assistance of appointed counsel. Our work provides the Standards by which public defense lawyers assess their own work and understand their obligations. Bringing our Standards into alignment with Constitutional and national norms enhances the general WSBA membership's reputation and the perception of our profession as committed and hard-working lawyers.

- *WSBA staff*

The revisions will not have an impact on WSBA Staff.

- *A subgroup of WSBA membership (e.g. LLLTs, family law practitioners, Minority Bar Association members, legal professionals from specific marginalized and underrepresented communities)*

As written at length above, these revisions will have a profound impact on public defense lawyers.

- *Members of the public in need of legal services (if applicable, please include specific client communities)*

The accused and others facing the loss of their liberty or other protected rights are disproportionately poor, BIPOC, and suffering from acute trauma or illness. Studies show that poor public defense representation results in lengthier prison sentences and the incarceration of the innocent. The most important impact of these revisions will be to assure that Washington is providing effective and timely assistance of counsel. Failure to attend to our clients results in our clients' perception of the criminal legal system as failing them personally – loss of faith in the legal system due to underfunded civil servants is an easily avoidable PR problem. Most importantly, when the public defense system fails, we become purveyors of an injustice that almost solely impacts the accused. These revisions will ensure greater access to justice for the most marginalized communities.

- *PROCESS: How did you collaborate with impacted groups identified above? How did you integrate input or leadership from impacted groups into this project or proposed action? If you did not collaborate with or integrate input from impacted groups identified above, please explain why. What resources do you need to sustain relationships with impacted groups? If you do not plan to sustain relationships with impacted groups, please explain why.*

CPD engaged with the impacted groups identified above during the listening sessions, CLEs, surveys, and many meetings held with stakeholders. In addition, the CPD has collaborated with our colleagues in advance of the adoption of these revised Standards to assure effective implementation. The Washington Defender Association is planning to devote portions of its Spring Conference CLE to understanding and administering the Standards, if approved; State OPD is planning to expand its existing trial training academy to meet some of the training needs referenced in the Standard 14 – Attorney Qualifications. Materials and PowerPoint presentations from the relevant CLEs have been available to Public Defense Agency Directors to use in presentations to their local funding authorities. State OPD will continue to provide caseload calculator worksheets and other tools on its website as these Standards are implemented.

- *OUTCOMES: What are the intended outcomes of this specific action? Are there potential unintended consequences? Of the impacted groups outlined above, who benefits most from this action? Conversely, are there groups who may be burdened?*

The primary goal of these revisions is to bring public defense workloads and support staff in Washington into alignment with data-driven national and ethical norms that are consistent with Sixth and Fourteenth Amendments and Washington caselaw.

There will be short- and long-term unintended consequences, but they have been considered. The CPD takes seriously the concern about consequences and encourages the BOG's attention and consideration of the consequences. Adopting these changes to caseload standards will, in the short term, result in attorney shortages that could result in the accused going unrepresented until qualified counsel are available. For example, changing caseload standards would create immediate need for more lawyers. This would occur each year of the phased implementation. If that need for immediate lawyers is unmet, there will be insufficient public defense attorneys to represent the accused. This will result in delayed representation.

To be clear, this is already occurring in jurisdictions throughout Washington. If the current Standards are not revised, the number of unrepresented defendants will still continue to rise due to public defense attorney attrition due to excessive caseloads and poor pay. While the revised Standards may lead to these short-term consequences, they are nonetheless necessary to provide a long-term solution. Continuing under the current caseloads is simply unsustainable.

The CPD cannot predict which jurisdictions will face these shortages, how deep the shortages will be, or the impact. Some jurisdictions are already preparing for the changes to these Standards and will continue to be able to provide timely representation. But the history of implementation of similar standards in other states informs us that we should be prepared for the revised Standards to impact the ability to provide timely legal representation to the accused. This similarly occurred in 2011 when the BOG approved the original Indigent Defense Standards.

To best prepare, the CPD is recommending a phased implementation. The phased implementation is designed to defer the costs over four years. In addition, implementation would not begin until July of 2025, giving local governments over a year before any budget changes could occur. We have been and will continue to work to support State OPD's budget and raise awareness at the local and state level of expected changes to these standards such that no jurisdiction should be surprised. CPD members have spoken to elected representatives from every branch of government about the need to revise the Standards and the need for State and local cooperation. We have been providing FTE and caseload forecasting worksheets to Public Defense Directors and Supervisors to assist in forecasting and caseload management. We will continue to collaborate with State OPD and WDA to communicate with defenders and provide necessary trainings mentioned in the updated qualifications portions of the Standards.

In the long-term, the changes in these Standards will assure that the accused do not go unrepresented. The changes should assure a workload that allows defenders to commit their talents and knowledge to their clients consistent with our Constitutional duties and commitment to the values of equity which understand that each person deserves a quality defense, not just those who can pay for it. The Standards, if approved, should staunch the bleeding of retiring and resigning defenders, and allow agencies to recruit attorneys with the assurance of a livable workload that competes with other public service legal work.

In the end, these changes are meant to improve the quality of representation to the accused. They will be assured a criminal legal system where the accused will have access to a lawyer with the caseload capacity to litigate their case as the public would expect of public defenders. The legal system itself will be improved by less stressed and

traumatized public defenders who will have the capacity to work and advocate for their clients with the assurance of time, professional training, and capacity for supervision, mentorship, and increased qualifications.

The group most burdened by these changes will be public defense administrators and local jurisdictions who fund public defense.

- **EVALUATION:** *How will you measure the impact of the action, including unintended consequences and disparities among impacted groups? What resources do you need to evaluate the impact of this action and track any unintended consequences or disparities?*

These Standards will provide detailed data about public defense work that will assist in supervising and improving representation. It will also provide improved forecasting of future changes in public defense workload patterns, as well as attorney and non-attorney needs.

In order to effectively evaluate these Standards, we need to propose an effective system of public defense caseload and qualifications enforcement. The only current tool is the public defense lawyer certifications required by the Washington Supreme Court under CrR 3.1, CrRLJ 3.1, and JuCr 9.1. The CPD intends to convene a group of practitioners to report back to the CPD to make recommendations for changes in enforcement of compliance with Standards. We will seek broad representation from the WSBA, State OPD, trial court judges, public defenders and public defense administrators.

- **FUTURE LEARNING:** *Learning to lead with an equity lens is an ongoing process. Please reflect on how you might improve on how you collaborate with impacted groups for future projects and actions. What additional trainings or resources would be helpful to your entity to improve in this area?*

We need to pay non-lawyer volunteers. The CPD has historically sought the participation of people impacted by the legal system. While we have had no challenges recruiting former clients, their participation is limited by their financial ability to leave work to attend bar association meetings. In 2023, the CPD welcomed a non-lawyer staff investigator to our membership who is also an SEIU Steward. Her participation has profoundly transformed our work and its inclusivity. But it also comes at a cost to her because she is not regulated by the WSBA and has no place in her work structure for pro bono or volunteer paid hours. She is taking PTO for every CPD meeting and is now out of PTO. We need to value the diverse experiences and knowledge of non-lawyer community members and pay them for their volunteer work in our profession.

We need additional staff support. The CPD still must respond to the Justice's request for suggestions for more robust public defense standards under the Court's rules and qualifications enforcement mechanism. At the request of practitioners and the State Office of Public Defense, we will begin discussing workloads for family defense public defense lawyers and civil commitment lawyers. Each of these tasks will take considerable work by volunteers. While our volunteers are amazing, we must respect their professional and personal demands by providing sufficient support and administrative guidance by WSBA staff. The CPD needs additional staff support to coordinate our volunteers in these (and other) actively working subcommittees with deadlines and accountable demands from the judicial branch and our practitioners.

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

GR 12 and Keller germaneness test

The WSBA Standards for Indigent Defense Services are authorized by GR 12.2(a)(2), 12.2(b)(2) and are not prohibited by GR 12.2(c). The current Standards were approved by the Court and the Court requested that the WSBA propose revisions. The Standards also satisfy the Keller germaneness test by reasonably relating to regulation of the practice of law and to improving the quality of legal services.

Purposes and Uses of the WSBA Standards for Indigent Defense Services

RCW 10.101.030 requires that counties and cities adopt standards for the delivery of public defense services and states that the Washington State Bar Association Standards for the Provision of Public Defense Services serve as guidelines to these local legislative authorities. The WSBA Standards “may be considered with other evidence concerning the effective assistance of counsel.” *State v. A.N.J.*, 168 Wn.2d 91, 110, 225 P.3d 956 (2010)

Risk

The Board is asked to adopt the revised Standards and recommend them to the Court. There appears to be little risk in recommending the revisions to the Court. There appears to be greater risk in not recommending updated Standards for Court consideration. The WSBA, by statute, plays a role in creating guidelines used by counties, cities. Additionally, the WSBA Standards can be considered when courts determine ineffective assistance of counsel cases. Failing to maintain and update these standards could impact the justice system and the courts and could lead to legal and other risks for the WSBA.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

NA

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

We do not see any immediate equity concerns with the action in front of the Board of Governors to update the Standards. The CPD has demonstrated that they have been able to gather input from a diversity of perspectives, including front line public defenders and staff who see firsthand the impact of the criminal justice system on people from marginalized, within their limited capacity, and significant time and attention has been put into this effort.

However, as CPD noted, the successful implementation of these updated Standards will require sustained investment, funding, and coordinated efforts. It is evident that client communities reliant on public defense will be most affected by the consequences of these updated Standards without comprehensive support for implementation. The well-being and retention of public defenders and other public defense staff who are dealing

with excessive workloads and systemic barriers to providing representation is essential to a criminal legal system that does not continue to oppress communities who have been historically marginalized.

We agree with CPD's recommendation that to effectively support the implementation of the revised Standards, the WSBA should seriously consider providing increased CPD staffing who have specialized expertise in legal and client community outreach and engagement. By supporting the CPD's leadership in this area, the WSBA could play a pivotal role in convening stakeholders and those impacted to ensure successful implementation of the Standards.

Attachments

The Council on Public Defense Report on Proposed Revisions to the Standards for Indigent Defense Services.

WSBA Standards for Indigent
Defense Services –
Proposed Revisions (Comparison Chart)

INTRODUCTION

The Washington State Bar Association (*WSBA Standards for Indigent Defense Services*) reflect 50 years of work by national and state experts, practicing attorneys and public defense administrators. They establish the standards necessary to ensure legal representation for clients represented by a public defense attorney meets constitutional, statutory, and ethical requirements.

The *WSBA Standards* detail the minimum requirements for attorneys representing individual clients and for state and local administrators who “manage and oversee”¹ public defense services. The Washington State legislature, in RCW 10.101.030, requires counties and cities to adopt standards for the delivery of public defense services, regardless of whether public defense services are provided by contract, assigned counsel, or a public defender agency or nonprofit office. In doing so, RCW 10.101.030 provides that the *WSBA Standards* should serve as guidelines to local legislative authorities in adopting their standards.²

Compliance with these *WSBA Standards* ensures the consistent delivery of effective representation of individuals who face the loss of liberty or other protected rights. Ineffective representation can result in a wrongful criminal conviction or juvenile court adjudication, inappropriate civil commitment, or unlawful termination of parental rights. Compliance with these *WSBA Standards* protects the public, victims, state, and other jurisdictions, as well as public defense attorneys.

The *WSBA Standards* are consistent with, but more comprehensive³ than, the Washington Supreme Court’s *Standards for Indigent Defense* that are included in the Washington State Court Rules⁴ and referred, hereafter, as the *Court Rule Standards*. All public defense attorneys must certify every

¹ See, Washington State Court Rule [GR 42](#): “The terms ‘manage’ and ‘oversee’ include: drafting, awarding, renewing, and terminating public defense contracts; adding attorneys or removing them from assigned counsel lists; developing or issuing case weighting policies; monitoring attorney caseload limits and case-level qualifications; monitoring compliance with contracts, policies, procedures and standards; and recommending compensation.”

² “Each county or city under this chapter shall adopt standards for the delivery of public defense services, whether those services are provided by contract, assigned counsel, or a public defender office. Standards shall include the following: Compensation of counsel, duties and responsibilities of counsel, case load limits and types of cases, responsibility for expert witness fees and other costs associated with representation, administrative expenses, support services, reports of attorney activity and vouchers, training, supervision, monitoring and evaluation of attorneys, substitution of attorneys or assignment of contracts, limitations on private practice of contract attorneys, qualifications of attorneys, disposition of client complaints, cause for termination of contract or removal of attorney, and nondiscrimination. The standards endorsed by the Washington state bar association for the provision of public defense services should serve as guidelines to local legislative authorities in adopting standards.” RCW 10.101.030.

³ See the list of topics addressed in the *WSBA Standards* compared to the list of subjects addressed in the *Court Rule Standards* in Appendix A.

⁴ Specifically, CrR 3.1, CrRLJ 3.1, JuCR 9.2, and CCR 2.1.

Original Language

Proposed Language

quarter that they comply with the *Court Rule Standards*.⁵ The *Court Rule Standards* also include “additional Standards beyond those required for certification as guidance for public defense attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wn.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign.”⁶

In addition to compliance with both the *WSBA* and *Court Rule Standards*, public defense attorneys must comply with the Washington Rules of Professional Conduct (ethical requirements) and be familiar with and consider Performance Guidelines adopted by the WSBA and others for specific practice areas (adult criminal, juvenile court offender, family defense, civil commitment, and appeals).

DEFINITIONS

1. Assigned Counsel – Attorneys who provide public defense services in a local jurisdiction who are not employees of a Public Defense Agency, often without a formal contract; frequently referred to as panel or conflict attorneys.
2. Case – A "case" is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument, a juvenile court offender or BECCA petition, a dependency or termination of parental rights petition, a civil commitment petition, or an appeal. For additional explanation in relation to caseload capacity, refer to Standards 3.H and 3.I.
3. Case Weighting/Credits – A case weighting system assigns higher and lower values or weighted case credits to assigned cases based on the amount of time that is typically required to provide effective representation.
4. Caseload – The number of cases assigned to a public defense attorney in a 12-month period.
5. Co-counsel – An additional public defense attorney assigned to a case with the originally assigned attorney (lead counsel).
6. Defense Investigator – A non-lawyer legal professional who guides and executes the defense investigation of a client's case. Defense Investigators perform substantive work that requires full knowledge of court proceedings, court rules, and Washington State law. A Defense Investigator's review of case evidence requires an understanding of government investigative procedures and regulations, a familiarity with forensic disciplines, the aptitude to stay current with advancements in technology, and an ability to ascertain factual discrepancies. They may interview witnesses identified by the police investigation, as well as identify, locate, and interview witnesses unknown to the State. Defense Investigators may gather evidence useful to the defense by recording witness statements, conducting field investigations, photographing the crime scene, gathering records, and taking screenshots of online materials. A Defense Investigator's preservation of evidence is critical to trial preparations, as they can testify to lay the foundation for that evidence, as well as explain case details and assist with impeachment of witnesses. The use of a Defense Investigator is not limited to criminal cases. Defense Investigators

⁵ The Preamble to the Supreme Court's *Court Rule Standards* states: “To the extent that certain Standards may refer to or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining Certifications.”

⁶ Preamble to the Washington Supreme Court's [Standards for Indigent Defense](#).

Original Language

Proposed Language

are also important professionals in Dependency proceedings, Sexual Offender Commitment petitions, and other proceedings that affect a client's liberty or other constitutionally protected interest.

7. Experts – Individual persons, firms, or businesses who provide a high level of knowledge or skill in a particular subject matter, such as DNA or crime scene analyses, and assist public defense attorneys in providing legal representation for their client.
8. Flat Fee Agreement – A contract or informal policy agreement where a private attorney or firm agrees to handle an unlimited number of cases for a single flat fee.
9. Fully Supported Defense Attorneys - Public defense attorneys who meet or exceed Standards Four, Five, Six, Seven, Nine, Ten, Thirteen and Fourteen of these *Standards*.
10. Jurisdictions – State, county and city entities that provide public defense services.
11. Legal Assistant - A non-lawyer legal professional who assists the attorney with administrative tasks. Legal Assistants often are responsible for filing pleadings generated by the lawyer or paralegal and ensuring the timely processing of mail and legal documents to meet court mandated deadlines. They may answer phones and assist with communications between the defense team, clients, defense experts, witnesses, and others. Some Legal Assistants are responsible for calendaring, opening and closing case files, updating case management systems, processing legal discovery (electronic or otherwise), and ensuring that critical information is accurately conveyed and recorded, if needed.
12. Lead Counsel – A lead counsel is the main lawyer in charge of a case. They are usually the most experienced and manage any other lawyers working on the case.
13. Mitigation Specialist - A mental health professional, a social worker, or social services provider, with specialized training or experience who gathers biographical, medical, and family history of the client to assist the lawyer, including preparing a document to inform the court and/or prosecutor or State of factors in the client’s life. Mitigation Specialists also help clients navigate social service support and prepare for assessments.
14. Open Caseload – The number of assigned cases a public defender has that are actively open. Open Caseload is a day-in-time snapshot of a public defense attorney’s caseload; whereas “Caseload” is the number of assigned cases in a year.
15. Paralegal – A non-lawyer legal professional, frequently a graduate of an ABA-approved Paralegal Studies program, who does substantive work that requires familiarity with court proceedings, court rules, and Washington State law. Paralegals are frequently responsible for performing complex legal research and drafting legal documents such as subpoenas, pleadings, and motions and creating discovery binders, preparing exhibits, coordinating witness schedules, and assisting with organization at counsel table. Paralegals may assist the attorney with client communication and act as a liaison with defense experts, prosecutors, bailiffs, and jail officials. They also may track upcoming court hearings, trial dates, and other critical timelines to help with attorney organization.
16. Per Case Agreement - A contract or informal policy agreement where a private attorney or firm agrees to handle cases on a flat, per case amount.
17. Private Attorneys – An attorney who works in private practice who provides public defense services whether by contract, subcontract, assignment, appointment, or other process.

Original Language

Proposed Language

18. Private Firm – For-profit law firm that provides public defense services, whether by contract, subcontract, assignment, appointment, or other process.
19. Public Defender – Any person working as or with a public defense attorney, firm, or public defense agency whether an attorney, social worker, office administrator, investigator, mitigation specialist, paralegal, legal assistant, human resources specialist, data analyst, etc.
20. Public Defense Administrator – Person, whether attorney or not, who is responsible overall for the administration, management, and oversight of public defense.
21. Public Defense Agency - Government and nonprofit offices that only provide public defense representation.
22. Public Defense Attorney – A private attorney, attorney working in a private firm, and an attorney working in a public defense agency who is assigned to represent individuals who are indigent or indigent and able to contribute and have a statutory or constitutional right to court-appointed counsel.
23. Reasonable Compensation – Market rate for similar legal and expert services. Reasonable compensation includes more than attorney wages, salary, benefits, contract payments or hourly rate payments. Reasonable Compensation includes the cost of office overhead (including administrative costs), support staff or services, training, supervision, and other services not separately funded.
24. Significant Portion of a Trial – Planning or participating in essential aspects of a trial which includes, but is not limited to, motions *in limine*, jury selection, opening statements, direct and cross examination, motions and objections, preparation of and advocacy for jury instructions, and closing arguments.
25. Social Worker - A public defense professional with a master’s degree in Social Work who provides professional services to assist the attorney and to help meet the basic and complex needs of the client. Often, this can involve enrolling in health care or other government support services.
26. Trial Academy - An organized trial training program of at least 20 hours of sessions that is presented by the Washington State Office of Public Defense, the Washington Defender Association, the Washington Association of Criminal Defense Attorneys, the National Association of Criminal Defense Lawyers, the National Institute for Trial Advocacy, the National Association for Public Defense, the Gault Center, the National Criminal Defense College, Gideon’s Promise, or any other organization approved for CLE training by the Washington State Bar Association. A trial academy must include defender skills training that may encompass motion practice, opening and closing statements, objections, preserving issues for appeal, direct and cross examination, race bias, client communication, theory of the case, jury selection, and other topics.
27. Workload – The amount of work a public defense attorney has, including direct client representation and work not directly attributable to the representation of a specific client, including, for example, administration, supervision, and professional development.

Original Language

Proposed Language

WSBA STANDARD ONE: Compensation

Standard:

Public defense attorneys and staff should be compensated at a rate commensurate with their training and experience. To attract and retain qualified personnel, compensation and benefit levels should be comparable to those of attorneys and staff in prosecutorial offices in the area.

For assigned counsel, reasonable compensation should be provided. Compensation should reflect the time and labor required to be spent by the attorney and the degree of professional experience demanded by the case. Assigned counsel should be compensated for out-of-pocket expenses.

Contracts should provide for extraordinary compensation over and above the normal contract terms for cases which require an extraordinary amount of time and preparation, including, but not limited to, death penalty cases. Services which require extraordinary fees shall be defined in the contract.

Attorneys who have a conflict of interest shall not have to compensate the new, substituted attorney out of their own funds.

Flat fees, caps on compensation, and lump-sum contracts for trial attorneys are improper in death penalty cases. Private practice attorneys appointed in death penalty cases should be fully compensated for actual time and service performed at a reasonable hourly rate with no distinction between rates for services performed in court and out of court. Periodic billing and payment should be available. The hourly rate established for lead counsel in a particular case should be based on the circumstances of the case and the

1.A. Public Defense Agency Salaries and Benefits

Employees at public defense agencies shall be compensated at a rate commensurate with their training and experience. Compensation and benefit levels shall be comparable to those of attorneys and staff in prosecution or other opposing party offices in the area.

Compensation shall also include necessary administrative costs described in Standard Five, support services costs described in Standard Seven, and training and supervision costs described in Standards Nine and Ten.

1.B. Contract and Assigned Counsel Compensation

Compensation for public defense attorneys in contract and assigned counsel systems shall reflect the professional experience, time, and labor required for effective and quality representation.

Compensation shall also be based on the comparable compensation and benefits associated with prosecution or other opposing party offices in the area. Compensation shall also include necessary administrative costs described in Standard Five, support services costs described in Standard Seven, and training and supervision costs described in Standards Nine and Ten.

Reasonable compensation shall be provided whether the work is for full-time or part-time public defense attorneys. Reasonable contract or assigned counsel compensation rates shall be set at least on a pro rata basis consistent with the attorney's percentage of a full caseload (see Standard 3). For example, if a jurisdiction allocates \$280,000 per year per full-time equivalent (FTE) prosecuting attorney for all costs associated with that FTE, including but not limited to combined salary, benefits, support staff, administrative, information technology,

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attorney being appointed, including the following factors: the anticipated time and labor required in the case, the complexity of the case, the skill and experience required to provide adequate legal representation, the attorney's overhead expenses, and the exclusion of other work by the attorney during the case. Under no circumstances should the hourly rate for lead counsel, whether private or public defender, appointed in a death penalty case be less than \$125 per hour (in 2006 dollars).

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insurance, bar dues, training, and facilities expenses, then a contract for one-fourth of a full-time public defense caseload should be at least \$70,000.

Contracts and government budgets shall recognize the need to provide reasonable compensation for all public defense attorneys, including but not limited to, those attorneys who are “on call,” staff court calendars, or staff specialty or therapeutic courts.

1.C. Flat Fee and Per Case Compensation Agreements

Attorneys shall not engage in flat fee or per case compensation contracts or agreements. These compensation structures create an actual conflict for the public defense attorney.⁷

Consistent with Washington Rules of Professional Conduct 1.8(m)(1)(ii), public defense attorneys shall not make or participate in making an agreement with a governmental entity for the delivery of indigent defense services if the terms of the agreement obligate the contracting lawyer or law firm to bear the cost of providing investigation or expert services, unless a fair and reasonable amount for such costs is specifically designated in the agreement in a manner that does not adversely affect the income or compensation allocated to the attorney, law firm, or law firm personnel.

1.D. Additional Compensation

Consistent with RCW 10.101.060(1)(a)(iv), contracts and policies shall provide for additional compensation over and above the base contract amount(s) for cases that require an extraordinary amount of time and preparation.

⁷ “Counsel should not be paid on a flat fee basis, as such payment structures reward counsel for doing as little work as possible.” [ABA Ten Principles of a Public Defense Delivery System](#), Principle 2: Funding, Structure, and Oversight, n. 6 (August 2023) (citing *Wilbur v. Mt. Vernon*, No. C11-1100RSL, U.S.D.C. D. Wash., at 15 (Dec. 4, 2013) (district court finding that a flat fee contract “left the defenders compensated at such a paltry level that even a brief meeting at the outset of the representation would likely make the venture unprofitable.”)).

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	<p>Situations that require additional compensation include, but are not limited to:</p> <ul style="list-style-type: none">• Days spent in trial, if no per diem is paid• Testimonial motion hearings• Interpreter cases• Cases involving mental health competency and other issues (RCW 10.77)• Cases with extensive discovery• Cases that involve a significant number of counts, alleged victims or witnesses• Cases requiring consultation with experts, including, for example, immigration legal analysis and advice or DNA testing and analysis. <p>Attorneys should have the opportunity to submit requests for additional compensation for extraordinary cases and the right to appeal an adverse decision to a judicial officer.</p> <p>1.E. Substitute Attorney Costs</p> <p>Consistent with Washington Rules of Professional Conduct 1.8(m)(1)(i), attorneys who have a conflict of interest shall not be required to bear the cost of the new, substituted attorney.</p>
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WSBA STANDARD TWO: Duties and Responsibilities of Counsel

Standard:

<p>The legal representation plan shall require that defense services be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. Counsel's primary and most fundamental responsibility is to promote and protect the interests of the client.</p>	<p>Jurisdictions that administer public defense services shall ensure that representation be provided in all situations in which the right to counsel attaches, including first appearances and bail decisions, as well as plea negotiations.</p> <p>Representation shall be prompt and delivered in a professional, skilled manner consistent with minimum standards set forth by these <i>WSBA Standards</i>, the Washington Supreme Court's <i>Court Rule Standards</i> (CrR 3.1, CrRLJ 3.1, JuCR 9.2, and CCR 2.1), the American Bar Association, the Washington Rules of Professional Conduct, case law, and relevant court rules and orders defining the duties of counsel. The applicable WSBA or ABA Performance Guidelines should serve as guidance for attorney performance. The most fundamental responsibility of jurisdictions and public defense attorneys is to promote and protect the stated interests of public defense clients.</p>
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WSBA STANDARD THREE: Caseloads

Standard:

<ol style="list-style-type: none"> 1. The contract or other employment agreement or government budget shall specify the types of cases for which representation shall be provided and the maximum number of cases which each attorney shall be expected to handle. 2. The caseload of public defense attorneys shall allow each lawyer to give each client the time and effort 	<p>3.A. Maximum Caseload or Workload Limits</p> <p>The contract or employment agreement or government budget shall specify the types of cases for which representation shall be provided and the maximum number and types of cases in which each attorney shall be expected to provide quality representation.</p> <p>3.B. Quality Representation</p>
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<p>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.</p> <p>3. General Considerations: Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases of average complexity and effort in each case type specified. Caseload limits assume a reasonably even distribution of cases throughout the year.</p> <p>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. Attorney caseloads should be assessed by the workload required, and cases and types of cases should be weighted accordingly.</p>	<p>The maximum caseload or workload of public defense attorneys shall allow each attorney to give each client the time and effort necessary to ensure effective representation. Public defense attorneys should not enter contracts requiring caseloads or workloads that, by reason of their excessive size, interfere with the rendering of quality representation. If the attorney's caseload or workload prevents providing quality representation,⁸ public defense attorneys shall take steps to reduce their caseload, including but not limited to seeking co-counsel, reassignment of cases, or requesting a partial or complete stop to additional case assignments or requesting withdrawal from a case(s). If the attorney's workload is within the limits in this standard there is a presumption that they can provide quality representation.</p> <p>If a public defense agency or nonprofit's workload exceeds the Director's capacity to provide counsel for newly assigned cases, the Director must notify courts and appointing authorities that the provider is unavailable to accept additional assignments and must decline to accept additional cases.⁹</p> <p>3.C. Open Caseload</p> <p>The determination of an attorney's ability to accept new case assignments must include an assessment of the impact of their open caseload on their ability to provide quality representation.</p> <p>3.D. Fully Supported, Full-Time Public Defense Attorneys</p>
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⁸ The American Bar Association's Ethics Opinion 06-441 states in part:

If workload prevents a lawyer from providing competent and diligent representation to existing clients, she must not accept new clients. If the clients are being assigned through a court appointment system, the lawyer should request that the court not make any new appointments. Once the lawyer is representing a client, the lawyer must move to withdraw from representation if she cannot provide competent and diligent representation.

Available at https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/ls-sclaid-ethics-opinion-06-441.pdf.

⁹ See, [ABA Eight Guidelines of Public Defense Related to Excessive Workloads](#), Guidelines 1, 4, 5, 6, 7, 8 (August 2009).

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If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload. In jurisdictions where assigned counsel or contract attorneys also maintain private law practices, the caseload should be based on the percentage of time the lawyer devotes to public defense.

The experience of a particular attorney is a factor in the composition of cases in the attorney's caseload.

The following types of cases fall within the intended scope of the caseload limits for criminal and juvenile offender cases in Standard 3.4 and must be taken into account when assessing an attorney's numerical caseload: partial case representations, sentence violations, specialty or therapeutic courts, transfers, extraditions, representation of material witnesses, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge.

Definition of case: A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.

4. **Caseload Limits:** The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:

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The maximum caseloads or workloads for public defense attorneys assume an attorney's public defense work is: 1) full-time (exclusively public defense); 2) fully supported; 3) for cases of average complexity and effort for each case type specified; and 4) reasonably evenly distributed throughout the year. "Fully supported, full-time defense attorneys" are attorneys who meet or exceed Standards Four, Five, Six, Seven, Nine, Ten, Thirteen and Fourteen of these Standards.

3.E. Mix of Case Types and Private Practice

If a public defense attorney accepts appointment to cases from more than one case type, this standard should be applied proportionately to determine a maximum full caseload.

Attorneys should not accept more public defense cases than the percentage of time their other work and commitments allow. The number of public defense cases or case credits should be based on the percentage of time available for the attorney to represent public defense clients. Each individual or organization that contracts to perform public defense services for a county or city shall report to the county or city hours billed for nonpublic defense legal services in the previous calendar year, including number and types of private cases.¹⁰

3.F. Attorney Experience

The experience of a particular attorney is a factor in the composition of case types in the attorney's caseload, but it is not a factor in adjusting the applicable numerical caseload limits except as follows: attorneys with less than six months of full-time public defense experience as an attorney should not be assigned more than two-thirds of the applicable maximum numerical caseload limit.

¹⁰ RCW 10.101.050

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<p>150 Felonies per attorney per year; or</p> <p>300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year; or</p> <p>250 Juvenile Offender cases per attorney per year; or</p> <p>80 open Juvenile Dependency cases per attorney; or</p> <p>250 Civil Commitment cases per attorney per year; or</p> <p>Active Death Penalty trial court case at a time plus a limited number of non death penalty cases compatible with the time demand of the death penalty case and consistent with the professional requirements of Standard 3.2 <i>supra</i>; or 36 Appeals to an appellate court hearing a case on the record and briefs per attorney per year. <i>(The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)</i></p> <p>Full time Rule 9 interns who have not graduated from law school may not have caseloads that exceed twenty-five percent (25%) of the caseload limits established for full time attorneys.</p> <p>5. Case Counting: The local government entity responsible for employing, contracting with or appointing public defense attorneys should adopt and publish written policies and procedures to implement a numerical case-</p>	<p>3.G. Impact of Public Defense Time Other Than Case Appointments</p> <p>Assessing an attorney’s maximum caseload or workload limit must include accounting for work in addition to new cases assigned. Time spent on vacation, sick leave, holidays, training, supervision, administrative duties, and court improvement work groups must also be accounted for.</p> <p>3.H. Definition of Case</p> <p>A "case" is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument, a juvenile court offender or BECCA petition, a dependency or termination of parental rights petition, a civil commitment petition, or an appeal.</p> <p>3.I. Adult Criminal and Juvenile Court Offender Trial Court Cases</p> <ol style="list-style-type: none">1. Adult Criminal and Juvenile Court Offender Cases<ol style="list-style-type: none">a. An attorney appointed to an Adult Criminal or Juvenile Court Offender case receives the case weight/credit or hours credit toward the attorney’s annual caseload that is listed in Standard 3.J. and in Appendix B. In multi-count cases, the charge with the highest case category dictates the case’s credit or hourly value. If the highest charge is amended or otherwise changed to a charge that is more serious than originally charged, the attorney shall receive the additional case credit value. In the event a charge is amended to a less serious charge, the attorney shall still be given caseload credit for the original, higher charge as of the time the attorney was appointed to the case.b. A charging document filed against a client arising out of a single event or series of events and being
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<p>weighting system to count cases. If such policies and procedures are not adopted and published, it is presumed that attorneys are not engaging in case weighting. A numerical case weighting system must:</p> <ul style="list-style-type: none">A. recognize the greater or lesser workload required for cases compared to an average case based on a method that adequately assesses and documents the workload involved;B. be consistent with these Standards, professional performance guidelines, and the Rules of Professional Conduct;C. not institutionalize systems or practices that fail to allow adequate attorney time for quality representation; andD. be periodically reviewed and updated to reflect current workloads; andE. be filed with the State of Washington Office of Public Defense. <p>Cases should be assessed by the workload required. Cases and types of cases should be weighted accordingly. Cases which are complex, serious, or contribute more significantly to attorney workload than average cases should be weighted upwards. In addition, a case weighting system should consider factors that might justify a case weight of less than one case.</p> <p>Notwithstanding any case weighting system, resolutions of cases by pleas of guilty to criminal charges on a first</p>	<p>prosecuted together is presumed to be one case. Determining whether a case number is one or multiple cases is determined by the supervisor or appointing agency after reviewing the charging information, amended charging documents, or an order to sever counts.</p> <ul style="list-style-type: none">2. Reappointment. Reappointment of the previously appointed attorney to a case in which a bench warrant was issued does not count as a new case if the warrant was issued within the twelve months prior to the reappointment. New case credits can be awarded as approved by a supervisor or appointing authority on a case-by-case basis.3. Partial Representation. The following must be taken into account when assessing an attorney's numerical caseload or when adjusting case credits assigned to attorney: partial case representations (cases in which an attorney withdraws or is substituted pursuant to CrR 3.1(e) and CrRLJ 3.1(e)), sentence or probation violations, cases in specialty or therapeutic courts, transfers, extraditions, representations of material witnesses, pretrial advice including "on-call" availability, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge. Time spent by attorneys representing multiple clients on first appearance, arraignment, or other calendaring hearings must be accounted for in reducing the number of maximum trial cases that can be assigned.<ul style="list-style-type: none">a. Transferred Case. When a public defense attorney's representation ends prior to the entry of a final order or judgment (for example, attorney withdrawal pursuant to CrR 3.1(e) or CrRLJ 3.1(e)), the supervising attorney or appointing authority shall determine the case credit value to be awarded to each attorney based on the amount of time each attorney contributes.
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appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and must be counted as one case.

6. **Case Weighting:** The following are some examples of situations where case weighting might result in representations being weighted as more or less than one case. The listing of specific examples is not intended to suggest or imply that representations in such situations should or must be weighted at more or less than one case, only that they may be, if established by an appropriately adopted case weighting system.
- A. **Case Weighting Upwards:** Serious offenses or complex cases that demand more-than-average investigation, legal research, writing, use of experts, use of social workers and/or expenditures of time and resources should be weighted upwards and counted as more than one case.
- B. **Case Weighting Downward:** Listed below are some specific examples of situations where case weighting might justify representations being weighted less than one case. However, care must be taken because many such representations routinely involve significant work and effort and should be weighted at a full case or more.
- i. Cases that result in partial representations of clients, including client failures to appear and recommencement of proceedings, preliminary appointments in cases in which no charges are filed, appearances of retained counsel,

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- b. Co-Chairs. When two or more lawyers are assigned as co-chairs, the supervising attorney or appointing authority shall determine the case credit value to be awarded to each attorney based on the amount of time each attorney contributes, including mentoring by the non-Supervisor Lead Counsel.
- c. Transferred and Co-Chaired cases frequently take more time to complete than the average case. Additional credits may need to be applied. For the case category Felony High - Murder and Felony High – LWOP case types, there is a presumption that two or more lawyers will be assigned as co-chairs.
- d. Court Calendar Positions.
- i. Specialty or Therapeutic Courts: a criminal case resulting in admission to a Specialty or Therapeutic Court generally should not count as a case for the attorney covering the Specialty or Therapeutic Court. The case credit shall be applied exclusively to the originally assigned attorney(s) prior to the transfer into a Specialty or Therapeutic Court.
- ii. Calendar Coverage: A criminal case appearing on a calendar where an attorney provides partial representation with no expectation of additional representation after the initial hearing shall not count as a case for the attorney covering the court calendar. This partial representation can include but is not limited to representing clients on: probable cause or first appearance calendars; arraignment calendars; failures to appear, warrant return, quash, and recommencement of proceedings calendars; preliminary appointments in cases in which no charges

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<p>withdrawals or transfers for any reason, or limited appearances for a specific purpose (not including representations of multiple cases on routine dockets).</p> <p>ii. Cases in the criminal or offender case type that do not involve filing of new criminal charges, including sentence violations, extraditions, representations of material witnesses, and other matters or representations of clients that do not involve new criminal charges. Non- complex sentence violations should be weighted as at least 1/3 of a case.</p> <p>iii. Cases in specialty or therapeutic courts if the attorney is not responsible for defending the client against the underlying charges before or after the client’s participation in the specialty or therapeutic court. However, case weighting must recognize that numerous hearings and extended monitoring of client cases in such courts significantly contribute to attorney workload and in many instances such cases may warrant allocation of full case weight or more.</p> <p>iv. Cases on a criminal or offender first appearance or arraignment docket where the attorney is designated, appointed or contracted to represent groups of clients on that docket without an expectation of further or continuing representation and which are not resolved at that time except by dismissal).</p>	<p>are filed; extradition calendars; and other matters or representations of clients that do not involve new criminal charges.</p> <p>iii. Court Calendar Attorney Time: The workload of Specialty and Therapeutic Court attorneys and attorneys designated, appointed, or contracted to represent groups of clients on a court docket, without an expectation of further or continuing representation, shall be assessed and subtracted from the annual, assumed 1,650 hours monitored by the supervising attorney or appointing authority to ensure the attorney does not work more than 1,650 hours in a 12-month period.</p> <p>4. Probation Violation Cases. Appointment of a public defense attorney to represent a person on one or more original case numbers where a probation violation(s) or show cause order(s) has been filed is presumed to count as 1/3 credit of the Felony or Misdemeanor Case Credit. Additional case credits can be awarded as approved by a supervisor or appointing authority on a case-by-case basis.</p> <p>3.J. Maximum Case Credit Limit for Adult Criminal and Juvenile Court Offender Cases Each Year</p> <p>This Section shall be implemented according to the schedule in Section 3.O.</p> <p>The maximum number of case credits for a fully supported, full-time public defense attorney each calendar year is based on an assumed 1650-hour “case-related hours” available each year. This number represents the assumed time an attorney in Washington has available each year to devote to public defense clients’ representation. It excludes annual time for leave (for example, vacation, sick, PTO,</p>
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<p>In such circumstances, consideration should be given to adjusting the caseload limits appropriately, recognizing that case weighting must reflect that attorney workload includes the time needed for appropriate client contact and preparation as well as the appearance time spent on such dockets.</p> <p>v. Representation of a person in a court of limited jurisdiction on a charge which, as a matter of regular practice in the court where the case is pending, can be and is resolved at an early stage of the proceeding by a diversion, reduction to an infraction, stipulation on continuance, or other alternative non-criminal disposition that does not involve a finding of guilt. Such cases should be weighted as at least 1/3 of a case.</p>	<p>FMLA) holidays, CLEs and training, supervision, and other time that is not “case-related”).¹¹</p> <p>The maximum annual caseload case credits for each category of Adult Criminal and Juvenile Court Offender cases are based on the National Public Defense Workload Study (September 2023).¹²</p> <p>The maximum annual caseload for a full-time felony attorney is 47 case credits.</p> <p>Case credits for each Felony case category appointment shall be as follows (see Appendix B for case types falling within each category):</p> <table data-bbox="1060 662 1491 990"> <tr> <td>Felony High-LWOP¹³:</td> <td>8</td> </tr> <tr> <td>Felony High-Murder:</td> <td>7</td> </tr> <tr> <td>Felony High-Sex:</td> <td>5</td> </tr> <tr> <td>Felony High:</td> <td>3</td> </tr> <tr> <td>Felony Mid:</td> <td>1.5</td> </tr> </table>	Felony High-LWOP ¹³ :	8	Felony High-Murder:	7	Felony High-Sex:	5	Felony High:	3	Felony Mid:	1.5
Felony High-LWOP ¹³ :	8										
Felony High-Murder:	7										
Felony High-Sex:	5										
Felony High:	3										
Felony Mid:	1.5										

¹¹ See National Public Defense Workload Study, p. 99 (2023). In addition, the Washington Defender Association Indigent Defense Standards (1989) states: “An accepted standard for attorneys is to work 1650 billable hours per year.” https://defensenet.org/wp-content/uploads/2017/12/Final-2007-WDA-Standards-with-Commentary_18.12.06.pdf. Similarly, a study for the Massachusetts Committee for Public Counsel Services determined that an appropriate number of hours to spend directly representing clients per year is 1,662 hours, after deducting holidays, vacation time, training, and non-case duties. Center for Court Innovation, *The Committee for Public Counsel Services Answering Gideon’s Call Project (2012-DB-BX-0010) Attorney Workload Assessment* 12 (Oct. 2014), available at <https://www.publiccounsel.net/cfo/wp-content/uploads/sites/8/2014/12/Attorney-Workload-Assessment.pdf>.

¹² National Public Defense Workload Study, p. 85 (2023).

¹³ Felony-High LWOP does not apply to Juvenile Court Offender cases.

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	<p>Felony Low: 1</p> <p>The maximum annual caseload for a full-time misdemeanor attorney is 120 case credits.</p> <p>Case credits for each Misdemeanor case category appointment shall be as follows (see Appendix B for case types falling within each category):</p> <p>Misdemeanor High: 1.5</p> <p>Misdemeanor Low: 1</p> <p>If a case resolves relatively quickly, before an attorney has done significant work on the matter, the attorney will be credited with a proportional, reduced amount of the credits initially assigned.</p> <p>3.K. Other Case Types.¹⁴ Appeals. 36 Appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)</p> <p>Family Defense. 80 open dependency/termination of parental rights for parent and child(ren) representation.</p> <p>Civil Commitment. 250 Civil Commitment cases per attorney per year.</p> <p>3.L. Additional Considerations.</p> <p>1. Caseload limits require a reasonably even number of case</p>
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¹⁴ The standards under this subsection are under review. To provide guidance in the interim, the prior standards are included only until revisions are approved.

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	<p>appointments each month, based on the number of cases appointed in prior months.</p> <ol style="list-style-type: none">2. Resolutions of cases by pleas of guilty to criminal charges on a first appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and must be counted as one case. <p>3.M. Full-Time Rule 9 Interns</p> <p>Rule 9 interns who have not graduated from law school may not have caseloads or workloads that exceed twenty-five percent (25%) of the maximum limits established for full-time attorneys.</p> <p>3.N. Attorneys in Jurisdictions That Do Not Follow Case Credit System in Standard 3.J.</p> <p>Attorneys in jurisdictions that do not use the case credit system in Standard 3.J shall be employed by, contract with, or be appointed by the local government entity responsible for those functions only if the jurisdiction has adopted and published a numerical caseload or workload maximum that is consistent with the caseload and workload limits set in Standard 3.J. Such a caseload or workload maximum must:</p> <ol style="list-style-type: none">1. Recognize the greater or lesser workload required for cases compared to an average based on a method that adequately assesses and documents the workload involved;2. Be consistent with these Standards, professional performance guidelines, and the Rules of Professional Conduct;
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	<ol style="list-style-type: none">3. Not institutionalize systems or practices that fail to allow adequate attorney time for competent and diligent representation;4. Be periodically reviewed and updated to reflect current workloads; and be filed with the State of Washington Office of Public Defense. <p>3.O. Implementation of Standards</p> <p>Standard 3 shall be implemented in phases and shall go into effect on July 2, 2025. The 2024 revisions to these Indigent Defense Standards shall be implemented on the following schedule:</p> <p>Until July 2, 2025, the caseload standards as adopted in pre-existing <i>WSBA Standards of Indigent Defense Services</i> and <i>Court Rule Standards of Indigent Defense</i> shall apply: The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:</p> <p>150 Felonies per attorney per year;</p> <p>300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year;</p> <p>250 Juvenile Offender cases per attorney per year.</p> <p>Phase 1:</p> <p>Beginning July 2, 2025, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 110 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 280 misdemeanor case credits.</p>
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	<p>Phase 2:</p> <p>Beginning July 2, 2026, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 90 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 225 misdemeanor case credits.</p> <p>Phase 3:</p> <p>Beginning July 2, 2027, and for any twelve-month period following, each full-time felony attorney shall be assigned cases constituting no more than 47 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 120 misdemeanor case credits.</p>
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WSBA STANDARD FOUR: Responsibility for Expert Services

Standard:

<p>Reasonable compensation for expert witnesses necessary to preparation and presentation of the defense case shall be provided. Expert witness fees should be maintained and allocated from funds separate from those provided for defender services. Requests for expert witness fees should be made through an ex parte motion. The defense should be free to retain the expert of its choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution.</p>	<p>4.A. Expert Witnesses</p> <p>Jurisdictions that administer public defense services shall provide reasonable compensation for expert witnesses necessary for preparation and presentation of the case. Expert witness costs should be maintained and allocated from funds separate from those provided for attorney legal representation.</p> <p>Jurisdictions shall adopt and publish procedures to confidentially receive, review and grant requests for expert witness services. In jurisdictions where attorneys are required to request approval for expert witnesses or other necessary services from the court, such motions shall be <i>ex parte</i> and include a motion to seal. The public defense attorney should be free to retain the expert of their</p>
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	<p>choosing and shall not be required to select experts from a list pre-approved by either the jurisdiction, the court, or the prosecution.</p> <p>4.B. Mitigation Specialists, Social Workers</p> <p>Mitigation specialists and social workers shall be made readily available to public defense attorneys to provide support, such as release plans, treatment services, housing, health care, and to develop dispositional and sentencing alternatives.</p> <p>In public defense agencies, by July 3, 2028, a minimum of one full-time mitigation specialist or social worker shall be provided for every three full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028.¹⁵ Attorneys representing clients in post-adjudication phases may require different resources. Public defense agencies that do not employ a sufficient number of mitigation specialists or social workers to meet this ratio shall enter into contracts with additional mitigation specialists or social workers to provide the same resource level.</p> <p>Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different resources.</p>
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¹⁵ Support staff necessary for effective representation “includes one supervisor for every ten attorneys; one investigator for every three attorneys; one social service caseworker for every three attorneys; one paralegal for every four felony attorneys; and one secretary for every four felony attorneys.” Bureau of Justice Assistance, United States Department of Justice’s *Keeping Defender Workloads Manageable* (2001), p.10, found at: <https://www.ncjrs.gov/pdffiles1/bja/185632.pdf>. See also, National Association for Public Defense Policy Statement on Public Defense Staffing (May 2020), at <https://publicdefenders.us/resources/policy-statement-on-public-defense-staffing/>

Original Language

Proposed Language

	<p>Public defense attorneys under contract or in assigned counsel systems should have access to mitigation specialists and social workers, consistent with 4.A.</p> <p>4.C. Mental Health Professionals for Evaluations</p> <p>Each public defense agency or attorney shall have access to mental health professionals to perform mental health evaluations.</p> <p>4.D. Interpreters and Translators</p> <p>All individuals providing public defense services (attorneys, investigators, experts, support staff, etc.) shall have access to qualified interpreters to facilitate communication with Deaf and hearing-impaired individuals, and persons with limited English proficiency. Similarly, all public defense providers shall have access to translators to translate vital documents and resources from English to the client’s primary language.¹⁶</p> <p>4.E. Cost of Expert Services</p> <p>Consistent with the Washington Rules of Professional Conduct (RPC) 1.8(m)(1)(ii), attorneys shall not be required to bear the costs of expert services.</p>
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WSBA STANDARD FIVE: Administrative Costs

Standard:

1. Contracts for public defense services shall provide for or include	5.A. Administrative Services Necessary for Law Offices
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¹⁶ See, RPC 1.4 “Communication.”

Original Language

Proposed Language

<p>administrative costs associated with providing legal representation. These costs should include but are not limited to travel, telephones, law library, including electronic legal research, financial accounting, case management systems, computers and software, office space and supplies, training, meeting the reporting requirements imposed by these standards, and other costs necessarily incurred in the day-to-day management of the contract.</p> <p>2. Public defense attorneys shall have an office that accommodates confidential meetings with clients and receipt of mail, and adequate telephone services to ensure prompt response to client contact.</p>	<p>Jurisdictions shall provide funding for administrative costs associated with legal representation. These costs include, but are not limited to, travel, telephones, law library, including electronic legal research, electronic document filing, financial accounting, case management systems, legal system databases and programs, computers and software, equipment, office space and supplies, internet services, training, and other costs necessarily incurred for public defense representation and necessary to comply with the requirements imposed by these standards.</p> <p>Providing for these costs is necessary for all public defense structures, including agency, contract, and assigned counsel systems. Administrative costs for contract and assigned counsel services shall be included in compensation rates and agreements.</p> <p>5.B. Law Offices Must Accommodate Confidential, Prompt and Consistent Client Communication</p> <p>All public defense attorneys shall have access to an office that accommodates confidential meetings with clients and receipt of mail, and adequate telephone and electronic services to ensure prompt responses to client contact. Public defense attorneys and clients must have prompt and consistent access to interpreter services.</p>
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WSBA STANDARD SIX: Investigators

Standard:

<p>1. Public defense attorneys shall use investigation services as appropriate.</p> <p>2. Public defender offices, assigned counsel, and private law firms</p>	<p>6.A. Access to Investigation Services</p> <p>Public defense representation must include access to investigation services. Public defense-led investigation is necessary for representing clients for purposes of verifying facts, identifying and questioning</p>
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Original Language

Proposed Language

holding public defense contracts should employ investigators with investigation training and experience. A minimum of one investigator should be employed for every four attorneys.

witnesses, and testing the evidence presented by the opposing party.

6.B. Investigation for Public Defense Agencies

In public defense agencies, by July 3, 2028, a minimum of one full-time investigator shall be employed for every three full-time trial court level (adult and/or juvenile) attorneys.¹⁷ Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028. Public defense agencies that do not employ a sufficient number of investigators to meet this ratio shall enter into contracts with additional investigators to provide the stated resource level.

Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different investigation resources.

6.C. Investigation for Contract and Assigned Counsel

When public defense attorneys work under contracts or assigned counsel systems, jurisdictions must ensure that they have the same level of access to investigators as described in 6.B. Local jurisdictions shall adopt and publish confidential procedures to receive, review and grant requests for investigation services. In jurisdictions where attorneys are required to request court approval for investigation services, such motions shall be *ex parte*, consistent with the requirements of the Washington Rules of Professional Conduct 1.8 (m)(1)(ii) and court rules.

¹⁷ National Association of Public Defense Policy Statement on Public Defense Staffing (May 2020): “Until empirical studies are further able to determine the number of staff necessary to support the lawyer, public defense systems, at a minimum, should provide, one investigator for every three lawyers, one mental health professional, often a social worker, for every three lawyers, and one supervisor for every 10 litigators. Additionally, there should be one paralegal and one administrative assistant for every 4 lawyers.”

Original Language

Proposed Language

	<p>6.D. Investigation for <i>Pro Se</i> Litigants</p> <p>All jurisdictions should make conflict free investigation services available to indigent defendants or respondents who are representing themselves in all cases in which the court has approved waiver of their right to court-appointed counsel.</p> <p>6.E. Cost of Investigation Services</p> <p>Consistent with the Washington Rules of Professional Conduct 1.8(m)(1)(ii), attorneys shall not be required to bear the costs of investigation services.</p>
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WSBA STANDARD SEVEN: Support Services

Standard:

<p>Public defense attorneys shall have adequate numbers of investigators, secretaries, word processing staff, paralegals, social work staff, mental health professionals and other support services, including computer system staff and network administrators. These professionals are essential to ensure the effective performance of defense counsel during trial preparation, in the preparation of dispositional plans, and at sentencing.</p> <ol style="list-style-type: none"> 1. Legal Assistants – At least one full-time legal assistant should be employed for every four attorneys. Fewer legal assistants may be necessary, however, if the agency or attorney has access to word processing staff, or other additional staff performing clerical work. Defenders should have a combination of technology and personnel that will meet their needs. 2. Social Work Staff – Social work staff should be available to assist in developing release, treatment, and dispositional alternatives. 	<p>7.A. Support Services Necessary for Legal Defense</p> <p>In addition to the necessary resources described in Standards Four, Five, and Six, public defense attorneys shall have adequate legal and administrative support. Legal and administrative support services include, but are not limited to, administrative assistants, legal assistants, paralegals, human resources, finance, reception services, and IT and data management administrators. These professionals are essential for effective legal defense and an operational law office. Jurisdictions shall ensure all public defense attorneys have access to needed support services as provided in this Standard and as required by the Washington Rules of Professional Conduct 1.4 to ensure attorney/client communication.</p> <p>7.B. Providing for Support Services in Contract and Assigned Counsel</p>
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Original Language

Proposed Language

<p>3. Mental Health Professionals – Each agency or attorney should have access to mental health professionals to perform mental health evaluations.</p> <p>4. Investigation staff should be available as provided in Standard Six at a ratio of one investigator for every four attorneys.</p> <p>5. Each agency or attorney providing public defense services should have access to adequate and competent interpreters to facilitate communication with non- English speaking and hearing-impaired clients for attorneys, investigators, social workers, and administrative staff.</p>	<p>Compensation</p> <p>The support services described in 7.A are required for all public defense attorneys, regardless of their employment, contract or assigned counsel status. Contract and assigned counsel attorneys shall receive compensation at levels that ensure these non-attorney support services are provided.</p> <p>7.C. Necessary Legal Assistants/Paralegals Ratio</p> <p>In public defense agencies by July 3, 2028, a minimum of one full-time legal assistant or paralegal shall be employed for every four full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028. Public defense agencies that do not employ a sufficient number of legal assistants or paralegals to meet this ratio should enter into contracts with qualified professionals to provide the same resource level or request authorization of such services <i>ex parte</i> or administratively.</p> <p>Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different resources.</p>
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WSBA STANDARD EIGHT: Reports of Attorney Activity

Standard:

<p>The legal representation plan shall require that the defense attorney or office maintain a case-reporting and management information system which includes number and type of cases, attorney hours and disposition. This information shall be provided</p>	<p>Jurisdictions shall require that all public defense attorneys use a case-reporting and management information system that includes the number and types of assigned cases, attorney hours and case dispositions. Data from these systems should be routinely reported</p>
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Original Language

Proposed Language

<p>regularly to the Contracting Authority and shall also be made available to the Office of the Administrator of the Courts. Any such system shall be maintained independently from client files so as to disclose no privileged information.</p> <p>A standardized voucher form shall be used by assigned counsel attorneys seeking payment upon completion of a case. For attorneys under contract, payment should be made monthly, or at times agreed to by the parties, without regard to the number of cases closed in the period.</p>	<p>to public defense administrators in a manner in which confidential, secret and otherwise non-public information and secrets are not disclosed. Consistent with Standard Eleven, public defense administrators should review these reports on a regular basis to monitor compliance with these Standards.</p> <p>For attorneys under contract, payment should be made monthly, or at times agreed to by the parties, without regard to the number of cases closed.</p>
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WSBA STANDARD NINE: Training

Standard:

<p>The legal representation plan shall require that attorneys providing public defense services participate in regular training programs on criminal defense law, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice.</p> <p>In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedure and policy. All attorneys should be required to attend regular in-house training programs on developments in criminal law, criminal procedure and the forensic sciences.</p> <p>Attorneys in civil commitment and dependency practices should attend training programs in these areas. Offices should also develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction.</p> <p>Every attorney providing counsel to indigent accused should have</p>	<p>9.A. Annual Training</p> <p>All public defense attorneys shall participate in regular training, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice. Training should include relevant topics including training specific to certain case types as required in Standard Fourteen, the types of cases assigned (for example, criminal, dependency, appellate), racial and ethnic disparities, elimination of bias, mental illnesses, improved and effective communication with clients, forensic sciences, and other topics that impact legal representation. Every public defense attorney should attend training that fosters trial or appellate advocacy skills and review professional publications and other media.</p> <p>9.B. Onboarding and Training of New and Current Attorneys</p> <p>Public defense agencies and contracted private law firms should develop their own practices and procedures to onboard and train new attorneys. Offices should develop written materials (for example, manuals, checklists, hyperlinked resources) to inform new</p>
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Original Language

Proposed Language

<p>the opportunity to attend courses that foster trial advocacy skills and to review professional publications and other media.</p>	<p>attorneys of local rules and procedures of the courts in their jurisdiction.</p> <p>In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedures and policies.</p> <p>All attorneys should be required to attend regular in-house training programs on developments in their legal representation areas.</p> <p>9.C Continuing Education for Public Defense Non-Attorneys Funding for training for all public defense non-attorneys must be provided. A fully supported public defense attorney is one whose staff and expert service providers receive educational opportunities and up-to-date trainings to ensure they can meet their profession’s best practices. This may include attendance at national conferences and regular access to online trainings, such as those offered by the Washington State Office of Public Defense, Washington Defender Association, the National Association for Public Defense, the National Legal Aid and Defender Association, the National Alliance of Sentencing Advocates and Mitigation Specialists, the National Defense Investigator Association, the National Federation of Paralegal Associations, and the National Association for Legal Support Professionals.</p>
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WSBA STANDARD TEN: Supervision

Standard:

<p>Each agency or firm providing public defense services should provide one full-time supervisor for every ten staff attorneys or one half-time supervisor for every five attorneys. Supervisors should be chosen from among those attorneys in the office qualified under these guidelines to try Class A felonies. Supervisors should serve on a rotating basis, and except when supervising</p>	<p>In public defense agencies and contracted private law firms, a minimum of one full-time supervisor should be employed for every ten full-time public defense attorneys or one half-time supervisor for every five public defense attorneys. Full-time supervisors should not carry caseloads, but supervisors may act as co-counsel in a limited number of cases to provide mentoring and training experience for</p>
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Original Language

Proposed Language

<p>fewer than ten attorneys, should not carry caseloads.</p>	<p>their supervisees. Part-time supervisors should limit their caseloads on a pro-rata basis. Supervisors should have training in personnel management and supervision. Supervisors should be qualified under Standard 14 for the practice area(s) they are supervising.</p>
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WSBA STANDARD ELEVEN: Monitoring and Evaluation of Attorneys

Standard:

<p>The legal representation plan for provision of public defense services should establish a procedure for systematic monitoring and evaluation of attorney performance based upon publicized criteria. Supervision and evaluation efforts should include review of time and caseload records, review and inspection of transcripts, in-court observations, and periodic conferences.</p> <p>Performance evaluations made by a supervising attorney should be supplemented by comments from judges, prosecutors, other defense attorneys and clients. Attorneys should be evaluated on their skill and effectiveness as criminal attorneys or as dependency or civil commitment advocates.</p>	<p>All jurisdictions shall provide a mechanism for systematic monitoring of public defense attorneys and their caseloads and workloads, and ensure timely review and evaluation of public defense services. Monitoring and evaluation should include, but not be limited to, review of reports submitted per Standard Eight, review of time and caseload assignments, in-court observations, periodic conferences, verification of attorney compliance with Standard Nine training requirements, verification of compliance with Certifications of Compliance with the Supreme Court's <i>Court Rule Standards</i>, and management of client complaints, consistent with Standard Fifteen.</p> <p>Attorneys should be evaluated on their skill and effectiveness as advocates, including their communication with clients.</p>
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WSBA STANDARD TWELVE: Substitution of Counsel

Standard:

<p>The attorney engaged by local government to provide public defense services should not sub-contract with another firm or attorney to provide representation and should remain directly involved in the provision of representation. If the contract is with a firm or office, the contracting authority should request the names</p>	<p>12.A. Availability at No Cost to Attorney</p> <p>Consistent with Standard 1.E., alternate or conflict public defense attorneys shall be available for substitution in conflict situations at no cost to the attorney declaring the conflict.</p>
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Original Language

and experience levels of those attorneys who will actually be providing the services, to ensure they meet minimum qualifications. The employment agreement shall address the procedures for continuing representation of clients upon the conclusion of the agreement. Alternate or conflict counsel should be available for substitution in conflict situations at no cost to the counsel declaring the conflict.

Proposed Language

12.B. Subcontracting

Public defense contracts and assigned counsel policies should prohibit counsel from subcontracting with another firm or attorney to provide representation, absent approval of the public defense administrator.

12.C. Attorney Names

In contract and assigned counsel systems, the public defense administrator should receive the names and experience levels of those attorneys who will be and actually are providing the legal representation, to ensure the attorneys meet the minimum qualifications required by Standard 14.

12.D. Continuing Representation and Client Files

Public defense contracts and assigned counsel policies shall address the procedures for continuing representation of clients upon the conclusion of the contract or case assignment. Public defense contracts and assigned counsel policies shall include which attorney or firm or public defense office is responsible for maintaining client files confidentially when a contract terminates or case assignment ends.¹⁸

WSBA STANDARD THIRTEEN: Limitations on Private Practice

Standard:

¹⁸ See, WSBA Guide to Best Practices for Client File Retention and Management at: [https://www.wsba.org/docs/default-source/resources-services/practice-management-\(lomap\)/guide-to-best-practices-for-client-file-retention-and-management.pdf?sfvrsn=306a3df1_10](https://www.wsba.org/docs/default-source/resources-services/practice-management-(lomap)/guide-to-best-practices-for-client-file-retention-and-management.pdf?sfvrsn=306a3df1_10)

Original Language

Proposed Language

<p>Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.</p>	<p><i>No Changes</i></p> <p>Private attorneys who provide public defense representation shall set limits on the amount of privately retained work that can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.</p>
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STANDARD FOURTEEN: Qualifications of Attorneys

Standard:

<p>In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:</p> <p>A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and</p> <p>B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and</p> <p>C. Be familiar with the Washington Rules of Professional Conduct; and</p> <p>D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and, when representing youth, be familiar with the Performance Guidelines for Juvenile Defense Representation approved by the Washington State Bar Association; and when representing respondents in civil commitment proceedings, be familiar with the Performance Guidelines for Attorneys Representing Respondents in Civil Commitment Proceedings approved by the Washington State Bar Association; and</p> <p>E. Be familiar with the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and,</p> <p>F. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of</p>	<p>14.A. Minimum Qualifications for All Public Defense Attorneys</p> <p>To ensure that persons entitled to legal representation by public defense attorneys receive the effective assistance of counsel, public defense attorneys shall meet the following minimum professional qualifications:</p> <ol style="list-style-type: none"> 1. Be admitted to practice law in Washington; 2. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; 3. Be familiar with the Washington Rules of Professional Conduct; 4. Be familiar with the <i>Performance Guidelines for Criminal Defense Representation</i> approved by the Washington State Bar Association; when representing youth, be familiar with the <i>Performance Guidelines for Juvenile Defense Representation</i> approved by the Washington State Bar Association; when representing respondents in civil commitment proceedings, be familiar with the <i>Performance Guidelines for Attorneys Representing Respondents in Civil Commitment Proceedings</i> approved by the Washington State Bar Association; when representing respondents in dependency proceedings, be familiar with Dependency (parent/child) performance guidelines referenced in 14.C.2, below; 5. Be familiar with the processes to seek interlocutory relief; 6. Be familiar with the <i>Washington State Guidelines for Appointed</i>
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Original Language

Proposed Language

<p>civil commitment proceedings based on a criminal conviction; and</p> <p>G. Be familiar with mental health issues and be able to identify the need to obtain expert services; and</p> <p>H. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.</p>	<p><i>Counsel in Indigent Appeals;</i></p> <p>7. Attorneys representing adults in criminal cases or children and youth in Juvenile Court cases must be familiar with the consequences of a conviction or adjudication, including, but not limited to, the requirement to register as a sex offender, possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction and possible impacts in future criminal proceedings;</p> <p>8. Be familiar with the impact of systemic bias and racism and racial disproportionality in the legal system;</p> <p>9. Be familiar with mental health and substance use issues and be able to identify the need to obtain expert services related to the case and for the client;</p> <p>10. Attorneys representing children and youth in Juvenile Court cases must have knowledge, training, experience, and the ability to communicate effectively with children and youth, and be familiar with the Juvenile Justice Act;</p> <p>11. Attorneys representing children and youth in dependency cases must have knowledge, training, experience and the ability to communicate effectively with children and youth; and</p> <p>12. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.</p> <p>14.B Additional Information Regarding Qualifications Overall</p> <p>1. An attorney previously qualified for a category of case under earlier versions of these <i>WSBA Standards, Court Rule Standards,</i> or Washington Supreme Court Emergency Orders remains qualified.</p> <p>2. Attorneys working toward qualification for a particular category of cases may associate as co-counsel with a lead counsel who is qualified under these standards for that category of case.¹⁹ Co-</p>
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¹⁹ Attorneys should keep records of cases in which the attorney served as co-counsel, trials and attendance at trial academies.

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Proposed Language

	<p>counseling is encouraged.</p> <ol style="list-style-type: none">3. These qualifications standards require trial experience for most categories of cases – either as lead counsel, or co-counsel, and for handling a significant portion of a trial. A “significant portion of a trial” means planning or participating in essential aspects of a trial which includes, but is not limited to, motions <i>in limine</i>, jury selection, opening statements, direct and cross examination, motions and objections, preparation of and advocacy for jury instructions, and closing arguments.4. Each attorney should be accompanied at their first trial by a supervisor or a more experienced attorney, if available. If a supervisor or more experienced attorney is not available to accompany the attorney at their first trial, the attorney, before their first trial, must consult about the case with a more experienced attorney in their office or an outside more experienced attorney such as Washington Defender Association resource attorneys.5. Each attorney must have sufficient resources, including support staff and access to professional assistance, to ensure effective legal representation and regular availability to clients and others involved with the attorney’s public defense work.6. These qualifications standards apply to the highest case category or charge at any time in the life of the case; for example, in criminal cases, any time from first appearance or arraignment through sentencing and post-trial motions.7. Attorneys accepting appointment in the various categories of cases designated in Standard Three shall have the qualifications listed below, in addition to those in 14.A.1-14.A.12.8. Experience as an Admissions and Practice Rule (APR) 6 or 9 legal intern cannot be used to meet the experience requirements for these qualifications <p>14.C. Attorneys’ Qualifications by Category/Type of Case and Representation Type (Trial or Appellate)</p>
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Original Language

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	<ol style="list-style-type: none">1. Overview of Adult Criminal and Juvenile Court Cases – Trial Level<ol style="list-style-type: none">a. These qualifications are based on the following categories of cases:<ul style="list-style-type: none">• Misdemeanor – Low and Misdemeanor Probation Revocation Hearings• Misdemeanor – High• Felony – Mid and Low• Felony Sex Cases• Felony High – Other• Felony High – Life Without Parole (LWOP) Sentence and Murder• Felony Re-Sentencing, Probation Violation or Revocation, and Reference Hearingsb. To determine the qualifications standard that applies to a specific offense, the assigning authority should refer to Appendix B to these standards that maps the RCW statutes to the above categories.<ol style="list-style-type: none">i. If the legislature designates a felony offense as Class A that is, as of January 1, 2024, in a lower case category, the case category should be presumed to be a Felony – High Other until this standard in Appendix B lists it otherwise.ii. If the legislature, after January 1, 2024, changes an offense from a misdemeanor or gross misdemeanor to a felony, that case category should be presumed to be a Felony – Mid and Low until this standard in Appendix B lists it otherwise.iii. If the legislature, after January 1, 2024, creates a new misdemeanor or gross misdemeanor, that case should be presumed to be a Misdemeanor – High until this standard in Appendix B lists it otherwise.c. Until such time as the above case categories are adopted as part of CrR 3.1, CrRLJ 3.1, and JuCr 9.1., the attorney qualifications set out below are largely comparable to case
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	<p>seriousness levels found in the Revised Code of Washington. Attorneys representing clients charged with Life Without Parole (LWOP) cases or in murder or manslaughter cases shall meet the qualifications listed below in Standard 14.C.2. Similarly, Felony – High categories apply to attorneys representing clients in Class A Adult Felony Cases and Adult Sex Offense Cases. The qualifications set out below for the Felony - Mid category apply to attorneys representing clients in Class B Adult Felony Cases and Class B Adult Violent Cases and the qualifications set out below for the Felony - Low category apply to attorneys representing clients in Adult Felony Class C Cases. The qualifications listed below for Felony Re-Sentencing and Revocation and Reference Hearings apply to attorneys representing clients in Felony Probation Revocation cases. The qualifications listed below for DUI - Low category apply to attorneys representing clients in misdemeanor DUI cases. The qualifications listed below for Adult Misdemeanor - Low cases apply to attorneys representing clients in all other adult misdemeanor cases.</p>
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2. Adult Criminal Trial Court Cases

- a. **Misdemeanor Low and Misdemeanor Probation Hearings** – Each attorney representing a person accused of Misdemeanor Low cases or Misdemeanor Probation Hearings shall meet the requirements as outlined in Section 14.A.
- b. **Misdemeanor High Cases** – Each lead counsel representing a person accused of:
 - i. A misdemeanor **domestic violence**²⁰ offense shall meet the requirements in Section 14.A and have attended a defense training or CLE on domestic violence representation.
 - ii. A gross misdemeanor **drug offense** shall meet the requirements in Section 14.A and have attended a defense training or CLE on drug offenses.
 - iii. A misdemeanor **sex offense**²¹ shall meet the requirements in Section 14.A; and

²⁰ Listed in RCW 9.41.040(2)(a)(i)(B-D) or RCW 10.99.020(4).

²¹ Includes a violation of RCW 9.68A.090 (Communicating with a Child for Immoral Purposes), 9A.44.063 (Sexual Misconduct with a Minor in the Second Degree), or an attempt, solicitation, or conspiracy to commit a Class C felony that requires sex offender registration upon conviction pursuant to RCW 9A.44.140.

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1. Has served one year as a criminal defense attorney or prosecutor;
 2. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:
 - a. Two criminal cases in which the prosecution has rested, at least one of which was presented to a jury, or
 - b. One criminal trial in which the prosecution has rested and has completed a trial training academy;
 3. Has attended a CLE on sex offenses including training about collateral consequences of sex offense convictions and child hearsay.
- iv. Each lead counsel representing a person accused of a **misdemeanor DUI** offense shall meet the requirements in Section 14.A and has completed a CLE within the past two years on the topic of DUI defense representation.
- c. **Felony Mid and Felony Low Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served one year as a criminal defense attorney or one year as a prosecutor; and
 - iii. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:
 1. Two criminal trials in which the prosecution rested, or
 2. One criminal trial in which the prosecution has rested and has completed a trial training academy.
 - iv. Each attorney shall be accompanied at their first felony trial by an attorney who is qualified for this or higher case categories.
- d. **Felony Sex Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served two years as either a criminal defense attorney or prosecutor;
 - iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a jury; and
 - iv. Has attended a CLE on sex offenses, including training about collateral consequences of sex offense convictions and child hearsay.
- Failure to Register as a Sex Offender cases are in the Felony Mid and Low Category.
- e. **Felony High – Other Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served two years as either a criminal defense attorney or prosecutor; and
 - iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a jury.
- f. **Felony High – Life Without Parole and Murder Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;

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- ii. At least three years' experience in adult felony cases, including at least two years as a defense attorney representing people in adult felony cases;
 - iii. Has been lead counsel or co-counsel in four adult felony trials in which the state has rested, at least one of which was submitted to a jury and at least one of which was a Felony High case; and
 - iv. Has completed a defense training or CLE on mitigation and challenging prior convictions.
 - g. **Felony Resentencing, Revocation, or Reference Hearing** – Each lead counsel shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A; and
 - ii. Be qualified to represent the client in a Felony Mid and Low case.
 - h. **Felony Material Witness Representation** – Each attorney representing a material witness shall be qualified to represent a client in Felony Mid and Felony Low cases, unless there is reason to believe the witness has legal exposure for a more serious felony offense to be charged, in which case lead counsel shall be qualified to represent a person accused of that more serious offense.
 - i. **Specialty Courts** – Each attorney representing a client in a specialty court (e.g., mental health court, drug court, veterans court, homelessness court, juvenile therapeutic court, community court, and family therapeutic court) shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans.
3. **Juvenile Trial Court Cases** –The qualification requirements below apply to representation of respondents in Juvenile Court.
- a. **Misdemeanor Low and Misdemeanor Probation Hearings** – Each attorney representing the accused in Misdemeanor Low case or Misdemeanor Probation Hearings shall meet the requirements as outlined in Section 14.A.
 - b. **Misdemeanor High Cases** – Each lead counsel representing a person accused of:
 - i. A misdemeanor **domestic violence**²² offense shall meet the requirements in Section 14.A and have attended a defense training or CLE on domestic violence representation.
 - ii. A gross misdemeanor **drug offense** shall meet the requirements in Section 14.A and have attended a defense training or CLE on drug offenses.
 - iii. A misdemeanor **sex offense**²³ shall meet the requirements in Section 14.A; and
 - 1. Has served one year as a criminal defense attorney or prosecutor;
 - 2. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

²² Listed in RCW 9.41.040(2)(a)(i)(B-D) or RCW 10.99.020(4)

²³ Includes a violation of RCW 9.68A.090 (Communicating with a Child for Immoral Purposes), 9A.44.063 (Sexual Misconduct with a Minor in the Second Degree), or an attempt, solicitation, or conspiracy to commit a Class C felony that requires sex offender registration upon conviction pursuant to RCW 9A.44.140.

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- a. Two criminal cases in which the prosecution has rested, at least one of which was presented to a judge for verdict, or
 - b. The significant portion of one criminal trial in which the prosecution has rested and has completed a trial training academy;
 3. Has attended a CLE on sex offenses including training about collateral consequences of sex offense adjudications and child hearsay.
- c. **Felony Mid and Felony Low Cases** – Each lead counsel shall meet the following requirements:
- i. Meet the requirements set forth in Section 14.A;
 - ii. Has served one year as a criminal defense attorney or one year as a prosecutor; and
 - iii. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:
 1. Two criminal trials in which the prosecution rested; or
 2. One criminal trial in which the prosecution has rested and has completed a trial training academy.
 - iv. Each attorney shall be accompanied at their first felony trial by an attorney who is qualified for this or higher case categories.
- d. **Felony Sex Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served two years as either a criminal defense attorney or prosecutor;
 - iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested; and
 - iv. Has attended a CLE on sex offenses, including training about collateral consequences of sex offense convictions and child hearsay.
- Failure to Register as a Sex Offender cases are in the Felony Mid and Low Category.
- e. **Felony High – Other Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served two years as either a criminal defense attorney or prosecutor; and
 - iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a judge or jury for verdict.
- f. **Felony High – Murder Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. At least three years' experience in adult felony cases, including at least two years as a defense attorney representing persons in adult felony cases; and

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- iii. Has been lead counsel or co-counsel in four adult felony trials in which the state has rested, at least one of which was submitted to a judge for verdict and at least one of which was a Felony High case.
 - g. **Felony Resentencing, Revocation, or Reference Hearing** – Each lead counsel shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A; and
 - ii. Is qualified to represent the client in a Felony Mid and Low case.
 - h. **Specialty Courts** – Each attorney representing a client in a specialty court (e.g., mental health court, drug court, veterans court, homelessness court, juvenile therapeutic court, community court, and family therapeutic court) shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans.
 - i. **Juvenile Court Status Offense Cases** - Each lead counsel representing a client in a Child in Need of Services (CHINS), At-Risk Youth (ARY), Truancy, or other status offense case shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A; and
 - ii. Either:
 - 1. Have represented youth in at least two similar cases under the supervision or consultation with an attorney qualified under this case type, or
 - 2. Completed at least three hours of CLE training specific to Juvenile Status Offense Cases.
- 4. Civil Cases – Trial Court Cases**
- a. **Representing Children and Youth in Dependency Cases** – Attorneys representing children and youth in dependency matters should be familiar with expert services and treatment resources available in dependency cases. Each lead counsel representing children and youth in a dependency matter shall meet the following requirements:
 - i. Meet the minimum requirements set forth in Section 14.A and the requirements for training and experience in the *Representation of Children and Youth in Dependency Cases Practice, Caseload and Training Standards*, Washington Supreme Court Commission on Children in Foster Care, at the Request of the Legislature (Rev. Sept. 2022)²⁴;
 - ii. Have knowledge, training, experience, and ability in communicating effectively with children, or have participated in at least one consultation per case either with a state Office of Civil Legal Aid resource attorney or other attorney qualified under this section; and

²⁴ Available at:

<https://www.courts.wa.gov/subsite/CommFC/docs/revised%20practice%20standards%20for%20representation%20of%20children%20and%20youth%20in%20dependency%20cases.pdf>.

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- iii. Attorneys representing children and youth in termination of parental rights cases shall have six months' dependency experience or have significant experience in conducting complex litigation.
- b. **Representing Parents in Dependency Cases** – Attorneys representing parents in dependency matters should be familiar with expert services and treatment resources available in dependency cases. Each lead counsel representing children and youth in a dependency matter shall meet the following requirements:
 - i. Meet the minimum requirements as outlined in Section 14.A;
 - ii. Be familiar with the *American Bar Association Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Family Justice Initiative Attributes*; and
 - iii. Attorneys representing parents in termination of parental rights cases shall have either six months' dependency experience or significant experience in handling complex litigation.
- c. **Civil Commitment Cases (RCW 71.05)** – Each lead counsel representing a respondent shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. Each lead counsel in a 90- or 180-day commitment hearing shall have prepared and conducted at least five 14-day hearings;
 - iii. Each lead counsel shall be accompanied at counsel's first 90- or 180-day commitment hearing by a supervisor or consult with a qualified attorney before the hearing;
 - iv. Each lead counsel in a civil commitment trial shall have conducted at least two contested 14-day hearings as lead counsel or been co-counsel with a more experienced attorney in two 90- or 180-day contested commitment hearings.
 - v. Have a basic knowledge of the classification of mental disorders, as described in the most recent Diagnostic and Statistical Manual of Mental Disorders ("DSM")²⁵ and other resources, and the ability to read and understand medical terminology related to mental disorders and treatment of persons with a mental illness, substance use disorder, co-occurring disorders, and chemical dependency. Counsel shall have ready access to the most recent DSM, as well as research resources for related medical conditions. Counsel should also have basic knowledge and understanding of common personality disorders and medical conditions that may produce similar symptoms. Counsel shall be familiar with the classes of medication prescribed to treat mental disorders and chemical dependency and the possible effect of those medications on the client's ability to interact with counsel and to participate in court proceedings. Counsel should be familiar with treatment facilities, both in-patient and out-patient, that provide services to persons with mental illness, including the scope of those services. Counsel should be familiar with local facilities and state hospitals that may be remote from where the client lives. Counsel should be familiar with the limitations on available treatment and transportation obstacles associated with such facilities.

²⁵ Counsel shall be familiar with the diagnostic manual in use by mental health professionals at the time of sentencing and the time of any hearing.

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- d. **Representing Clients Acquitted by Reason of Insanity (RCW 10.77)** – Each attorney representing persons who are acquitted by reason of insanity in post-commitment proceedings shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Have at least three years' experience of either criminal trial experience, dependency experience, or civil commitment proceedings under RCW 71.05; and
 - iii. Has a basic knowledge of the classification of mental disorders, as described in the most recent Diagnostic and Statistical Manual of Mental Disorders ("DSM") and other resources, related to the treatment of persons with a mental illness and substance use;²⁶ and
 - iv. Each counsel representing persons in this category shall meet qualification requirements established by the Washington State Office of Public Defense for this type of representation.
- e. **Sex Offender Commitment Cases (RCW 71.09)** – There should be two attorneys on each sex offender commitment case. The lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. At least three years' criminal trial experience;
 - iii. One year experience as a felony trial defense or criminal appeals attorney;
 - iv. One year of appellate experience or demonstrated legal writing ability;
 - v. Has been lead defense counsel in at least one felony trial; and
 - vi. Has experience as defense counsel in cases involving each of the following:
 1. Mental health issues;
 2. Sexual offenses;
 3. Expert witnesses; and
 4. Familiarity with the Civil Rules.
 - vii. Other counsel working on a sex offender commitment case should meet the minimum requirements in Section 14.A and have either one year's experience as a public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.
- f. **Contempt of Court Cases (Child Support Enforcement)** – Each lead counsel representing a respondent in a contempt of court case shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Each lead counsel shall be accompanied by a supervisor or more experienced attorney at his or her first contempt of court hearing and at his or her first two contested contempt of court hearings and participate in at least one consultation per case for their first five non-contested hearings with a WDA resource attorney or another attorney qualified in this area of

²⁶ Counsel shall be familiar with the diagnostic manual in use by mental health professionals.

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practice; and

- iii. Be familiar with the Rules of Civil Procedure.

5. Appellate Cases

- a. **Adult Criminal and Juvenile Court Representation in Appellate Courts Other Than Superior Court RALJ Appeals** – Each lead counsel in an appellate matter before the Court of Appeals or Supreme Court shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. Has filed six appellate briefs as counsel for a party in the Washington Supreme Court or Court of Appeals, or appellate courts of other jurisdictions, including at least five criminal, dependency (RCW 13.34), civil commitment (RCW 71.05) or sex offender commitment (RCW 71.09) cases; or participated in consultation with a qualified attorney in each case until this requirement is satisfied; and
 - iii. Each lead counsel representing a client on appeal in a Felony High Murder, Felony High LWOP, Felony High, or Sex Offender Commitment case shall:
 1. Meet the requirements of Standard 14.C.5.a.ii; and
 2. Has filed 15 appellate briefs in criminal cases as counsel for a party in the Washington Supreme Court or Court of Appeals, or appellate courts of other jurisdictions, or shall participate in consultation with a qualified attorney in each case until this requirement is satisfied.
 - b. **Dependency Representation in Appellate Courts** - Each lead counsel shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. The requirements in Standard 14.C.5.a.ii; and
 - iii. Be familiar with the *American Bar Association Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Family Justice Initiative Attributes*.
 - c. **RALJ Misdemeanor Appeals and Writs to Superior Court** - Each lead counsel representing a client in an appellate matter to Superior Court from a court of limited jurisdiction shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A; and
 - ii. Either:
 1. Has clerked for an appellate court judge; or
 2. Has represented clients in at least three substantive testimonial motion hearings or trials; or
 3. Has the assistance of a more experienced attorney in preparing and arguing the RALJ appeal.
- ### 6. Legal Interns
- Legal interns who appear in court shall:
- a. Meet the requirements set out in Section 14.A;
 - b. Meet the requirements set out in APR 9;
 - c. Receive training and supervision pursuant to APR 9; and
 - d. Complete an orientation and training program for legal interns.

Proposed Language

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WSBA STANDARD FIFTEEN: Disposition of Client Complaints

Standard:

<p>Each agency or firm or individual contract attorney providing public defense services shall have a method to respond promptly to client complaints. Complaints should first be directed to the attorney, firm or agency which provided representation. If the client feels that he or she has not received an adequate response, the contracting authority or public defense administrator should designate a person or agency to evaluate the legitimacy of complaints and to follow up meritorious ones. The complaining client should be informed as to the disposition of his or her complaint within one week.</p>	<p>15.A. Jurisdictions that administer public defense services shall provide a process for receiving, investigating, and promptly responding to client complaints. Complaints should first be directed to the assigned attorney, firm, or agency that is providing or provided representation.</p> <p>15.B. Public defense agencies and contractors with multi-attorney private firms shall include investigation and disposition of client complaints in their supervisory services.</p> <p>15.C. The complaining client should be informed as to the disposition of their complaint in a timely manner.</p>
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WSBA STANDARD SIXTEEN: Cause for Termination of Defender Services and Removal of Attorney

Standard:

<p>Contracts for indigent defense services shall include the grounds for termination of the contract by the parties. Termination of a provider's contract should only be for good cause. Termination for good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; and the willful disregard of the standards herein addressed.</p> <p>Removal by the court of counsel from representation normally should not occur over the objection of the attorney and the client.</p>	<p>Contracts for public defense services shall include the grounds for termination of the contract by the parties. Termination of a public defense attorney's or private firm's contract unilaterally by the jurisdiction should only be for good cause. Termination for good cause shall include, but not be limited to, the failure of a contract attorney or firm to provide effective or quality representation to clients, the willful disregard of the rights and best interests of the client, and the willful disregard of these <i>WSBA Standards</i> or the <i>Court Rule Standards</i>.</p> <p>Removal by the court of an appointed attorney from representation normally should not occur over the objection of the attorney and the client.</p>
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WSBA STANDARD SEVENTEEN: Non-Discrimination

Standard:

<p>Neither the Contracting Authority, in its selection of an attorney, firm or agency to provide public defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, gender, sexual orientation or disability. Both the contracting authority and the contractor shall comply with all federal, state, and local non-discrimination requirements.</p>	<p>Public defense contracts and assigned counsel policies shall include language prohibiting discrimination by the jurisdiction, contractor, contractor’s attorneys, or assigned counsel on the grounds of race, ethnicity, religion, national origin, language, age, marital status, gender identity, sexual orientation, or disability. The public defense administrator and all public defense attorneys and support staff shall comply with all federal, state, and local non-discrimination requirements.</p>
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WSBA STANDARD EIGHTEEN: Guidelines for Awarding Defense Contracts

Standard:

<p>Recruitment for public defense contracts and assigned counsel lists should include efforts to achieve a diverse public defense workforce.</p> <p>Attorneys or firms applying for contracts or placement on assigned counsel lists must demonstrate their ability to meet these Standards and the Supreme Court Standards for Indigent Defense. Their contracts must comply with Rules of Professional Conduct 1.8(m).</p> <p>The county or city should award contracts for public defense services and select attorneys for assigned counsel lists only after determining that the applicant has demonstrated professional qualifications consistent with both these Standards and the Supreme Court Standards for Indigent Defense. Under no circumstances should a contract be awarded on the basis of cost alone.</p> <p>Judges, judicial staff, city attorneys, county prosecutors, and law enforcement officers shall not select the attorneys who will be</p>	<p><i>No Changes</i></p> <p>Recruitment for public defense contracts and assigned counsel lists should include efforts to achieve a diverse public defense workforce.</p> <p>Attorneys or firms applying for contracts or placement on assigned counsel lists must demonstrate their ability to meet these Standards and the Supreme Court Standards for Indigent Defense. Their contracts must comply with Rules of Professional Conduct 1.8(m).</p> <p>The county or city should award contracts for public defense services and select attorneys for assigned counsel lists only after determining that the applicant has demonstrated professional qualifications consistent with both these Standards and the Supreme Court Standards for Indigent Defense. Under no circumstances should a contract be awarded on the basis of cost alone.</p> <p>Judges, judicial staff, city attorneys, county prosecutors, and law</p>
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included in a contract or an assigned counsel list.	enforcement officers shall not select the attorneys who will be included in a contract or an assigned counsel list.
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WSBA STANDARD NINETEEN: Independence and Oversight of Public Defense Services²⁷

Standard:

<p>Public defense providers should not be restrained from independently advocating for the resources and reforms necessary to provide defense related services for all clients. This includes efforts to foster system improvements, efficiencies, access to justice, and equity in the legal system.</p> <p>Judges and judicial staff shall not manage and oversee public defense offices, public defense contracts, or assigned counsel lists. Judges and judicial staff in superior courts and courts of limited jurisdiction shall not select public defense administrators or the attorneys who provide public defense services.</p> <p>Attorneys with public defense experience insulated from judicial and political influence should manage and oversee public defense services.</p> <p>The terms “manage” and “oversee” include: drafting, awarding, renewing, and terminating public defense contracts; adding attorneys or removing them from assigned counsel lists; developing case weighting policies; monitoring attorney caseload limits and case-level qualifications; monitoring quality; monitoring compliance with contracts, policies, procedures, and standards; and recommending compensation.</p>	<p><i>No Changes</i></p> <p>Public defense providers should not be restrained from independently advocating for the resources and reforms necessary to provide defense related services for all clients. This includes efforts to foster system improvements, efficiencies, access to justice, and equity in the legal system.</p> <p>Judges and judicial staff shall not manage and oversee public defense offices, public defense contracts, or assigned counsel lists. Judges and judicial staff in superior courts and courts of limited jurisdiction shall not select public defense administrators or the attorneys who provide public defense services.</p> <p>Attorneys with public defense experience insulated from judicial and political influence should manage and oversee public defense services.</p> <p>The terms “manage” and “oversee” include: drafting, awarding, renewing, and terminating public defense contracts; adding attorneys or removing them from assigned counsel lists; developing case weighting policies; monitoring attorney caseload limits and case-level qualifications; monitoring quality; monitoring compliance with contracts, policies, procedures, and standards; and recommending compensation.</p>
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²⁷ See, Principle 1 of the ABA Ten Principles of a Public Defense Delivery System (August 2023), including the recommendation a nonpartisan commission or advisory board oversee the public defense function, thus safeguarding against undue political pressure while also promoting efficiency and accountability for a publicly funded service.

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<p>The agencies, organizations, and administrators responsible for managing and overseeing public defense services shall apply these Standards, the Supreme Court Standards for Indigent Defense, and the WSBA Performance Guidelines in their management and oversight duties.</p> <p>Jurisdictions unable to employ attorneys with public defense experience to manage and oversee public defense services shall consult with established city, county, or state public defense offices, or engage experienced public defense providers as consultants regarding management and oversight duties.</p>	<p>The agencies, organizations, and administrators responsible for managing and overseeing public defense services shall apply these Standards, the Supreme Court Standards for Indigent Defense, and the WSBA Performance Guidelines in their management and oversight duties.</p> <p>Jurisdictions unable to employ attorneys with public defense experience to manage and oversee public defense services shall consult with established city, county, or state public defense offices, or engage experienced public defense providers as consultants regarding management and oversight duties.</p>
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Appendix A

WSBA Standards for Indigent Defense Services
and CrR 3.1, CrRLJ 3.1, JuCr 9.2, and CCR 2.1, *Supreme Court Standards for Indigent Defense*
Comparison of Topics, as of February 2024*

Standard #	WSBA <i>Standards for Indigent Defense Services</i>	Supreme Court Adopted <i>Standards for Indigent Defense</i>
1	Compensation	Reserved
2	Duties and Responsibilities of Counsel	Reserved
3	Caseload Limits and Types of Cases	Caseload Limits and Types of Cases
4	Responsibility for Expert Witnesses	Reserved, but see RPC 1.8
5	Administrative Costs	Administrative Costs , partially adopted
6	Investigators	Investigators , partially adopted
7	Support Services	Reserved
8	Reports of Attorney Activity	Reserved
9	Training	Reserved
10	Supervision	Reserved
11	Monitoring and Evaluation of Attorneys	Reserved
12	Substitution of Counsel	Reserved
13	Limitations on Private Practice	Limitations on Private Practice
14	Qualifications of Attorneys with revised list of qualifications	Qualifications of Attorneys
15	Disposition of Client Complaints	Reserved
16	Cause for Termination of Defender Services and Removal of Attorney	Reserved
17	Non-Discrimination	Reserved
18	Guidelines for Awarding Defense Contracts	Reserved
19	Independence and Oversight of Public Defense Services	Not included, but addressed in GR 42

* Readers should check for any subsequent amendments

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APPENDIX B

Crimes Categorized by Public Defense Case Category

All unlisted misdemeanors are Misdemeanor Low

PD Misdemeanor Case Category	Seriousness Level	Case Value	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
Misdemeanor - High	GM	1.5	Aiming or discharging a firearm (RCW 9.41.230)
Misdemeanor - High	GM	1.5	Animal cruelty in the second degree committed under RCW 16.52.207(1)
Misdemeanor - High	GM	1.5	Assault 4 (RCW 9A.36.041(3))
Misdemeanor - High	GM	1.5	Attempt, Solicitation, or Conspiracy of a Class C Felony ((RCW 9A.28.020-040))
Misdemeanor - High	GM	1.5	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Misdemeanor - High	GM	1.5	Driving While Under the Influence (RCW 46.61.502(6))
Misdemeanor - High	GM	1.5	H&R Attended (RCW 46.52.020)
Misdemeanor - High	GM	1.5	Harassment (RCW 9A.46.020(1-2))
Misdemeanor - High	GM	1.5	Indecent Exposure to Person Under Age 14 (first offense) (RCW 9A.88.010)
Misdemeanor - High	GM	1.5	Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
Misdemeanor - High	GM	1.5	Possession of a Controlled Substance (RCW 69.50.4013)
Misdemeanor - High	GM	1.5	Reckless Driving RCW 46.61.150
Misdemeanor - High	GM	1.5	Sexual Misconduct with a Minor2 (RCW 9A.44.096)
Misdemeanor - High	GM	1.5	Stalking (RCW 9A.46.110(1-5))
Misdemeanor - High	GM	1.5	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(1))
Misdemeanor - High	GM	1.5	Unlawful carrying or handling of a firearm (RCW 9.41.270)
Misdemeanor - High	GM	1.5	Vehicle Prowling 2 (first or second offense) (RCW 9A.52.100(1-2))

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Misdemeanor - High	GM	1.5	Violation of Anti-Harassment Protection Order (RCW 7.105.450)
Misdemeanor - High	GM/M	1.5	Domestic Violence Offense listed in RCW 10.99.020(4) or RCW 9.41.040(2)(a)(i)(B-D)
	GM/M	1.5	Municipal Crimes shall be the same case category as the equivalent State crime. When there is no State crime, a Municipal Gross Misdemeanor is Misdemeanor - High and a Simple Misdemeanor is a Misdemeanor - Felony - Low
Misdemeanor - Low	M	1	Attempt, Solicitation, or Conspiracy to Commit a Gross Misdemeanor (RCW 9A.28.020-040)
Misdemeanor - High	M	1	Minor Driving After Alcohol (RCW 46.61.503)
Misdemeanor - High	M	1	Negligent Driving 1 RCW 46.61.5249

All unlisted felonies are Felony Low

PD Felony Case Category	Seriousness Level	Case Value	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
Felony - Low	1	1	Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
Felony - Low	1	1	False Verification for Welfare (RCW 74.08.055)
Felony - Low	1	1	Forgery (RCW 9A.60.020)
Felony - Low	1	1	Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
Felony - Low	1	1	Malicious Mischief 2 (RCW 9A.48.080)
Felony - Low	1	1	Mineral Trespass (RCW 78.44.330)
Felony - Low	1	1	Possession of Stolen Property 2 (RCW 9A.56.160)
Felony - Low	1	1	Reckless Burning 1 (RCW 9A.48.040)
Felony - Low	1	1	Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
Felony - Low	1	1	Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
Felony - Low	1	1	Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

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Felony - Low	1	1	Theft 2 (RCW 9A.56.040)
Felony - Low	1	1	Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
Felony - Low	1	1	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$750 or more but less than \$5,000) (RCW 9A.56.096(5)(b))
Felony - Low	1	1	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
Felony - Low	1	1	Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
Felony - Low	1	1	Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Felony - Low	1	1	Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
Felony - Low	1	1	Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
Felony - Low	1	1	Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
Felony - Low	1	1	Unlawful Possession of Payment Instruments (RCW 9A.56.320)
Felony - Low	1	1	Unlawful Production of Payment Instruments (RCW 9A.56.320)
Felony - Low	1	1	Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))
Felony - Low	1	1	Unlawful Trafficking in Food Stamps (RCW 9.91.142)
Felony - Low	1	1	Unlawful Use of Food Stamps (RCW 9.91.144)
Felony - Low	1	1	Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))
Felony - Low	1	1	Vehicle Prowl 1 (RCW 9A.52.095)
Felony - Low	1	1	Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))
Felony - Low	2	1	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
Felony - Low	2	1	Computer Trespass 1 (RCW 9A.90.040)
Felony - Low	2	1	Counterfeiting (RCW 9.16.035(3))

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Felony - Low	2	1	Electronic Data Service Interference (RCW 9A.90.060)
Felony - Low	2	1	Electronic Data Tampering 1 (RCW 9A.90.080)
Felony - Low	2	1	Electronic Data Theft (RCW 9A.90.100)
Felony - Low	2	1	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
Felony - Low	2	1	Escape from Community Custody (RCW 72.09.310)
Felony - Low	2	1	Failure to Register as a Sex Offender (first, second, or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
Felony - Low	2	1	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
Felony - Low	2	1	Health Care False Claims (RCW 48.80.030)
Felony - Low	2	1	Identity Theft 2 (RCW 9.35.020(3))
Felony - Low	2	1	Improperly Obtaining Financial Information (RCW 9.35.010)
Felony - Low	2	1	Malicious Mischief 1 (RCW 9A.48.070)
Felony - Low	2	1	Organized Retail Theft 2 (RCW 9A.56.350(3))
Felony - Low	2	1	Possession of a Stolen Vehicle (RCW 9A.56.068)
Felony - Low	2	1	Possession of Stolen Property 1 (RCW 9A.56.150)
Felony - Low	2	1	Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))
Felony - Low	2	1	Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)
Felony - Low	2	1	Theft 1 (RCW 9A.56.030)
Felony - Low	2	1	Theft of a Motor Vehicle (RCW 9A.56.065)
Felony - Low	2	1	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$5,000 or more) (RCW 9A.56.096(5)(a))
Felony - Low	2	1	Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
Felony - Low	2	1	Trafficking in Insurance Claims (RCW 48.30A.015)
Felony - Low	2	1	Unlawful factoring of a credit card or payment card

Original Language

Proposed Language

			transaction (RCW 9A.56.290(4)(a))
Felony - Low	2	1	Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
Felony - Low	2	1	Unlawful Practice of Law (RCW 2.48.180)
Felony - Low	2	1	Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
Felony - Low	2	1	Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
Felony - Low	2	1	Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
Felony - Low	3	1	Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
Felony - Low	3	1	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
Felony - Low	3	1	Assault of a Child 3 (RCW 9A.36.140)
Felony - Low	3	1	Bail Jumping with class B or C (RCW 9A.76.170(3)(c))
Felony - Low	3	1	Burglary 2 (RCW 9A.52.030)
Felony - Low	3	1	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Felony - Low	3	1	Criminal Gang Intimidation (RCW 9A.46.120)
Felony - Low	3	1	Custodial Assault (RCW 9A.36.100)
Felony - Low	3	1	Cyber Harassment (RCW 9A.90.120(2)(b))
Felony - Low	3	1	Escape 2 (RCW 9A.76.120)
Felony - Low	3	1	Extortion 2 (RCW 9A.56.130)
Felony - Low	3	1	False Reporting 2 (RCW 9A.84.040(2)(b))
Felony - Low	3	1	Harassment (RCW 9A.46.020)
Felony - Low	3	1	Hazing (RCW 28B.10.901(2)(b))
Felony - Low	3	1	Intimidating a Public Servant (RCW 9A.76.180)
Felony - Low	3	1	Introducing Contraband 2 (RCW 9A.76.150)
Felony - Low	3	1	Malicious Injury to Railroad Property (RCW 81.60.070)

Original Language

Proposed Language

Felony - Low	3	1	Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)
Felony - Low	3	1	Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)
Felony - Low	3	1	Mortgage Fraud (RCW 19.144.080)
Felony - Low	3	1	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
Felony - Low	3	1	Organized Retail Theft 1 (RCW 9A.56.350(2))
Felony - Low	3	1	Perjury 2 (RCW 9A.72.030)
Felony - Low	3	1	Possession of Incendiary Device (RCW 9.40.120)
Felony - Low	3	1	Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Felony - Low	3	1	Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))
Felony - Low	3	1	Securities Act violation (RCW 21.20.400)
Felony - Low	3	1	Tampering with a Witness (RCW 9A.72.120)
Felony - Low	3	1	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
Felony - Low	3	1	Theft of Livestock 2 (RCW 9A.56.083)
Felony - Low	3	1	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
Felony - Low	3	1	Trafficking in Stolen Property 2 (RCW 9A.82.055)
Felony - Low	3	1	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
Felony - Low	3	1	Unlawful Imprisonment (RCW 9A.40.040)
Felony - Low	3	1	Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
Felony - Low	3	1	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Felony - Low	3	1	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
Felony - Low	3	1	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))

Original Language

Proposed Language

Felony - Low	3	1	Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
Felony - Low	3	1	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Felony - Low	4	1	Driving While Under the Influence (3 or more offenses) (RCW 46.61.502(6))
Felony - Low	4	1	Influencing Outcome of Sporting Event (RCW 9A.82.070)
Felony - Low	4	1	Physical Control of a Vehicle While Under the Influence (three or more offenses) (RCW 46.61.504(6))
Felony - Low	4	1	Theft of Livestock 1 (RCW 9A.56.080)
Felony - Low	4	1	Threats to Bomb (RCW 9.61.160)
Felony - Low	4	1	Trafficking in Stolen Property 1 (RCW 9A.82.050)
Felony - Low	4	1	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
Felony - Low	4	1	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
Felony - Low	4	1	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
Felony - Low	4	1	Unlawful transaction of insurance business (RCW 48.15.023(3))
Felony - Low	4	1	Unlicensed practice as an insurance professional (RCW 48.17.063(2))
Felony - Low	4	1	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
Felony - Low	4	1	Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
Felony - Low	5	1	Abandonment of Dependent Person 2 (RCW 9A.42.070)
Felony - Low	5	1	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Felony - Low	5	1	Air bag diagnostic systems (RCW 46.37.660(2)(c))
Felony - Low	5	1	Air bag replacement requirements (RCW 46.37.660(1)(c))

Original Language

Proposed Language

Felony - Low	5	1	Bail Jumping with class A (RCW 9A.76.170(3)(b))
Felony - Low	5	1	Extortionate Extension of Credit (RCW 9A.82.020)
Felony - Low	5	1	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Felony - Low	5	1	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
Felony - Low	5	1	Perjury 1 (RCW 9A.72.020)
Felony - Low	5	1	Possession of a Stolen Firearm (RCW 9A.56.310)
Felony - Low	5	1	Rendering Criminal Assistance 1 (RCW 9A.76.070)
Felony - Low	5	1	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
Felony - Low	6	1	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
Felony - Low	6	1	Bribery (RCW 9A.68.010)
Felony - Low	6	1	Intimidating a Judge (RCW 9A.72.160)
Felony - Low	6	1	Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
Felony - Low	6	1	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
Felony - Low	6	1	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
Felony - Low	6	1	Theft of a Firearm (RCW 9A.56.300)
Felony - Low	6	1	Unlawful Storage of Ammonia (RCW 69.55.020)
Felony - Low	7	1	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
Felony - Low	7	1	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
Felony - Low	7	1	Civil Disorder Training (RCW 9A.48.120)
Felony - Low	7	1	False Reporting 1 (RCW 9A.84.040(2)(a))
Felony - Low	7	1	Malicious placement of an explosive 3 (RCW 70.74.270(3))
Felony - Low	7	1	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))

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Felony - Low	7	1	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
Felony - Low	7	1	Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
Felony - Low	7	1	Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
Felony - Low	7	1	Use of a Machine Gun or Bump-fire Stock in Commission of a (RCW 9.41.225)
Felony - Low	8	1	Theft of Ammonia (RCW 69.55.010)
Felony - Low		1	Attempt, Solicitation, or Conspiracy of a Class B Felony (RCW 9A.28.020-040)
Felony - Mid	4	1.5	Arson 2 (RCW 9A.48.030)
Felony - Mid	4	1.5	Assault 2 (RCW 9A.36.021)
Felony - Mid	4	1.5	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
Felony - Mid	4	1.5	Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
Felony - Mid	4	1.5	Assault by Watercraft (RCW 79A.60.060)
Felony - Mid	4	1.5	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
Felony - Mid	4	1.5	Cheating 1 (RCW 9.46.1961)
Felony - Mid	4	1.5	Commercial Bribery (RCW 9A.68.060)
Felony - Mid	4	1.5	Counterfeiting (RCW 9.16.035(4))
Felony - Mid	4	1.5	Endangerment with a Controlled Substance (RCW 9A.42.100)
Felony - Mid	4	1.5	Escape 1 (RCW 9A.76.110)
Felony - Mid	4	1.5	Hate Crime (RCW 9A.36.080)
Felony - Mid	4	1.5	Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
Felony - Mid	4	1.5	Hit and Run—Injury (RCW 46.52.020(4)(b))
Felony - Mid	4	1.5	Identity Theft 1 (RCW 9.35.020(2))
Felony - Mid	4	1.5	Residential Burglary (RCW 9A.52.025)

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Proposed Language

Felony - Mid	4	1.5	Robbery 2 (RCW 9A.56.210)
Felony - Mid	4	1.5	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
Felony - Mid	5	1.5	Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070)
Felony - Mid	5	1.5	Extortion 1 (RCW 9A.56.120)
Felony - Mid	5	1.5	Kidnapping 2 (RCW 9A.40.030)
Felony - Mid	5	1.5	Persistent prison misbehavior (RCW 9.94.070)
Felony - Mid	5	1.5	Stalking (RCW 9A.46.110)
Felony - Mid	5	1.5	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
Felony - Mid	7	1.5	Burglary 1 (RCW 9A.52.020)
Felony - Mid	7	1.5	Drive-by Shooting (RCW 9A.36.045)
Felony - Mid	7	1.5	Introducing Contraband 1 (RCW 9A.76.140)
Felony - Mid	9	1.5	Explosive devices prohibited (RCW 70.74.180)
Felony - Mid	9	1.5	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
Felony - Mid	9	1.5	Malicious placement of an explosive 2 (RCW 70.74.270(2))
Felony - Mid	10	1.5	Malicious explosion 3 (RCW 70.74.280(3))
Felony - Mid	10	1.5	Sexually Violent Predator Escape (RCW 9A.76.115)
Felony - Mid		1.5	Attempt, Solicitation, or Conspiracy of a Class A Felony (RCW 9A.28.020-040)
Felony - Mid	DG2	1.5	Felony Offense with Firearm Enhancement or Deadly Weapon Enhancement that becomes a Strike (RCW 9.94A.030(32)(s) and 9.94A.825)
Felony - High	8	3	Arson 1 (RCW 9A.48.020)
Felony - High	9	3	Abandonment of Dependent Person 1 (RCW 9A.42.060)
Felony - High	9	3	Assault of a Child 2 (RCW 9A.36.130)
Felony - High	9	3	Robbery 1 (RCW 9A.56.200)

Original Language

Proposed Language

Felony - High	10	3	Criminal Mistreatment 1 (RCW 9A.42.020)
Felony - High	10	3	Kidnapping 1 (RCW 9A.40.020)
Felony - High	10	3	Leading Organized Crime (RCW 9A.82.060(1)(a))
Felony - High	12	3	Assault 1 (RCW 9A.36.011)
Felony - High	12	3	Assault of a Child 1 (RCW 9A.36.120)
Felony - High	12	3	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
Felony - High	13	3	Malicious explosion 2 (RCW 70.74.280(2))
Felony - High	13	3	Malicious placement of an explosive 1 (RCW 70.74.270(1))
Felony - High	14	3	Trafficking 1 (RCW 9A.40.100(1))
Felony - High	15	3	Malicious explosion 1 (RCW 70.74.280(1))
Felony - Sex	2	5	Voyeurism 1 (RCW 9A.44.115)
Felony - Sex	3	5	Promoting Prostitution 2 (RCW 9A.88.080)
Felony - Sex	4	5	Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)
Felony - Sex	4	5	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))
Felony - Sex	4	5	Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
Felony - Sex	5	5	Child Molestation 3 (RCW 9A.44.089)
Felony - Sex	5	5	Criminal Mistreatment 2 (RCW 9A.42.030)
Felony - Sex	5	5	Custodial Sexual Misconduct 2 (RCW 9A.44.170)
Felony - Sex	5	5	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
Felony - Sex	5	5	Incest 2 (RCW 9A.64.020(2))
Felony - Sex	5	5	Rape 3 (RCW 9A.44.060)
Felony - Sex	5	5	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
Felony - Sex	5	5	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

Original Language

Proposed Language

Felony - Sex	5	5	Sexually Violating Human Remains (RCW 9A.44.105)
Felony - Sex	6	5	Incest 1 (RCW 9A.64.020(1))
Felony - Sex	6	5	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
Felony - Sex	6	5	Rape of a Child 3 (RCW 9A.44.079)
Felony - Sex	7	5	Child Molestation 2 (RCW 9A.44.086)
Felony - Sex	7	5	Custodial Sexual Misconduct 1 (RCW 9A.44.160)
Felony - Sex	7	5	Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
Felony - Sex	7	5	Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
Felony - Sex	8	5	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
Felony - Sex	8	5	Promoting Prostitution 1 (RCW 9A.88.070)
Felony - Sex	9	5	Sexual Exploitation (RCW 9.68A.040)
Felony - Sex	10	5	Child Molestation 1 (RCW 9A.44.083)
Felony - Sex	10	5	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Felony - Sex	11	5	Rape 2 (RCW 9A.44.050)
Felony - Sex	11	5	Rape of a Child 2 (RCW 9A.44.076)
Felony - Sex	12	5	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
Felony - Sex	12	5	Rape 1 (RCW 9A.44.040)
Felony - Sex	12	5	Rape of a Child 1 (RCW 9A.44.073)
Felony - Sex	12	5	Trafficking 2 (RCW 9A.40.100(3))
Felony - Sex		5	Any Felony Offense where a Special Allegation of Sexual Motivation is alleged pursuant (RCW 9.94A835)
Felony - Sex		5	Attempt, Solicitation, or Conspiracy to Commit a Sex Offense (RCW 9A.28.020)
Felony - Murder	7	7	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

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Felony - Murder	7	7	Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
Felony - Murder	7	7	Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
Felony - Murder	8	7	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
Felony - Murder	8	7	Manslaughter 2 (RCW 9A.32.070)
Felony - Murder	9	7	Hit and Run—Death (RCW 46.52.020(4)(a))
Felony - Murder	9	7	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
Felony - Murder	11	7	Manslaughter 1 (RCW 9A.32.060)
Felony - Murder	11	7	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
Felony - Murder	11	7	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
Felony - Murder	14	7	Murder 2 (RCW 9A.32.050)
Felony - Murder	15	7	Homicide by abuse (RCW 9A.32.055)
Felony - Murder	15	7	Murder 1 (RCW 9A.32.030)
Felony - Murder	16	7	Aggravated Murder 1 (RCW 10.95.020)
Felony - Murder		7	Attempt, Solicitation, or Conspiracy to Commit Murder (RCW 9A.28.020-040)
Felony - LWOP		8	Any "Third Strike" or final offense where a life sentence could be imposed (RCW 9.94A575)

Appendix C

Adult Criminal Cases

Original Language

Proposed Language

Case Type	Previous Attorney Experience	Previous Trial Experience	Special Training	Other
A. Misdemeanor Low and Probation Violations	-	-	-	<ul style="list-style-type: none"> • 14.A. Requirements
B. Misdemeanor High a. Domestic Violence, Violation of No Contact Order, Harassment, or Stalking b. Drug Offenses c. Sex Offenses d. DUI	a. b. c. Sex Offense - Has served as defense attorney or prosecutor for one year. d.	a. b. c. Sex Offense - Two criminal cases in which the prosecution has rested, <i>or</i> One criminal trial in which the prosecution has rested and completed a trial training academy d.	a. Domestic violence - DV training or CLE. b. Drug offenses - Drug training or CLE. c. Sex Offenses – Has attended a training or CLE on collateral consequences of sex convictions and on child hearsay. d. DUI – CLE or Training on DUI Defense representation in the last two years.	<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.
C. Felony Mid and Low Cases	One year of prosecution or criminal defense.	As lead or co-counsel handling a significant portion, where the state has rested, either: <ul style="list-style-type: none"> • Two criminal trials; or 		<ul style="list-style-type: none"> • 14.A. Requirements • Shall be accompanied at first felony trial by a felony-qualified attorney, if available.

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		<ul style="list-style-type: none"> • One criminal trial and has completed a trial training academy. 		
D. Felony Sex Cases	Two years of prosecution or criminal defense.	<p>As lead or co-counsel handling a significant portion, where the state has rested:</p> <ul style="list-style-type: none"> • Three felony trials, of which at least one was submitted to a jury. 	<ul style="list-style-type: none"> • Collateral Consequences of Sex offenses • Child hearsay 	<ul style="list-style-type: none"> • 14.A. Requirements
E. Felony High Other Cases	Two years of prosecution or criminal defense.	<p>As lead or co-counsel handling a significant portion, where the state has rested:</p> <ul style="list-style-type: none"> • Three felony trials, of which at least one was submitted to a jury. 		<ul style="list-style-type: none"> • 14.A. Requirements
F. Felony High Murder and LWOP	<p>Three years in adult felony cases, of which:</p> <ul style="list-style-type: none"> • Two years as felony defense counsel. 	<p>As lead or co-counsel for the defense, where the state has rested:</p> <ul style="list-style-type: none"> • Four adult felony trials in which the state has rested; • At least one of which was submitted to a jury; and • At least one of which was Felony High Other or from this category. 	<ul style="list-style-type: none"> • Mitigation 	<ul style="list-style-type: none"> • 14.A. Requirements • Training or experience in challenging prior convictions.
G. Felony Re-Sentencing, Revocation, and Reference Hearings	One year of prosecution or criminal defense.	<p>As lead or co-counsel handling a significant portion, where the state has rested, either:</p> <ul style="list-style-type: none"> • Three criminal trials; or • Two criminal trials and has completed a trial training academy. 		<ul style="list-style-type: none"> • 14.A. Requirements
H. Material Witness Representation				<ul style="list-style-type: none"> • All requirements for Felony Low cases, or the

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Proposed Language

				higher risk category associated with the witnesses' potential charges.
I. Specialty Courts				<ul style="list-style-type: none">• 14.A. Requirements• Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans

Original Language

Proposed Language

Juvenile Court Cases

Case Type	Previous Attorney Experience	Previous Trial Experience	Special Training	Other
A. Misdemeanor Low and Probation Violations				<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.
B. Misdemeanor High a. Domestic Violence, Violation of No Contact Order, Harassment, or Stalking b. Drug Offenses c. Sex Offenses d. DUI	a. b. c. Sex Offense - Has served as defense attorney or prosecutor for one year. d.	a. b. c. Sex Offense - Two criminal cases in which the prosecution has rested, <i>or</i> One criminal trial in which the prosecution has rested and completed a trial training academy d.	e. Domestic violence - DV training or CLE. f. Drug offenses - Drug training or CLE. g. Sex Offenses – Has attended a training or CLE on collateral consequences of sex convictions and on child hearsay. d. DUI – CLE or Training on DUI Defense representation in the last two years.	<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.
C. Felony Mid and Felony Low Cases	One year of prosecution or criminal defense.	As lead or co-counsel handling a significant portion, where the state has rested, either: <ul style="list-style-type: none"> • Two criminal trials; or 		<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with

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Proposed Language

		<ul style="list-style-type: none"> • One criminal trial and has completed a trial training academy. 		youth, or co-counsel with one who does.
J. Felony Sex Cases	Two years of prosecution or criminal defense.	<p>As lead or co-counsel handling a significant portion, where the state has rested:</p> <ul style="list-style-type: none"> • Three felony trials, of which at least one was submitted to a jury. 	<ul style="list-style-type: none"> • Collateral Consequences of Sex offenses • Child hearsay 	<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.
K. Felony High Other Cases	Two years of prosecution or criminal defense.	<p>As lead or co-counsel handling a significant portion, where the state has rested:</p> <ul style="list-style-type: none"> • Three felony trials, of which at least one was submitted to a jury. 		<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.
L. Felony High Murder and LWOP	<p>Three years in adult felony cases, of which:</p> <ul style="list-style-type: none"> • Two years as felony defense counsel. 	<p>As lead or co-counsel for the defense, where the state has rested:</p> <ul style="list-style-type: none"> • Four adult felony trials in which the state has rested; • At least one of which was submitted to a jury; and • At least one of which was Felony High Other or from this category. 	<ul style="list-style-type: none"> • Mitigation 	<ul style="list-style-type: none"> • 14.A. Requirements • Training or experience in challenging prior convictions.
D. Felony Re-Sentencing, Revocation, and Reference Hearings	One year of prosecution or criminal defense.	<p>As lead or co-counsel handling a significant portion, where the state has rested, either:</p> <ul style="list-style-type: none"> • Three criminal trials; or • Two criminal trials; and has completed a trial training academy. 	<ul style="list-style-type: none"> • Sex offenses • Child hearsay • Consequences of adjudications 	<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.
E. Specialty Courts				<ul style="list-style-type: none"> • 14.A. Requirements

Original Language

Proposed Language

				<ul style="list-style-type: none"> • Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans
F. Material Witness Representation	-		-	<ul style="list-style-type: none"> • All requirements for Felony Low cases, or the higher risk category associated with the witnesses' potential charges.
G. Juvenile Court Status Offense Cases	<ul style="list-style-type: none"> • Have represented youth in two similar cases while under supervision; or • Have attended three hours of Status Offense training; or • Participates in at least one consultation per case with a qualified attorney. 			<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or co-counsel with one who does.

Original Language

Proposed Language

Civil Cases

Case Type	Previous Attorney Experience	Specialized Training and Other Requirements	Other
A. Youth Representation in Dependency Cases	<p>Before handling a termination case:</p> <ul style="list-style-type: none"> • Six months' dependency experience or significant experience in complex litigation. 	<p>Shall meet requirements in Section 14.A. and the training/experience requirements in "Representation of Children and Youth in Dependency Cases Practice, Caseload, and Training Standards" developed by the WA Supreme Court Commission on Children in Foster Care.</p>	<ul style="list-style-type: none"> • 14.A. Requirements • Knowledge, skills and abilities to effectively communicate with youth, or consult with a qualified attorney • Be familiar with expert services and treatment resources available in dependency cases.
B. Parents Representation in Dependency Cases	<p>Before handling a termination case:</p> <ul style="list-style-type: none"> • Six months' dependency experience; or significant experience in complex litigation; or certified by a parents representation training program. 	<p>Attorneys shall comply with the American Bar Association's "Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases," and the "Family Justice Initiative Attributes."</p>	<ul style="list-style-type: none"> • 14.A. Requirements • Be familiar with expert services and treatment resources available in dependency cases.
C. RCW 71.05 Civil Commitment Cases	<p>Before handling a 90-day or 180-day commitment hearing:</p> <ul style="list-style-type: none"> • Lead counsel for give 14-day hearings. <p>Before handling a jury trial:</p> <ul style="list-style-type: none"> • Two contested 14-day hearings as lead counsel, or • Two 90 or 180-day commitment hearings as co-counsel. 	<ul style="list-style-type: none"> • At first 90 day or 180-day commitment hearing, the attorney must either: <ul style="list-style-type: none"> ○ Be accompanied by a supervisor; or ○ Consult in advance with a qualified attorney. • Must have basic knowledge of: <ul style="list-style-type: none"> ○ The classifications of mental disorders; ○ Mental disorder medical terminology and research resources; ○ Medications; and ○ Treatment facilities. 	<ul style="list-style-type: none"> • 14.A. Requirements
D. RCW 71.09 Sex Offender	<p>Lead counsel must have:</p>	<ul style="list-style-type: none"> • Experience in cases involving: <ul style="list-style-type: none"> ○ Mental health issues; 	<ul style="list-style-type: none"> • 14.A. Requirements

Original Language

Proposed Language

Commitment Cases	<ul style="list-style-type: none"> • Three years criminal trial experience; and • One year felony defense or criminal appeals experience; and • Experience as lead counsel in one felony trial. 	<ul style="list-style-type: none"> ○ Sex offenses; and ○ Expert witnesses. • Familiarity with the Rules of Civil Procedure. • One year appellate experience or demonstrated legal writing ability. 	<ul style="list-style-type: none"> • Second chair counsel must have one year public defense or significant criminal experience.
E. Contempt of Court Cases	<p>-</p>	<ul style="list-style-type: none"> • Must be accompanied by supervisor or experienced attorney at first contempt of court hearing. • Consult with experienced counsel prior to each of first two contested contempt of court hearings. • Familiarity with the Rules of Civil Procedure. 	<ul style="list-style-type: none"> • 14.A. Requirements
F. RCW 10.77 Post Commitment Not Guilty by Reason of Insanity Cases	<p>Three years' experience in:</p> <ul style="list-style-type: none"> • Criminal trial; and/or • Dependencies; and/or • Civil commitment proceedings under RCW 71.05. 	<ul style="list-style-type: none"> • Basic knowledge of classified mental health disorders. • Compliance with qualification requirements established by the WA State Office of Public Defense. 	<ul style="list-style-type: none"> • 14.A. Requirements

Original Language

Proposed Language

Appellate Cases

Case Type	Specific Training or Experience Requirements	Other
A. Criminal Appeals in WA Supreme Court or WA Court of Appeals	<ul style="list-style-type: none"> • Appellate counsel must consult with a qualified attorney on each appellate case until having filed six appellate briefs as counsel for a party, of which: <ul style="list-style-type: none"> ○ At least five of the six appellate briefs must be in any of the following case categories: criminal, family defense, civil commitment (RCW 71.05), or sex offender civil commitment (RCW 71.09). • In addition to the above, if representing a client on appeal in any Felony High category or Sex Offender Civil Comment (RCW 71.09), the appellate counsel must consult with a qualified attorney until the appellate counsel has: <ul style="list-style-type: none"> ○ Filed fifteen briefs in criminal cases as counsel for a party in the WA supreme Court, WA Court of Appeals, or equivalent courts of another jurisdiction. 	<ul style="list-style-type: none"> • 14.A. Requirements
B. Family Defense Appeals	<p>Appellate counsel must:</p> <ul style="list-style-type: none"> • Have previously acted as counsel in a trial-level family defense case; or • Consult with counsel already qualified for Family Defense Appeals until they have filed six briefs in this category and have consulted with qualified counsel in each one. 	<ul style="list-style-type: none"> • 14.A. Requirements
C. RALJ Misdemeanor Appeals and Writs to Superior Courts	<p>Appellate counsel must:</p> <ul style="list-style-type: none"> • Have clerked for an appellate court judge; or • Have represented clients in three testimonial motion hearings or trials; or • Be assisted by a more experienced attorney. 	<ul style="list-style-type: none"> • 14.A. Requirements

Legal Interns

- Shall meet the requirements of 14.A. (b) – (g);
- Shall meet the requirements set out in Admissions to Practice Rule 9;
- Shall receiving training and supervision pursuant to APR 9; and
- Should complete an orientation and training program for legal interns.

Appendix D

Related Public Defense Standards

The Washington State Bar Association *Standards for Indigent Defense Services* are informed and complemented by other standards and guidelines which bear on public defense attorneys and agencies. Some of those related standards and guidelines are cited in the Standards' text. Others are included here.

Standard 1

- American Bar Association, *Standards for Criminal Justice*, 5-2.4 and 5-3.1.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standards 13.7 and 13.11.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-4.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts*, 1984, Standard III-10 and III-11.
- Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline No. 6.

Standard 2

- American Bar Association, *Standards for Criminal Justice*, 4-1.1, 5-5.1 and 5-1.1.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standards 13.1.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard II-2.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Guideline III-18.

Standard 3

- *National Public Defense Workload Study Report*, Published by the RAND Corp. and American Bar Association, Sept. 12, 2023
- American Bar Association, *Standards for Criminal Justice*, 4-1.2, 5-4.3.
- American Bar Association, *Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere with Competent and Diligent Representation*, May 13, 2006, Formal Opinion 06-441.
- The American Council of Chief Defenders *Statement on Caseloads and Workloads*, (2007).
- American Bar Association *Eight Guidelines of Public Defense Related to Excessive Caseloads*.
- National Advisory Commission on Criminal Standards and Goals, *Task Force on Courts*, 1973, Standard 13.12.

Original Language

Proposed Language

- American Bar Association *Disciplinary Rule* 6-101.
- American Bar Association *Ten Principles of a Public Defense Delivery System* (August 2023).
- American Bar Association *Standards of Practice for Lawyers who Represent Children in Abuse & Neglect Cases*, (1996) American Bar Association, Chicago, IL.
- The American Council of Chief Defenders Ethical Opinion 03-01 (2003).
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standards IV-I. National Legal Aid and Defender Association, Model Contract for Public Defense Services (2002).
- NACC Recommendations for Representation of Children in Abuse and Neglect Cases (2001).
- City of Seattle Ordinance Number: 121501 (2004).
- Seattle-King County Bar Association Indigent Defense Services Task Force, Guideline Number 1. Washington State Office of Public Defense, Parents Representation Program Standards of Representation (2009).
- *Keeping Defender Workloads Manageable*, Bureau of Justice Assistance, U.S. Department of Justice, Indigent Defense Series #4 (Spangenberg Group, 2001).

Standard 4

- American Bar Association, *Standards for Criminal Justice*, 5-1.4.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV 2d, 3.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1983, Standard III-8d.
- National Advisory Commission, Task Force on Courts, 1973, Standard 13.14.

Standard 5

- American Bar Association, *Standards for Criminal Justice*, Providing Defense Services.
- National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, (1976), Guideline 3.4.
- National Legal Aid and Defender Association, *Standards for Defender Services*, 1976 I-3, IV 2a-e, IV 5.

Standard 6

- American Bar Association, *Standards for Criminal Justice*, 4-4.1 and 5-1.14.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.14.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-3.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Standard III-9.

Original Language

Proposed Language

- Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 8.

Standard 7

- American Bar Association, *Standards for Criminal Justice*, 4-8.1 and 5-1.4.
- National Advisory Committee on Criminal Justice Standards and Goals, *Task Force on Courts*, Standard 13.14.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-3. 9
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Standard III-8.
- Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 7.

Standard 8

- American Bar Association, *Standards for Criminal Justice*, 5-3.3 (b) xii, *The Report to the Criminal Justice Section Council from the Criminal Justice Standards Committee*, 1989.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984 Standard III-22.
- National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, 1976, Guideline 3.4, 4.1, and 5.2.

Standard 9

- American Bar Association, *Standards for Criminal Justice*, 5-1.4.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.16.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard V.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts*, 1984, Standard III-17.
- Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 3.

Standard 10

- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.9.

Original Language

- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contract*, 1984, Standard III-16.
- Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 4.

Standard 11

- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Standard III-16.
- National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, 1976, Recommendations 5.4 and 5.5.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.9.

Standard 12

- American Bar Association, *Standards for Criminal Justice*, Standard 5-5.2.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.1.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Guideline III-23.

Standard 13

- American Bar Association, *Standards for Criminal Justice*, 4-1.2(d), 5-3.2.
- American Bar Association, *Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere With Competent and Diligent Representation*, May 13, 2006, Formal Opinion 06-441.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.7.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard III-3 and IV-1.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts*, 1984, Guideline III-6.

Standard 14

- *National Public Defense Workload Study Report*, Published by the RAND Corp. and American Bar Association, Sept. 12, 2023
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, Standard 13.15.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Public Defense Contracts*, 1984, Standard III-7.

Original Language

Proposed Language

Standard 15

- American Bar Association, *Standards for Criminal Justice*, 4-5.1 and 4-5.2.

Standard 16

- American Bar Association, *Standards for Criminal Justice*, Standard 5-1.3, 5-5.3.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Guideline III-5.
- National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, 1976, Recommendations 2.12 and 2.14.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.8.

Standard 17

- American Bar Association, *Standards for Criminal Justice*, Providing Defense Services, Standard 5-3.1.
- National Legal Aid and Defender Association, *Standards for Defender Services*, 1976, Standard III-8.

Standard 18

- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts*, 1984, Standard IV-3.
- King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Statement of Purpose.

Standard 19

- American Bar Association, *Ten Principles of a Public Defense Delivery System*, Principle 1 (August 2023).
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts, The Defense*, 1973, Chapter 1.3.
- American Bar Association *Standards for Criminal Justice*, Providing Defense Services, 1992, Standards 5-1.3, 5-1.6, 5-4.1.
- National Legal Aid and Defender Association, *Standards for the Administration of Assigned Counsel Systems*, 1989, Standards 2, 3.2.1.
- National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services*, 1984, Guidelines II-1, II-2, II-3, IV-2.

Original Language

- National Conference of Commissioners on State Law, *Model Public Defender Act*, 1970, Section 10(d).
- Institute for Judicial Administration/American Bar Association, *Juvenile Justice Standards Relating to Counsel for Private Parties*, 1979, Standards 2.1(D), 3.2.
- National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States 1976*, Guidelines 2.8, 2.10-2.13, 2.18, 5.13.
- Michigan Indigent Defense Commission, 2020, *Minimum Standard 5*.

Proposed Language

WSBA Standards for Indigent
Defense Services –
Proposed Revisions (Redline)

WSBA Standards for Indigent Defense Services

INTRODUCTION

The Washington State Bar Association (WSBA) Standards for Indigent Defense Services reflect 50 years of work by national and state experts, practicing attorneys and public defense administrators. They establish the standards necessary to ensure legal representation for clients represented by a public defense attorney meets constitutional, statutory, and ethical requirements.

The WSBA Standards detail the minimum requirements for attorneys representing individual clients and for state and local administrators who “manage and oversee”¹ public defense services. The Washington State legislature, in RCW 10.101.030, requires counties and cities to adopt standards for the delivery of public defense services, regardless of whether public defense services are provided by contract, assigned counsel, or a public defender agency or nonprofit office. In doing so, RCW 10.101.030 provides that the WSBA Standards should serve as guidelines to local legislative authorities in adopting their standards.²

Compliance with these WSBA Standards ensures the consistent delivery of effective representation of individuals who face the loss of liberty or other protected rights. Ineffective representation can result in a wrongful criminal conviction or juvenile court adjudication, inappropriate civil commitment, or unlawful termination of parental rights. Compliance with these WSBA Standards protects the public, victims, state and other jurisdictions, as well as public defense attorneys.

The WSBA Standards are consistent with, but more comprehensive³ than, the Washington Supreme Court’s Standards for Indigent Defense that are included in the Washington State Court Rules⁴ and referred, hereafter, as the Court Rule Standards. All public defense attorneys must certify every quarter that they comply with the Court Rule Standards.⁵ The WSBA Standards also include “additional Standards beyond

¹ See Washington State Court Rule GR 42: “The terms ‘manage’ and ‘oversee’ include: drafting, awarding, renewing, and terminating public defense contracts; adding attorneys or removing them from assigned counsel lists; developing or issuing case weighting policies; monitoring attorney caseload limits and case-level qualifications; monitoring compliance with contracts, policies, procedures and standards; and recommending compensation.”

² “Each county or city under this chapter shall adopt standards for the delivery of public defense services, whether those services are provided by contract, assigned counsel, or a public defender office. Standards shall include the following: Compensation of counsel, duties and responsibilities of counsel, case load limits and types of cases, responsibility for expert witness fees and other costs associated with representation, administrative expenses, support services, reports of attorney activity and vouchers, training, supervision, monitoring and evaluation of attorneys, substitution of attorneys or assignment of contracts, limitations on private practice of contract attorneys, qualifications of attorneys, disposition of client complaints, cause for termination of contract or removal of attorney, and nondiscrimination. The standards endorsed by the Washington state bar association for the provision of public defense services should serve as guidelines to local legislative authorities in adopting standards.” RCW 10.101.030.

³ See the list of topics addressed in the WSBA Standards compared to the list of subjects addressed in the Court Rule Standards in Appendix A.

⁴ Specifically, CrR 3.1, CrRLJ 3.1, JuCR 9.2, and CCR 2.1.

⁵ The Preamble to the Supreme Court’s Court Rule Standards states: “To the extent that certain Standards may refer to or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving

those required for certification as guidance for public defense attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wn.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign.”⁶

In addition to compliance with both the *WSBA* and *Court Rule Standards*, public defense attorneys must comply with the Washington Rules of Professional Conduct (ethical requirements) and be familiar with and consider Performance Guidelines adopted by the WSBA and others for specific practice areas (adult criminal, juvenile court offender, family defense, civil commitment, and appeals).

DEFINITIONS

1. Assigned Counsel – Attorneys who provide public defense services in a local jurisdiction who are not employees of a Public Defense Agency, often without a formal contract; frequently referred to as panel or conflict attorneys.
2. Case – A “case” is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument, a juvenile court offender or BECCA petition, a dependency or termination of parental rights petition, a civil commitment petition, or an appeal. For additional explanation in relation to caseload capacity, refer to Standards 3.H and 3.I.
3. Case Weighting/Credits – A case weighting system assigns higher and lower values or weighted case credits to assigned cases based on the amount of time that is typically required to provide effective representation.
4. Caseload – The number of cases assigned to a public defense attorney in a 12-month period.
5. Co-counsel – An additional public defense attorney assigned to a case with the originally assigned attorney (lead counsel).
6. Defense Investigator – A non-lawyer legal professional who guides and executes the defense investigation of a client's case. Defense Investigators perform substantive work that requires full knowledge of court proceedings, court rules, and Washington State law. A Defense Investigator's review of case evidence requires an understanding of government investigative procedures and regulations, a familiarity with forensic disciplines, the aptitude to stay current with advancements in technology, and an ability to ascertain factual discrepancies. They may interview witnesses identified by the police investigation, as well as identify, locate, and interview witnesses unknown to the State. Defense Investigators may gather evidence useful to the defense by recording witness statements, conducting field investigations, photographing the crime scene, gathering records, and taking screenshots of online materials. A Defense Investigator's preservation of evidence is critical to trial preparations, as they can testify to lay the foundation for that evidence, as well as explain case details and assist with impeachment of witnesses. The use of a Defense Investigator is not limited to criminal cases. Defense Investigators are also important professionals in Dependency proceedings, Sexual Offender Commitment petitions, and other proceedings that affect a client's liberty or other constitutionally protected interest.
7. Experts – Individual persons, firms, or businesses who provide a high level of knowledge or skill in a particular subject matter, such as DNA or crime scene analyses, and assist public defense attorneys in providing legal representation for their client.
8. Flat Fee Agreement – A contract or informal policy agreement where a private attorney or firm agrees to handle an unlimited number of cases for a single flat fee.

and retaining Certifications.”

⁶ Preamble to the Washington Supreme Court's *Standards for Indigent Defense*.

9. Fully Supported Defense Attorneys -Public defense attorneys who meet or exceed Standards Four, Five, Six, Seven, Nine, Ten, Thirteen and Fourteen of these *Standards*.
10. Jurisdictions – State, county and city entities that provide public defense services.
11. Legal Assistant - A non-lawyer legal professional who assists the attorney with administrative tasks. Legal Assistants often are responsible for filing pleadings generated by the lawyer or paralegal and ensuring the timely processing of mail and legal documents to meet court mandated deadlines. They may answer phones and assist with communications between the defense team, clients, defense experts, witnesses, and others. Some Legal Assistants are responsible for calendaring, opening and closing case files, updating case management systems, processing legal discovery (electronic or otherwise), and ensuring that critical information is accurately conveyed and recorded, if needed.
12. Lead Counsel – A lead counsel is the main lawyer in charge of a case. They are usually the most experienced and manage any other lawyers working on the case.
13. Mitigation Specialist - A mental health professional, a social worker, or social services provider, with specialized training or experience who gathers biographical, medical, and family history of the client to assist the lawyer, including preparing a document to inform the court and/or prosecutor or State of factors in the client’s life. Mitigation Specialists also help clients navigate social service support and prepare for assessments.
14. Open Caseload – The number of assigned cases a public defender has that are actively open. Open Caseload is a day-in-time snapshot of a public defender’s caseload; whereas, “Caseload” is the number of assigned cases in a year.
15. Paralegal – A non-lawyer legal professional, frequently a graduate of an ABA-approved Paralegal Studies program, who does substantive work that requires familiarity with court proceedings, court rules, and Washington State law. Paralegals are frequently responsible for performing complex legal research and drafting legal documents such as subpoenas, pleadings, and motions and creating discovery binders, preparing exhibits, coordinating witness schedules, and assisting with organization at counsel table. Paralegals may assist the attorney with client communication and act as a liaison with defense experts, prosecutors, bailiffs, and jail officials. They also may track upcoming court hearings, trial dates, and other critical timelines to help with attorney organization.
16. Per Case Agreement - A contract or informal policy agreement where a private attorney or firm agrees to handle cases on a flat, per case amount.
17. Private Attorneys – An attorney who works in private practice who provides public defense services whether by contract, subcontract, assignment, appointment, or other process.
18. Private Firm – For-profit law firm that provides public defense services, whether by contract, subcontract, assignment, appointment, or other process.
19. Public Defender – Any person working as or with a public defense attorney, firm, or public defense agency whether an attorney, social worker, office administrator, investigator, mitigation specialist, paralegal, legal assistant, human resources specialist, data analyst, etc.
20. Public Defense Administrator – Person, whether attorney or not, who is responsible overall for the administration, management and oversight of public defense.
21. Public Defense Agency - Government and nonprofit offices that only provide public defense representation.
22. Public Defense Attorney – A private attorney, attorney working in a private firm, and an attorney working in a public defense agency who is assigned to represent individuals who are indigent or indigent and able to contribute and have a statutory or constitutional right to court-assigned counsel.
23. Reasonable Compensation – Market rate for similar legal and expert services. Reasonable compensation includes more than attorney wages, salary, benefits, contract payments or hourly

rate payments. Reasonable Compensation includes the cost of office overhead (including administrative costs), support staff or services, training, supervision, and other services not separately funded.

24. Significant Portion of a Trial – Planning or participating in essential aspects of a trial which includes, but is not limited to, motions in *limine*, jury selection, opening statements, direct and cross examination, motions and objections, preparation of and advocacy for jury instructions, and closing arguments.

25. Social Worker - A public defense professional with a master’s degree in Social Work who provides professional services to assist the attorney and to help meet the basic and complex needs of the client. Often, this can involve enrolling in health care or other government support services.

26. Trial Academy - An organized trial training program of at least 20 hours of sessions that is presented by the Washington State Office of Public Defense, the Washington Defender Association, the Washington Association of Criminal Defense Attorneys, the National Association of Criminal Defense Lawyers, the National Institute for Trial Advocacy, the National Association for Public Defense, the Gault Center, the National Criminal Defense College, Gideon’s Promise, or any other organization approved for CLE training by the Washington State Bar Association. A trial academy must include defender skills training that may encompass motion practice, opening and closing statements, objections, preserving issues for appeal, direct and cross examination, race bias, client communication, theory of the case, jury selection, and other topics.

27. Workload – The amount of work a public defense attorney has, including direct client representation and work not directly attributable to the representation of a specific client, including, for example, administration, supervision, and professional development.

STANDARD ONE: Compensation

Standard:

1.A. Public Defense Agency Salaries and Benefits

Employees at public defense agencies shallPublic defense attorneys and staff should be compensated at a rate commensurate with their training and experience. Compensation and benefit levels shallTo attract and retain qualified personnel, compensation and benefit levels should be comparable to those of attorneys and staff in prosecution or other opposing party prosecutorial offices in the area. Compensation shall also include necessary administrative costs described in Standard Five, support services costs described in Standard Seven, and training and supervision costs described in Standards Nine and Ten.

1.B. Contract and Assigned Counsel Compensation

For assigned counsel, reasonable compensation should be provided. Compensation should reflect the time and labor required to be spent by the attorney and the degree of professional experience demanded by the case. Assigned counsel should be compensated for out-of-pocket expenses.

Contracts should provide for extraordinary compensation over and above the normal contract terms for cases which require an extraordinary amount of time and preparation, including, but not limited to, death penalty cases. Services which require extraordinary fees shall be defined in the contract.

Attorneys who have a conflict of interest shall not have to compensate the new, substituted attorney out of their own funds.

Compensation for public defense attorneys in contract and assigned counsel systems shall reflect the professional experience, time, and labor required for effective and quality representation. Compensation shall also be based on the comparable compensation and benefits associated with prosecution or other opposing party offices in the area. Compensation shall also include necessary administrative costs described in Standard Five, support services costs described in Standard Seven, and training and supervision costs described in Standards Nine and Ten.

Reasonable compensation shall be provided whether the work is for full-time or part-time public defense attorneys. Reasonable contract or assigned counsel compensation rates shall be set at least on a pro rata basis consistent with the attorney's percentage of a full caseload (see Standard 3). For example, if a jurisdiction allocates \$280,000 per year per full-time equivalent (FTE) prosecuting attorney for all costs associated with that FTE, including but not limited to combined salary, benefits, support staff, administrative, information technology, insurance, bar dues, training, and facilities expenses, then a contract for one-fourth of a full-time public defense caseload should be at least \$70,000.

Contracts and government budgets shall recognize the need to provide reasonable compensation for all public defense attorneys, including but not limited to, those attorneys who are "on call," staff court calendars, or staff specialty or therapeutic courts.

~~Flat fees, caps on compensation, and lump-sum contracts for trial attorneys are improper in death penalty cases. Private practice attorneys appointed in death penalty cases should be fully compensated for actual time and service performed at a reasonable hourly rate with no distinction between rates for services performed in court and out of court. Periodic billing and payment should be available. The hourly rate established for lead counsel in a particular case should be based on the circumstances of the case and the attorney being appointed, including the following factors: the anticipated time and labor required in the case, the complexity of the case, the skill and experience required to provide adequate legal representation, the attorney's overhead expenses, and the exclusion of other work by the attorney during the case. Under no circumstances should the hourly rate for lead counsel, whether private or public defender, appointed in a death penalty case be less than \$125 per hour (in 2006 dollars).~~

1.C. Flat Fee and Per Case Compensation Agreements

Attorneys shall not engage in flat fee or per case compensation contracts or agreements. These compensation structures create an actual conflict for the public defense attorney.⁷

Consistent with Washington Rules of Professional Conduct 1.8(m)(1)(ii), public defense attorneys shall not make or participate in making an agreement with a governmental entity for the delivery of indigent defense services if the terms of the agreement obligate the contracting lawyer or law firm to bear the cost of providing investigation or expert services, unless a fair and reasonable amount for such costs is specifically

⁷ "Counsel should not be paid on a flat fee basis, as such payment structures reward counsel for doing as little work as possible." ABA Ten Principles of a Public Defense Delivery System, Principle 2: Funding, Structure, and Oversight, n. 6 (August 2023) (citing *Wilbur v. Mt. Vernon*, No. C11-1100RSL, U.S.D.C. D. Wash., at 15 (Dec. 4, 2013) (district court finding that a flat fee contract "left the defenders compensated at such a paltry level that even a brief meeting at the outset of the representation would likely make the venture unprofitable."))

designated in the agreement in a manner that does not adversely affect the income or compensation allocated to the lawyer, law firm, or law firm personnel.

1.D. Additional Compensation

Consistent with RCW 10.101.060(1)(a)(iv), contracts and policies shall provide for additional compensation over and above the base contract amount(s) for cases that require an extraordinary amount of time and preparation.

Situations that require additional compensation include, but are not limited to:

- Days spent in trial, if no per diem is paid
- Testimonial motion hearings
- Interpreter cases
- Cases involving mental health competency and other issues (RCW 10.77)
- Cases with extensive discovery
- Cases that involve a significant number of counts, alleged victims or witnesses
- Cases requiring consultation with experts, including, for example, immigration legal analysis and advice or DNA testing and analysis.

Attorneys should have the opportunity to submit requests for additional compensation for extraordinary cases and the right to appeal an adverse decision to a judicial officer.

1.E. Substitute Attorney Costs

Consistent with Washington Rules of Professional Conduct 1.8(m)(1)(i), attorneys who have a conflict of interest shall not be required to bear the cost of the new, substituted attorney.

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 5-2.4 and 5-3.1.~~

~~American Bar Association, *Guidelines for the Appointment and Performance in Death Penalty Cases*, 1988, Standard 10-1.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standards 13.7 and 13.11.~~

~~National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-4.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts*, 1984, Standard III-10 and III-11. 2~~

~~Seattle King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline No. 6.~~

STANDARD TWO: Duties and Responsibilities of Counsel

Standard:

~~The legal representation plan shall require that defense services be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. Counsel's primary and most fundamental responsibility is to promote and protect the interests of the client.~~

Jurisdictions that administer public defense services shall ensure that representation be provided in all situations in which the right to counsel attaches, including first appearances and bail decisions, as well as plea negotiations.

Representation shall be prompt and delivered in a professional, skilled manner consistent with minimum standards set forth by these *WSBA Standards*, the Washington Supreme Court's *Court Rule Standards* (CrR 3.1, CrRLJ 3.1, JuCR 9.2, and CCR 2.1), the American Bar Association, the Washington Rules of Professional Conduct, case law and relevant court rules and orders defining the duties of counsel. The applicable WSBA or ABA Performance Guidelines should serve as guidance for attorney performance. The most fundamental responsibility of jurisdictions and public defense attorneys is to promote and protect the stated interests of public defense clients.

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 4-1.1, 5-5.1 and 5-1.1.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standards 13.1.~~

~~National Legal Aid and Defender Association, *Standards for Defender Services*, Standard II-2.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Guideline III-18.~~

~~American Bar Association *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*. [\[Link\]](#)~~

STANDARD THREE: Caseload Limits and Types of Cases

Standard:

3.A1. The contract or other employment agreement or government budget shall specify the types of cases for which representation shall be provided and the maximum number and types of cases in which each attorney shall be expected to ~~handle~~provide quality representation.

3.B2. **Quality Representation.** The maximum caseload or workload of public defense attorneys shall allow each ~~lawyer-attorney~~ to give each client the time and effort necessary to ensure effective representation. ~~Neither defender organizations, county offices, contract attorneys nor assigned counsel~~Public defense attorneys should not enter into contracts requiring caseloads or accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. If the attorney's caseload or workload prevents providing quality representation,⁸ public defense attorneys shall take steps to reduce their

⁸ The American Bar Association's Ethics Opinion 06-441 states in part:

If workload prevents a lawyer from providing competent and diligent representation to existing clients, she must not accept new clients. If the clients are being assigned through a court appointment system, the lawyer should request that the court not make any new appointments. Once the lawyer is representing a client, the lawyer must move to withdraw from representation if she cannot provide competent and diligent representation.

Available at https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/ls-sclaid-ethics-opinion-06-441.pdf.

~~caseload, including but not limited to seeking co-counsel, reassignment of cases, or requesting a partial or complete stop to additional case assignments or requesting withdrawal from a case(s). If the attorney's workload is within the limits in this standard there is a presumption that they can provide 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.~~

~~If a public defense agency or nonprofit's workload exceeds the Director's capacity to provide counsel for newly assigned cases, the Director must notify courts and appointing authorities that the provider is unavailable to accept additional assignments and must decline to accept additional cases.⁹~~

~~**3.C. General Considerations: Open Caseload.** The determination of an attorney's ability to accept new case assignments must include an assessment of the impact of their open caseload on their ability to provide quality representation.~~

~~**3.D. Fully Supported, Full-Time Public Defense Attorneys.** Caseload limits reflect the maximum caseloads for The maximum caseloads or workloads for public defense attorneys assume an attorney's public defense work is: 1) full-time (exclusively public defense); 2) fully supported; 3) full-time defense attorneys for cases of average complexity and effort for in each case type specified; and 4) Caseload limits assume a reasonably evenly distributedion of cases throughout the year. "Fully supported, full-time defense attorneys" are attorneys who meet or exceed Standards Four, Five, Six, Seven, Nine, Ten, Thirteen and Fourteen of these Standards.~~

~~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. Attorney caseloads should be assessed by the workload required, and cases and types of cases should be weighted accordingly.~~

~~**3.E. Mix of Case Types and Private Practice.** If a public defense attorney accepts appointment to If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of casescase type, thise standards should be applied proportionately to determine a maximum full caseload.~~

~~Attorneys should not accept more public defense cases than the percentage of time their other work and commitments allow In jurisdictions where assigned counsel or contract attorneys also maintain private law practices, the The number of public defense cases or case creditscaseload should be based on the percentage of time the lawyer devotes toavailable for the attorney to represent public defense clients. Each individual or organization that contracts to perform public defense services for a county or city shall report to the county or city hours billed for nonpublic defense legal services in the previous calendar year, including number and types of private cases.¹⁰~~

⁹ See, ABA Eight Guidelines of Public Defense Related to Excessive Workloads, Guidelines 1, 4, 5, 6, 7, 8 (August 2009).

¹⁰ RCW 10.101.050.

3.F. Attorney Experience. The experience of a particular attorney is a factor in the composition of cases types in the attorney's caseload, but it is not a factor in adjusting the applicable numerical caseload limits except as follows: attorneys with less than six months of full-time public defense experience as an attorney should not be assigned more than two-thirds of the applicable maximum numerical caseload limit.

3.G. Impact of Public Defense Time Other Than Case Appointments. Assessing an attorney's maximum caseload or workload limit must include accounting for work in addition to new cases assigned. Time spent on vacation, sick leave, holidays, training, supervision, administrative duties, and court improvement work groups must also be accounted for.

The following types of cases fall within the intended scope of the caseload limits for criminal and juvenile offender cases in Standard 3.4 and must be taken into account when assessing an attorney's numerical caseload: partial case representations, sentence violations, specialty or therapeutic courts, transfers, extraditions, representation of material witnesses, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge.

3.H. Definition of case: A "case" is defined as the a new court filing or action that of a document with the court namesing a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument, a juvenile court offender or BECCA petition, a dependency or termination of parental rights petition, a civil commitment petition, or an appeal as defendant or respondent, to which an attorney is appointed in order to provide representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.

3.I Adult Criminal and Juvenile Court Offender Trial Court Cases

1. Adult Criminal and Juvenile Court Offender Cases

a. An attorney appointed to an Adult Criminal or Juvenile Court Offender case receives the case weight/credit or hours credit toward the attorney's annual caseload that is listed in Standard 3.J. and in Appendix B. In multi-count cases, the charge with the highest case category dictates the case's credit or hourly value. If the highest charge is amended or otherwise changed to a charge that is more serious than originally charged, the attorney(s) shall receive the additional case credit value. In the event a charge is amended to a less serious charge, the attorney shall still be given caseload credit for the original, higher charge as of the time the attorney was appointed to the case.

b. A charging document filed against a client arising out of a single event or series of events and being prosecuted together is presumed to be one case. Determining whether a case number is one or multiple cases is determined by the supervisor or appointing agency after reviewing the charging information, amended charging documents, or an order to sever counts.

2. Reappointment. Reappointment of the previously appointed attorney to a case in which a bench warrant was issued does not count as a new case if the warrant was issued within the twelve months prior to the reappointment. New case credits can be awarded as approved by a supervisor or appointment authority on a case-by-case basis.

3. Partial Representation. The following must be taken into account when assessing an attorney's numerical caseload or when adjusting case credits assigned to attorney: partial case representations (cases in which an attorney withdraws or is substituted pursuant to CrR 3.1(e) and CrRLJ 3.1(e)), sentence or probation violations, cases in specialty or therapeutic courts, transfers, extraditions, representations of material witnesses, pretrial advice including "on-call" availability, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge. Time spent by attorneys representing multiple clients on first appearance, arraignment, or other calendaring hearings must be accounted for in reducing the number of maximum trial cases that can be assigned.

a. Transferred Case. When a public defense attorney's representation ends prior to the entry of a final order or judgment (for example, attorney withdrawal pursuant to CrR 3.1(e) or CrRLJ 3.1(e), the supervising attorney or appointing authority shall determine the case credit value to be awarded to each attorney based on the amount of time each attorney contributes.

b. Co-Chairs. When two or more lawyers are assigned as co-chairs, the supervising attorney or appointing authority shall determine the case credit value to be awarded to each attorney based on the amount of time each attorney contributes, including mentoring by the non-Supervisor Lead Counsel.

c. Transferred and Co-Chaired cases frequently take more time to complete than the average case. Additional credits may need to be applied. For the case category Felony High - Murder and Felony High – LWOP case types, there is a presumption that two or more lawyers will be assigned as co-chairs.

d. Court Calendar Positions.

i. Specialty or Therapeutic Courts: a criminal case resulting in admission to a Specialty or Therapeutic Court generally should not count as a case for the attorney covering the Specialty or Therapeutic Court. The case credit shall be applied exclusively to the originally assigned attorney(s) prior to the transfer into a Specialty or Therapeutic Court.

ii. Calendar Coverage: A criminal case appearing on a calendar where an attorney provides partial representation with no expectation of additional representation after the initial hearing shall not count as a case for the attorney covering the court calendar. This partial representation can include but is not limited to representing clients on: probable cause or first appearance calendars; arraignment calendars; failures to appear, warrant return, quash, and recommencement of proceedings calendars; preliminary appointments in cases in which no charges are filed; extradition calendars; and other matters or representations of clients that do not involve new criminal charges.

iii. Court Calendar Attorney Time: The workload of Specialty and Therapeutic Court attorneys and attorneys designated, appointed, or contracted to represent groups

of clients on a court docket, without an expectation of further or continuing representation, shall be assessed and subtracted from the annual, assumed 1,650 hours monitored by the supervising attorney or appointing authority to ensure the attorney does not work more than 1,650 hours in a 12-month period.

4. Probation Violation Cases. Appointment of a public defense attorney to represent a person on one or more original case numbers where a probation violation(s) or show cause order(s) has been filed is presumed to count as 1/3 credit of the Felony or Misdemeanor Case Credit. Additional case credits can be awarded as approved by a supervisor or appointing authority on a case-by-case basis.

3.J. Maximum Case Credit Limit for Adult Criminal and Juvenile Court Offender Cases Each Year.

This Section shall be implemented according to the schedule in Section 3.O.

The maximum number of case credits for a fully supported, full-time public defense attorney each calendar year is based on an assumed 1650-hour “case-related hours” available each year. This number represents the assumed time an attorney in Washington has available each year to devote to public defense clients’ representation. It excludes annual time for leave (for example, vacation, sick, PTO, FMLA) holidays, CLEs and training, supervision, and other time that is not “case-related”).¹¹

The maximum annual caseload case credits for each category of Adult Criminal and Juvenile Court Offender cases are based on the National Public Defense Workload Study (September 2023).¹²

4. Caseload Limits: The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:

150 Felonies per attorney per year; or

300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year; or

250 Juvenile Offender cases per attorney per year; or

80 open Juvenile Dependency cases per attorney; or

250 Civil Commitment cases per attorney per year; or

¹¹ See National Public Defense Workload Study, p. 99 (2023). In addition, the Washington Defender Association Indigent Defense Standards (1989) states: “An accepted standard for attorneys is to work 1650 billable hours per year.” https://defensenet.org/wp-content/uploads/2017/12/Final-2007-WDA-Standards-with-Commentary_18.12.06.pdf. Similarly, a study for the Massachusetts Committee for Public Counsel Services determined that an appropriate number of hours to spend directly representing clients per year is 1,662 hours, after deducting holidays, vacation time, training, and non-case duties. Center for Court Innovation, *The Committee for Public Counsel Services Answering Gideon’s Call Project (2012-DB-BX-0010) Attorney Workload Assessment 12* (Oct. 2014), available at <https://www.publiccounsel.net/cfo/wp-content/uploads/sites/8/2014/12/Attorney-Workload-Assessment.pdf>.

¹² National Public Defense Workload Study, p. 85 (2023)

~~1 Active Death Penalty trial court case at a time plus a limited number of non death penalty cases compatible with the time demand of the death penalty case and consistent with the professional requirements of Standard 3.2 supra; or 36 Appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)~~

~~Full time Rule 9 interns who have not graduated from law school may not have caseloads that exceed twenty-five percent (25%) of the caseload limits established for full time attorneys.~~

~~The maximum annual caseload for a full-time **felony** attorney is 47 case credits.~~

~~Case credits for each Felony case category appointment shall be as follows (see Appendix B for case types falling within each category):~~

~~Felony High-LWOP:¹³ 8~~

~~Felony High-Murder: 7~~

~~Felony High-Sex: 5~~

~~Felony High: 3~~

~~Felony Mid: 1.5~~

~~Felony Low: 1~~

~~The maximum annual caseload for a full-time **misdemeanor** attorney is 120 case credits.~~

~~Case credits for each Misdemeanor case category appointment shall be as follows:~~

~~Misdemeanor High: 1.5~~

~~Misdemeanor Low: 1~~

~~If a case resolves relatively quickly, before an attorney has done significant work on the matter, the attorney will be credited with a proportional, reduced amount of the credits initially assigned.~~

~~3.K. **Other Case Types.**¹⁴~~

~~¹³ Felony-High LWOP does not apply to Juvenile Court Offender cases.~~

~~¹⁴ The standards under this subsection are under review. To provide guidance in the interim, the prior standards are included only until revisions are approved.~~

Appeals. 36 a Appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)

Family Defense. 80 open dependency/termination of parental rights for parent and child(ren) representation per attorney per year.

Civil Commitment. 250 Civil Commitment cases per attorney per year.

~~5. **Case Counting:** The local government entity responsible for employing, contracting with or appointing public defense attorneys should adopt and publish written policies and procedures to implement a numerical case weighting system to count cases. If such policies and procedures are not adopted and published, it is presumed that attorneys are not engaging in case weighting. A numerical case weighting system must:~~

~~A. recognize the greater or lesser workload required for cases compared to an average case based on a method that adequately assesses and documents the workload involved;~~

~~B. be consistent with these Standards, professional performance guidelines, and the Rules of Professional Conduct;~~

~~C. not institutionalize systems or practices that fail to allow adequate attorney time for quality representation; and~~

~~D. be periodically reviewed and updated to reflect current workloads; and~~

~~E. be filed with the State of Washington Office of Public Defense.~~

~~Cases should be assessed by the workload required. Cases and types of cases should be weighted accordingly. Cases which are complex, serious, or contribute more significantly to attorney workload than average cases should be weighted upwards. In addition, a case weighting system should consider factors that might justify a case weight of less than one case.~~

3.L. Additional Considerations.

1. Caseload limits require a reasonably even number of case appointments each month, based on the number of cases appointed in prior months.

~~1.2. Notwithstanding any case weighting system, r~~Resolutions of cases by pleas of guilty to criminal charges on a first appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and must be counted as one case.

~~6. **Case Weighting:** The following are some examples of situations where case weighting might result in representations being weighted as more or less than one case. The listing of specific examples is not intended to suggest or imply that representations in such situations should or must be weighted at more or less than one case, only that they may be, if established by an appropriately adopted case weighting system.~~

~~A. **Case Weighting Upwards:** Serious offenses or complex cases that demand more than average investigation, legal research, writing, use of experts, use of social workers and/or expenditures of time and resources should be weighted upwards and counted as more than one case.~~

~~B. **Case Weighting Downward:** Listed below are some specific examples of situations where case weighting might justify representations being weighted less than one case. However, care must be taken because many such representations routinely involve significant work and effort and should be weighted at a full case or more.~~

~~i. Cases that result in partial representations of clients, including client failures to appear and recommencement of proceedings, preliminary appointments in cases in which no charges are filed, appearances of retained counsel, withdrawals or transfers for any reason, or limited appearances for a specific purpose (not including representations of multiple cases on routine dockets).~~

~~ii. Cases in the criminal or offender case type that do not involve filing of new criminal charges, including sentence violations, extraditions, representations of material witnesses, and other matters or representations of clients that do not involve new criminal charges. Non-complex sentence violations should be weighted as at least 1/3 of a case.~~

~~iii. Cases in specialty or therapeutic courts if the attorney is not responsible for defending the client against the underlying charges before or after the client's participation in the specialty or therapeutic court. However, case weighting must recognize that numerous hearings and extended monitoring of client cases in such courts significantly contribute to attorney workload and in many instances such cases may warrant allocation of full case weight or more.~~

~~iv. Cases on a criminal or offender first appearance or arraignment docket where the attorney is designated, appointed or contracted to represent groups of clients on that docket without an expectation of further or continuing representation and which are not resolved at that time (except by dismissal). In such circumstances, consideration should be given to adjusting the caseload limits appropriately, recognizing that case weighting must reflect that attorney workload includes the time needed for appropriate client contact and preparation as well as the appearance time spent on such dockets.~~

~~v. Representation of a person in a court of limited jurisdiction on a charge which, as a matter of regular practice in the court where the case is pending, can be and is resolved at an early stage of the proceeding by a diversion, reduction to an infraction, stipulation on continuance, or other alternative non-criminal disposition that does not involve a finding of guilt. Such cases should be weighted as at least 1/3 of a case.~~

3.M. **Full-Time Rule 9 Interns.** Rule 9 interns who have not graduated from law school may not have caseloads or workloads that exceed twenty-five percent (25%) of the maximum limits established for full-time attorneys.

3.N. **Attorneys in Jurisdictions that Do Not Follow Case Credit System in Standard 3.J.** Attorneys in jurisdictions that do not use the case credit system in Standard 3.J shall be employed by, contract with, or be appointed by the local government entity responsible for those functions only if the jurisdiction has adopted and published a numerical caseload or workload maximum that is consistent with the caseload and workload limits set in Standard 3.J. Such a caseload or workload maximum must:

- a) Recognize the greater or lesser workload required for cases compared to an average based on a method that adequately assesses and documents the workload involved;
- b) Be consistent with these Standards, professional performance guidelines, and the Rules of Professional Conduct;
- c) Not institutionalize systems or practices that fail to allow adequate attorney time for competent and diligent representation;
- d) Be periodically reviewed and updated to reflect current workloads; and be filed with the State of Washington Office of Public Defense.

3.O. Implementation of Standards

Standard 3 shall be implemented in phases and shall go into effect on July 2, 2025. The 2024 revisions to these Indigent Defense Standards shall be implemented on the following schedule:

Until July 2, 2025, the caseload standards as adopted in pre-existing *WSBA Standards of Indigent Defense Services* and *Court Rule Standards of Indigent Defense* shall apply: The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:

150 Felonies per attorney per year;

300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year;

250 Juvenile Offender cases per attorney per year.

Phase 1:

Beginning July 2, 2025, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 110 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 280 misdemeanor case credits.

Phase 2:

Beginning July 2, 2026, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 90 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 225 misdemeanor case credits.

Phase 3:

Beginning July 2, 2027, and for any twelve-month period following, each full-time felony attorney shall be assigned cases constituting no more than 47 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 120 misdemeanor case credits.

Related Standards

~~American Bar Association, *Standards for Criminal Justice*, 4-1.2, 5-4.3.~~

~~American Bar Association *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*. [Link]~~

~~American Bar Association, *Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere With Competent and Diligent Representation*, May 13, 2006, Formal Opinion 06-441. [Link]~~

~~The American Council of Chief Defenders *Statement on Caseloads and Workloads*, (2007). [Link]~~

~~American Bar Association *Eight Guidelines of Public Defense Related to Excessive Caseloads*. [Link]~~

~~National Advisory Commission on Criminal Standards and Goals, *Task Force on Courts*, 1973, Standard 13.12.~~

~~American Bar Association *Disciplinary Rule 6-101*.~~

~~American Bar Association *Ten Principles of a Public Defense Delivery System*. [Link]~~

~~ABA Standards of Practice for Lawyers who Represent Children in Abuse & Neglect Cases, (1996) American Bar Association, Chicago, IL.~~

~~The American Council of Chief Defenders *Ethical Opinion 03-01* (2003).~~

~~National Legal Aid and Defender Association, *Standards for Defender Services*, Standards IV-I.~~

~~National Legal Aid and Defender Association, *Model Contract for Public Defense Services* (2002). [Link]~~

~~NACC Recommendations for Representation of Children in Abuse and Neglect Cases (2001). [Link]~~

~~City of Seattle Ordinance Number: 121501 (2004). [Link]~~

~~Seattle-King County Bar Association Indigent Defense Services Task Force, *Guideline Number 1*.~~

~~Washington State Office of Public Defense, *Parents Representation Program Standards Of Representation* (2009). [Link]~~

~~*Keeping Defender Workloads Manageable*, Bureau of Justice Assistance, U.S. Department of Justice, Indigent Defense Series #4 (Spangenberg Group, 2001). [Link]~~

STANDARD FOUR: Responsibility for Expert Witnesses

Standard:

4.A. Expert Witnesses

~~Jurisdictions that administer public defense services shall provide r~~Reasonable compensation for expert witnesses necessary ~~for~~to preparation and presentation of the ~~defense case shall be provided~~. Expert witness ~~fees-costs~~ should be maintained and allocated from funds separate from those provided for ~~defender services~~attorney legal representation. ~~Requests for expert witness fees should be made through an ex parte motion. The defense should be free to retain the expert of its choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution.~~

~~Jurisdictions shall adopt and publish procedures to confidentially receive, review and grant requests for expert witness services. In jurisdictions where attorneys are required to request approval for expert witnesses or other necessary services from the court, such motions shall be *ex parte* and include a motion to seal. The public defense attorney should be free to retain the expert of their choosing and shall not be required to select experts from a list pre-approved by either the jurisdiction, the court, or the prosecution.~~

4.B. Mitigation Specialists, Social Workers

~~Mitigation specialists and social workers shall be made readily available to public defense attorneys to provide support, such as release plans, treatment services, housing, health care, and to develop dispositional and sentencing alternatives.~~

~~In public defense agencies, by July 3, 2028, a minimum of one full-time mitigation specialist or social~~

worker shall be provided for every three full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028.¹⁵ Attorneys representing clients in post-adjudication phases may require different resources. Public defense agencies that do not employ a sufficient number of mitigation specialists or social workers to meet this ratio shall enter into contracts with additional mitigation specialists or social workers to provide the same resource level.

Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different resources.

Public defense attorneys under contract or in assigned counsel systems should have access to mitigation specialists and social workers, consistent with 4.A.

4.C. Mental Health Professionals for Evaluations

Each public defense agency or attorney shall have access to mental health professionals to perform mental health evaluations.

4.D. Interpreters and Translators

All individuals providing public defense services (attorneys, investigators, experts, support staff, etc.) shall have access to qualified interpreters to facilitate communication with Deaf and hearing-impaired individuals, and persons with limited English proficiency. Similarly, all public defense providers shall have access to translators to translate vital documents and resources from English to the client's primary language.¹⁶

4.E. Cost of Expert Services

Consistent with the Washington Rules of Professional Conduct (RPC) 1.8(m)(1)(ii), attorneys shall not be required to bear the costs of expert services.

Related Standards:

~~American Bar Association, Standards for Criminal Justice, 5-1.4.~~

~~National Legal Aid and Defender Association, Standards for Defender Services, Standard IV 2d, 3. National Legal Aid and Defender Association, Guidelines for Negotiating and Awarding Indigent Defense Contracts, 1983, Standard III 8d.~~

~~National Advisory Commission, Task Force on Courts, 1973, Standard 13.14.~~

STANDARD FIVE: Administrative Costs

Standard:

¹⁵ Support staff necessary for effective representation “includes one supervisor for every ten attorneys; one investigator for every three attorneys; one social service caseworker for every three attorneys; one paralegal for every four felony attorneys; and one secretary for every four felony attorneys.” Bureau of Justice Assistance, United States Department of Justice’s *Keeping Defender Workloads Manageable* (2001), p.10, found at: <https://www.ncjrs.gov/pdffiles1/bja/185632.pdf>. See also, National Association for Public Defense Policy Statement on Public Defense Staffing (May 2020), at <https://publicdefenders.us/resources/policy-statement-on-public-defense-staffing/>

¹⁶ See, RPC 1.4 “Communication.”

5.A Administrative Services Necessary for Law Offices

~~1. Contracts for public defense services~~Jurisdictions shall provide funding for ~~or include~~ administrative costs associated with ~~providing~~ legal representation. These costs ~~should~~ include, but are not limited to, travel, telephones, law library, including electronic legal research, electronic document filing, financial accounting, case management systems, legal system databases and programs, computers and software, equipment, office space and supplies, internet services, training, and other costs necessarily incurred for public defense representation and necessary to comply with the meeting the reporting requirements imposed by these standards, ~~and other costs necessarily incurred in the day to day management of the contract.~~

Providing for these costs is necessary for all public defense structures, including agency, contract, and assigned counsel systems.

Administrative costs for contract and assigned counsel services shall be included in compensation rates and agreements.

5.B. Law Offices Must Accommodate Confidential, Prompt and Consistent Client Communication

~~2. All P~~ublic defense attorneys shall have access to an office that accommodates confidential meetings with clients and receipt of mail, and adequate telephone and electronic services to ensure prompt response to client contact. Public defense attorneys and clients must have prompt and consistent access to interpreter services.

Related Standards:

~~American Bar Association, Standards for Criminal Justice, Providing Defense Services.~~

~~National Study Commission on Defense Services, Guidelines for Legal Defense Systems in the United States, (1976), Guideline 3.4.~~

~~National Legal Aid and Defender Association, Standards for Defender Services, 1976 I-3, IV 2a-e, IV 5.~~

STANDARD SIX: Investigators

Standard:

~~1. Public defense attorneys shall use investigation services as appropriate.~~

~~2. Public defender offices, assigned counsel, and private law firms holding public defense contracts should employ investigators with investigation training and experience. A minimum of one investigator should be employed for every four attorneys.~~

6.A. Access to Investigation Services

Public defense representation must include access to investigation services. Public defense-led investigation is necessary for representing clients for purposes of verifying facts, identifying and questioning witnesses, and testing the evidence presented by the opposing party.

6.B. Investigation for Public Defense Agencies

In public defense agencies, by July 3, 2028, a minimum of one full-time investigator shall be employed for every three full-time trial court level (adult and/or juvenile) attorneys.¹⁷ Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028. Public defense agencies that do not employ a sufficient number of investigators to meet this ratio shall enter into contracts with additional investigators to provide the stated resource level. Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different investigation resources.

6.C. Investigation for Contract and Assigned Counsel

When public defense attorneys work under contracts or assigned counsel systems, jurisdictions must ensure that they have the same level of access to investigators as described in 6.B. Local jurisdictions shall adopt and publish confidential procedures to receive, review and grant requests for investigation services. In jurisdictions where attorneys are required to request court approval for investigative services, such motions shall be *ex parte*, consistent with the requirements of the Washington Rules of Professional Conduct 1.8(m)(1)(ii) and court rules.

6.D. Investigation for *Pro Se* Litigants

All jurisdictions should make conflict free investigation services available to indigent defendants or respondents who are representing themselves in all cases in which the court has approved waiver of their right to court-appointed counsel.

6.E. Cost of Investigation Services

Consistent with the Washington Rules of Professional Conduct 1.8(m)(1)(ii), attorneys shall not be required to bear the costs of investigation services.

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 4-4.1 and 5-1.14.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.14.~~

~~National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-3.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Standard III-9.~~

~~Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 8.~~

STANDARD SEVEN: Support Services

Standard:

7.A. Support Services Necessary for Legal Defense

¹⁷ National Association of Public Defense Policy Statement on Public Defense Staffing (May 2020): “Until empirical studies are further able to determine the number of staff necessary to support the lawyer, public defense systems, at a minimum, should provide, one investigator for every three lawyers, one mental health professional, often a social worker, for every three lawyers, and one supervisor for every 10 litigators. Additionally, there should be one paralegal and one administrative assistant for every 4 lawyers.”

In addition to the necessary resources described in Standards Four, Five, and Six, ~~public defense attorneys shall have adequate~~ legal and administrative support. ~~Legal and administrative support services include, but are not limited to, administrative assistants, legal assistants, numbers of investigators, secretaries, word processing staff, paralegals, human resources, finance, reception services, and IT and data management administrators. social work staff, mental health professionals and other support services, including computer system staff and network administrators.~~ These professionals are essential for effective legal defense and an operational law office. to ensure the effective performance of defense counsel during trial preparation, in the preparation of dispositional plans, and at sentencing. Jurisdictions shall ensure all public defense attorneys have access to needed support services as provided in this Standard and as required by the Washington Rules of Professional Conduct 1.4 to ensure attorney/client communication.

7.B. Providing for Support Services in Contract and Assigned Counsel Compensation

The support services described in 7.A are required for all public defense attorneys, regardless of their employment, contract or assigned counsel status. Contract and assigned counsel attorneys shall receive compensation at levels that ensure these non-attorney support services are provided.

7.C. Necessary Legal Assistants/Paralegals Ratio

In public defense agencies, by July 3, 2028, a minimum of ~~1. Legal Assistants—At least one full-time legal assistant or paralegal should~~ shall be employed for every four full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028. Fewer legal assistants may be necessary, however, if the agency or attorney has access to word processing staff, or other additional staff performing clerical work. Defenders should have a combination of technology and personnel that will meet their needs.

~~2. Social Work Staff—Social work staff should be available to assist in developing release, treatment, and dispositional alternatives.~~

~~3. Mental Health Professionals—Each agency or attorney should have access to mental health professionals to perform mental health evaluations.~~

~~4. Investigation staff should be available as provided in Standard Six at a ratio of one investigator for every four attorneys.~~

~~5. Each agency or attorney providing public defense services should have access to adequate and competent interpreters to facilitate communication with non-English speaking and hearing-impaired clients for attorneys, investigators, social workers, and administrative staff.~~

Public defense agencies that do not employ a sufficient number of legal assistants or paralegals to meet this ratio should enter into contracts with qualified professionals to provide the same resource level or request authorization of such services *ex parte* or administratively.

Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different resources.

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 4-8.1 and 5-1.4.~~

~~National Advisory Committee on Criminal Justice Standards and Goals, Task Force on Courts, Standard 13.14.~~

~~National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-3.9~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Standard III-8.~~

~~Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 7.~~

STANDARD EIGHT: Reports of Attorney Activity

Standard:

~~The legal representation plan Jurisdictions shall require that the all public defense attorneys or office maintain use a case-reporting and management information system which that includes the number and types of assigned cases, attorney hours and case dispositions. This information shall be provided regularly to the Contracting Authority and shall also be made available to the Office of the Administrator of the Courts. Any such system shall be maintained independently from client files so as to disclose no privileged information. Data from these systems should be routinely reported to public defense administrators in a manner in which confidential, secret and otherwise non-public information and secrets are not disclosed. Consistent with Standard Eleven, public defense administrators should review these reports on a regular basis to monitor compliance with these Standards.~~

~~A standardized voucher form shall be used by assigned counsel attorneys seeking payment upon completion of a case. For attorneys under contract, payment should be made monthly, or at times agreed to by the parties, without regard to the number of cases closed in the period.~~

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 5-3.3 (b) xii, The Report to the Criminal Justice Section Council from the Criminal Justice Standards Committee, 1989.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984 Standard III-22.~~

~~National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, 1976, Guideline 3.4, 4.1, and 5.2.~~

STANDARD NINE: Training

Standard:

9.A. Annual Training

~~The legal representation plan shall require that attorneys providing All public defense services attorneys shall participate in regular training programs on criminal defense law, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice. Training should include relevant topics including training specific to certain case types as required in Standard Fourteen, the types of cases assigned (for example, criminal, dependency, appellate), racial and ethnic disparities, elimination of bias, mental illnesses, improved and effective communication with clients, forensic sciences,~~

and other topics that impact legal representation. Every public defense attorney should attend training that fosters trial or appellate advocacy skills and review professional publications and other media.

9.B. Onboarding and Training of New and Current Attorneys

Public defense agencies and contracted private law firms should develop their own practices and procedures to onboard and train new attorneys. Offices should develop written materials (e.g. manuals, checklists, hyperlinked resources) to inform new attorneys of local rules and procedures of the courts in their jurisdiction.

In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedures and policies. All attorneys should be required to attend regular in-house training programs on developments in their legal representation areas. criminal law, criminal procedure and the forensic sciences.

~~Attorneys in civil commitment and dependency practices should attend training programs in these areas. Offices should also develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction.~~

~~Every attorney providing counsel to indigent accused should have the opportunity to attend courses that foster trial advocacy skills and to review professional publications and other media.~~

9.C Continuing Education for Public Defense Non-Attorneys

Funding for training for all public defense non-attorneys must be provided. A fully supported public defense attorney is one whose staff and expert service providers receive educational opportunities and up-to-date trainings to ensure they can meet their profession's best practices. This may include attendance at national conferences and regular access to online trainings, such as those offered by the Washington State Office of Public Defense, Washington Defender Association, the National Association for Public Defense, the National Legal Aid and Defender Association, the National Alliance of Sentencing Advocates and Mitigation Specialists, the National Defense Investigator Association, the National Federation of Paralegal Associations, and the National Association for Legal Support Professionals.

Related Standards:

~~American Bar Association, Standards for Criminal Justice, 5-1.4.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, Standard 13.16.~~

~~National Legal Aid and Defender Association, Standards for Defender Services, Standard V.~~

~~National Legal Aid and Defender Association, Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts, 1984, Standard III-17.~~

~~Seattle-King County Bar Association Indigent Defense Services Task Force, Guidelines for Accreditation of Defender Agencies, 1982, Guideline Number 3.~~

~~National Legal Aid and Defender Association, Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, 1988, Standard 9.1.~~

STANDARD TEN: Supervision

Standard:

~~In public defense agencies and contracted private law firms, a minimum of one full-time supervisor should be employed. Each agency or firm providing public defense services should provide one full-time supervisor for every ten full-time public defense attorneys/staff lawyers or one half-time supervisor for every five lawyers/public defense attorneys. Supervisors should be chosen from among those lawyers in the office qualified under these guidelines to try Class A felonies. Supervisors should serve on a rotating basis, and except when supervising fewer than ten lawyers, should not carry caseloads. Full-time supervisors should not carry caseloads, but supervisors may act as co-counsel in a limited number of cases to provide mentoring and training experience for their supervisees. Part-time supervisors should limit their caseloads on a pro-rata basis. Supervisors should have training in personnel management and supervision. Supervisors should be qualified under Standard 14 for the practice area(s) they are supervising.~~

Related Standards:

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.9.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contract*, 1984, Standard III-16.~~

~~Seattle-King County Bar Association Indigent Defense Services Task Force, *Guidelines for Accreditation of Defender Agencies*, 1982, Guideline Number 4.~~

STANDARD ELEVEN: Monitoring and Evaluation of Attorneys

Standard:

~~All jurisdictions shall provide a mechanism for systematic monitoring of public defense attorneys and their caseloads and ensure timely review and evaluation of public defense services. Monitoring and evaluation The legal representation plan for provision of public defense services should establish a procedure for systematic monitoring and evaluation of attorney performance based upon publicized criteria. Supervision and evaluation efforts should include, but not be limited to, review of reports submitted per Standard Eight, review of time and caseload records/assignments, review and inspection of transcripts, in-court observations, and periodic conferences, verification of attorney compliance with Standard Nine training requirements, verification of compliance with Certifications of Compliance with the Supreme Court's *Court Rule Standards*, and management of client complaints, consistent with Standard Fifteen.~~

~~Performance evaluations made by a supervising attorney should be supplemented by comments from judges, prosecutors, other defense lawyers and clients. Attorneys should be evaluated on their skill and effectiveness as criminal lawyers or as dependency or civil commitment advocates, including their communication with clients.~~

Related Standards:

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Defense Contracts*, 1984, Standard III-16.~~

~~National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United*~~

~~States, 1976, Recommendations 5.4 and 5.5.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, Standard 13.9.~~

STANDARD TWELVE: Substitution of Counsel

Standard:

12.A. Availability at No Cost to Attorney. Consistent with Standard 1.E., alternate or conflict public defense attorneys shall be available for substitution in conflict situations at no cost to the attorney declaring the conflict.

12.B. Subcontracting. Public defense contracts and assigned counsel policies should prohibit counsel from ~~The attorney engaged by local government to provide public defense services should not~~ subcontracting with another firm or attorney to provide representation ~~and should remain directly involved in the provision of representation, absent approval of the public defense administrator.~~

12.C. Attorney Names. In contract and assigned counsel systems, the public defense administrator should ~~receive if the contract is with a firm or office, the contracting authority should request~~ the names and experience levels of those attorneys who will ~~actually be~~ and actually are providing the ~~services~~legal representation, to ensure ~~they the attorneys~~ meet the minimum qualifications required by Standard 14.

12.D. Continuing Representation and Client Files. Public defense contracts and assigned counsel policies ~~The employment agreement~~ shall address the procedures for continuing representation of clients upon the conclusion of the ~~agreement~~contract or case assignment. ~~Alternate or conflict counsel should be available for substitution in conflict situations at no cost to the counsel declaring the conflict.~~ Public defense contracts and assigned counsel policies shall include which attorney or firm or public defense office is responsible for maintaining client files confidentially when a contract terminates or case assignment ends.¹⁸

Related Standards:

~~American Bar Association, Standards for Criminal Justice, Standard 5-5.2.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, Standard 13.1.~~

~~National Legal Aid and Defender Association, Guidelines for Negotiating and Awarding Indigent Defense Contracts, 1984, Guideline III-23.~~

STANDARD THIRTEEN: Limitations on Private Practice

Standard:

¹⁸ See, WSBA Guide to Best Practices for Client File Retention and Management at: [https://www.wsba.org/docs/default-source/resources-services/practice-management-\(lomap\)/guide-to-best-practices-for-client-file-retention-and-management.pdf?sfvrsn=306a3df1_10](https://www.wsba.org/docs/default-source/resources-services/practice-management-(lomap)/guide-to-best-practices-for-client-file-retention-and-management.pdf?sfvrsn=306a3df1_10).

Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 4-1.2(d), 5-3.2.~~

~~American Bar Association, *Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere With Competent and Diligent Representation*, May 13, 2006, Formal Opinion 06-441. [Link]~~

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standard 13.7.~~

~~National Legal Aid and Defender Association, *Standards for Defender Services*, Standard III-3 and IV-1.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts*, 1984, Guideline III-6.~~

STANDARD FOURTEEN: Qualifications of Attorneys

Standard:

14.A. Minimum Qualifications for All Public Defense Attorneys

~~1. In order to~~**To ensure**~~that persons entitled to legal representation by public defense attorneys indigent accused receive the effective assistance of counsel, public defense attorneys to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:~~

~~1A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court~~Be admitted to practice law in Washington; ~~and~~

~~2B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area;~~ ~~and~~

~~3C. Be familiar with the Washington Rules of Professional Conduct;~~ ~~and~~

~~4D. Be familiar with the *Performance Guidelines for Criminal Defense Representation* approved by the Washington State Bar Association;~~ ~~and~~, when representing youth, be familiar with the *Performance Guidelines for Juvenile Defense Representation* approved by the Washington State Bar Association; ~~and~~ when representing respondents in civil commitment proceedings, be familiar with the *Performance Guidelines for Attorneys Representing Respondents in Civil Commitment Proceedings* approved by the Washington State Bar Association; when representing respondents in dependency proceedings, be familiar with Dependency (parent/child) performance guidelines referenced in 14.C.2, below; ~~and~~

~~5E. Be familiar with the processes to seek interlocutory relief;~~

~~6. Be familiar with the *Washington State Guidelines for Appointed Counsel in Indigent Appeals*;~~ ~~and~~,

~~7F. Attorneys representing adults in criminal cases or children and youth in Juvenile Court cases must be familiar with the consequences of a conviction or adjudication, including~~ but not limited to, the requirement to register as a sex offender, possible immigration consequences and the possibility of civil

commitment proceedings based on a criminal conviction and possible impacts in future criminal proceedings;~~and~~

~~8G.~~ Be familiar with the impact of systemic bias and racism and racial disproportionality in the legal system;

~~9.~~ Be familiar with mental health and substance use issues and be able to identify the need to obtain expert services related to the case and for the client;~~and~~

~~10.~~ Attorneys representing children and youth in Juvenile Court cases must have knowledge, training, experience, and the ability to communicate effectively with children and youth, and be familiar with the Juvenile Justice Act;

~~11.~~ Attorneys representing children and youth in dependency cases must have knowledge, training, experience and the ability to communicate effectively with children and youth; and

~~12H.~~ Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

14.B. Additional Information Regarding Qualifications Overall

1. An attorney previously qualified for a category of case under earlier versions of these WSB Standards, Court Rule Standards, or Washington Supreme Court Emergency Orders remains qualified.
2. Attorneys working toward qualification for a particular category of cases may associate as co-counsel with a lead counsel who is qualified under these standards for that category of case.¹⁹ Co-counseling is encouraged.
3. These qualifications standards require trial experience for most categories of cases – either as lead counsel, or co-counsel, and for handling a significant portion of a trial. A “significant portion of a trial” means planning or participating in essential aspects of a trial which includes, but is not limited to, motions *in limine*, jury selection, opening statements, direct and cross examination, motions and objections, preparation of and advocacy for jury instructions, and closing arguments.
4. Each attorney should be accompanied at their first trial by a supervisor or a more experienced attorney, if available. If a supervisor or more experienced attorney is not available to accompany the attorney at their first trial, the attorney, before their first trial, must consult about the case with a more experienced attorney in their office or an outside more experienced attorney such as Washington Defender Association resource attorneys.
5. Each attorney must have sufficient resources, including support staff and access to professional assistance, to ensure effective legal representation and regular availability to clients and others involved with the attorney’s public defense work.
6. These qualifications standards apply to the highest case category or charge at any time in the life of the case; for example, in criminal cases, any time from first appearance or arraignment through sentencing and post-trial motions.
7. Attorneys accepting appointment in the various categories of cases designated in Standard Three shall have the qualifications listed below, in addition to those in 14.A.1-14.A.12.
8. Experience as an Admissions and Practice Rule (APR) 6 or 9 legal intern cannot be used to meet the experience requirements for these qualifications.

¹⁹ Attorneys should keep records of cases in which the attorney served as co-counsel, trials and attendance at trial academies.

14.C. Attorneys' Qualifications by Category/Type of Case and Representation Type (Trial or Appellate)

1. Overview of Adult Criminal and Juvenile Court Cases - Trial Level

a. These qualifications are based on the following categories of cases:

- Misdemeanor – Low and Misdemeanor Probation Revocation Hearings
- Misdemeanor – High
- Felony – Mid and Low
- Felony Sex Cases
- Felony High - Other
- Felony High – Life Without Parole (LWOP) Sentence and Murder
- Felony Re-Sentencing, Probation Violation or Revocation, and Reference Hearings

b. To determine the qualifications standard that applies to a specific offense, the assigning authority should refer to Appendix B to these standards that maps the RCW statutes to the above categories.

- i. If the legislature designates a felony offense as Class A that is, as of January 1, 2024, in a lower case category, the case category should be presumed to be a Felony – High Other until this standard in Appendix B lists it otherwise.
- ii. If the legislature, after January 1, 2024, changes an offense from a misdemeanor or gross misdemeanor to a felony, that case category should be presumed to be a Felony – Mid and Low until this standard in Appendix B lists it otherwise.
- iii. If the legislature, after January 1, 2024, creates a new misdemeanor or gross misdemeanor, that case should be presumed to be a Misdemeanor – High until this standard in Appendix B lists it otherwise.

c. Until such time as the above case categories are adopted as part of CrR 3.1, CrRLJ 3.1, and JuCr 9.1, the attorney qualifications set out below are largely comparable to case seriousness levels found in the Revised Code of Washington. Attorneys representing clients charged with Life Without Parole (LWOP) cases or in murder or manslaughter cases shall meet the qualifications listed below in Standard 14.C.2. Similarly, Felony – High categories apply to attorneys representing clients in Class A Adult Felony Cases and Adult Sex Offense Cases. The qualifications set out below for the Felony - Mid category apply to attorneys representing clients in Class B Adult Felony Cases and Class B Adult Violent Cases and the qualifications set out below for the Felony - Low category apply to attorneys representing clients in Adult Felony Class C Cases. The qualifications listed below for Felony Re-Sentencing and Revocation and Reference Hearings apply to attorneys representing clients in Felony Probation Revocation cases. The qualifications listed below for DUI - Low category apply to attorneys representing clients in misdemeanor DUI cases. The qualifications listed below for Adult Misdemeanor - Low cases apply to attorneys representing clients in all other adult misdemeanor cases.

2. Trial attorneys' qualifications according to severity or type of case:²⁰

~~Death Penalty Representation. Each attorney acting as lead counsel in a criminal case in which the death penalty has been or may be decreed and in which the decision to seek the death penalty has not yet been made shall meet the following requirements:~~

- ~~i. The minimum requirements set forth in Section 1; and ii. At least five years criminal trial experience; and~~

²⁰ ~~Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.~~

- iii. Have prior experience as lead counsel in no fewer than nine jury trials of serious and complex cases which were tried to completion; and
- iv. Have served as lead or co-counsel in at least one aggravated homicide case; and
- v. Have experience in preparation of mitigation packages in aggravated homicide or persistent offender cases; and
- vi. Have completed at least one death penalty defense seminar within the previous two years; and
- vii. Meet the requirements of SPRC 2.²⁴

The defense team in a death penalty case should include, at a minimum, the two attorneys appointed pursuant to SPRC 2, a mitigation specialist and an investigator. Psychiatrists, psychologists and other experts and support personnel should be added as needed.

A. Adult Felony Cases—Class A. Each attorney representing a defendant accused of a Class A felony as defined in RCW 9A.20.020 shall meet the following requirements:

- i. Minimum requirements set forth in Section 1; and ii. Either:
 - a. has served two years as a prosecutor; or
 - b. has served two years as a public defender; or two years in a private criminal practice, and
- iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury.

B. Adult Felony Cases—Class B Violent Offense. Each attorney representing a defendant accused of a Class B violent offense as defined in RCW 9A.20.020 shall meet the following requirements:

²⁴ SPRC 2 APPOINTMENT OF COUNSEL

At least two lawyers shall be appointed for the trial and also for the direct appeal. The trial court shall retain responsibility for appointing counsel for trial. The Supreme Court shall appoint counsel for the direct appeal. Notwithstanding RAP 15.2(f) and (h), the Supreme Court will determine all motions to withdraw as counsel on appeal.

A list of attorneys who meet the requirements of proficiency and experience, and who have demonstrated that they are learned in the law of capital punishment by virtue of training or experience, and thus are qualified for appointment in death penalty trials and for appeals will be recruited and maintained by a panel created by the Supreme Court. All counsel for trial and appeal must have demonstrated the proficiency and commitment to quality representation which is appropriate to a capital case. Both counsel at trial must have five years' experience in the practice of criminal law be familiar with and experienced in the utilization of expert witnesses and evidence, and not be presently serving as appointed counsel in another active trial level death penalty case. One counsel must be, and both may be, qualified for appointment in capital trials on the list, unless circumstances exist such that it is in the defendant's interest to appoint otherwise qualified counsel learned in the law of capital punishment by virtue of training or experience. The trial court shall make findings of fact if good cause is found for not appointing list counsel.

At least one counsel on appeal must have three years' experience in the field of criminal appellate law and be learned in the law of capital punishment by virtue of training or experience. In appointing counsel on appeal, the Supreme Court will consider the list, but will have the final discretion in the appointment of counsel. [Link]

i. The minimum requirements set forth in Section 1; and

ii. Either:

a. has served one year as prosecutor; or

b. has served one year as public defender; or one year in a private criminal practice; and

iii. Has been trial counsel alone or with other counsel and handled a significant portion of the trial in two Class C felony cases that have been submitted to a jury.

C. Adult Sex Offense Cases. Each attorney representing a client in an adult sex offense case shall meet the following requirements:

i. The minimum requirements set forth in Section 1 and Section 2(C);

and

ii. Been counsel alone of record in an adult or juvenile sex offense case or shall be supervised by or consult with an attorney who has experience representing juveniles or adults in sex offense cases.

D. Adult Felony Cases—All other Class B Felonies, Class C Felonies, Probation or Parole Revocation. Each attorney representing a defendant accused of a Class B felony not defined in Section 2(C) or (D) above or a Class C felony, as defined in RCW 9A.20.020, or involved in a probation or parole revocation hearing shall meet the following requirements:

i. The minimum requirements set forth in Section 1, and ii. Either:

a. has served one year as a prosecutor; or

b. has served one year as a public defender; or one year in a private criminal practice; and

iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in two criminal cases that have been submitted to a jury; and

iv. Each attorney shall be accompanied at his or her first felony trial by a supervisor if available.

E. Persistent Offender (Life Without Possibility of Release) Representation.

Each attorney acting as lead counsel in a “two strikes” or “three strikes” case in which a conviction will result in a mandatory sentence of life in prison without parole shall meet the following requirements:

i. The minimum requirements set forth in Section 1²²; and ii. Have at least:

a. four years criminal trial experience; and

b. one year experience as a felony defense attorney; and

²² RCW 10.101.060 (1)(a)(iii) provides that counties receiving funding from the state Office of Public Defense under that statute must require “attorneys who handle the most serious cases to meet specified qualifications as set forth in the Washington state bar association endorsed standards for public defense services or participate in at least one case consultation per case with office of public defense resource attorneys who are so qualified. The most serious cases include all cases of murder in the first or second degree, persistent offender cases, and class A felonies.”

~~e. experience as lead counsel in at least one Class A felony trial; and~~

~~d. experience as counsel in cases involving each of the following:~~

~~(1) Mental health issues; and~~

~~(2) Sexual offenses, if the current offense or a prior conviction that is one of the predicate cases resulting in the possibility of life in prison without parole is a sex offense; and~~

~~(3) Expert witnesses; and~~

~~(4) One year of appellate experience or demonstrated legal writing ability.~~

~~F. Juvenile Cases – Class A. Each attorney representing a juvenile accused of a Class A felony shall meet the following requirements:~~

~~i. The minimum requirements set forth in Section 1, and ii. Either:~~

~~a. has served one year as a prosecutor; or~~

~~b. has served one year as a public defender; one year in a private criminal practice; and~~

~~iii. Has been trial counsel alone of record in five Class B and C felony trials; and~~

~~iv. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor, if available.~~

~~G. Juvenile Cases – Classes B and C. Each attorney representing a juvenile accused of a Class B or C felony shall meet the following requirements:~~

~~i. Minimum requirements set forth in Section 1; and ii. Either:~~

~~a. has served one year as a prosecutor; or~~

~~b. has served one year as a public defender; or one year in a private criminal practice, and~~

~~iii. has been trial counsel alone in five misdemeanor cases brought to a final resolution; and~~

~~iv. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor if available.~~

~~H. Juvenile Sex Offense cases. Each attorney representing a client in a juvenile sex offense case shall meet the following requirements:~~

~~i. The minimum requirements set forth in Section 1 and Section 2(H);~~

~~and~~

~~ii. Been counsel alone of record in an adult or juvenile sex offense case or shall be supervised by or consult with an attorney who has experience representing juveniles or adults in sex offense cases.~~

~~I. Juvenile Status Offenses Cases. Each attorney representing a client in a~~

~~“Becca” matter shall meet the following requirements:~~

~~i. The minimum requirements as outlined in Section 1; and ii. Either:~~

~~a. have represented clients in at least two similar cases under the supervision of a more experienced attorney or completed at least three hours of CLE training specific to “status offense” cases; or~~

~~b. have participated in at least one consultation per case with a more experienced attorney who is qualified under this section.~~

~~J. Misdemeanor Cases. Each attorney representing a defendant involved in a matter concerning a simple misdemeanor or gross misdemeanor or condition of confinement, shall meet the requirements as outlined in Section 1.~~

~~K. Dependency Cases. Each attorney representing a client in a dependency matter shall meet the following requirements:~~

~~i. The minimum requirements as outlined in Section 1; and~~

~~ii. Attorneys handling termination hearings shall have six months dependency experience or have significant experience in handling complex litigation.~~

~~iii. Attorneys in dependency matters should be familiar with expert services and treatment resources for substance abuse.~~

~~iv. Attorneys representing children in dependency matters should have knowledge, training, experience, and ability in communicating effectively with children, or have participated in at least one consultation per case either with a state Office of Public Defense resource attorney or other attorney qualified under this section.~~

~~L. Civil Commitment Cases. Each attorney representing a respondent shall meet the following requirements:~~

~~i. Minimum requirements set forth in Section 1; and~~

~~ii. Each staff attorney shall be accompanied at his or her first 90 or 180 day commitment hearing by a supervisor; and~~

~~iii. Shall not represent a respondent in a 90 or 180 day commitment hearing unless he or she has either:~~

~~a. served one year as a prosecutor, or~~

~~b. served one year as a public defender, or one year in a private civil commitment practice, and~~

~~c. been trial counsel in five civil commitment initial hearings; and~~

~~iv. Shall not represent a respondent in a jury trial unless he or she has conducted a felony jury trial as lead counsel; or been co-counsel with a more experienced attorney in a 90 or 180 day commitment hearing.~~

~~M. Sex Offender “Predator” Commitment Cases. Generally, there should be two counsel on each sex offender commitment case. The lead counsel shall meet the following requirements:~~

~~i. The minimum requirements set forth in Section 1; and ii. Have at least:~~

~~a. Three years criminal trial experience; and~~

~~b. One year experience as a felony defense attorney or one year experience as a criminal appeals attorney; and~~

~~c. Experience as lead counsel in at least one felony trial; and~~

~~d. Experience as counsel in cases involving each of the following:~~

~~(1) Mental health issues; and~~

~~(2) Sexual offenses; and~~

~~(3) Expert witnesses; and~~

~~e. Familiarity with the Civil Rules; and~~

~~f. One year of appellate experience or demonstrated legal writing ability.~~

~~Other counsel working on a sex offender commitment cases should meet the Minimum Requirements in Section 1 and have either one year experience as a public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.~~

~~N. Contempt of Court Cases. Each attorney representing a respondent shall meet the following requirements:~~

~~i. Minimum requirements set forth in Section 1; and~~

~~ii. Each staff attorney shall be accompanied at his or her first three contempt of court hearings by a supervisor or more experienced attorney, or participate in at least one consultation per case with a state Office of Public Defense resource attorney or other attorney qualified in this area of practice.~~

~~O. Specialty Courts. Each attorney representing a client in a specialty court (e.g., mental health court, drug diversion court, homelessness court) shall meet the following requirements:~~

~~i. The minimum requirements set forth in Section 1; and~~

~~ii. The requirements set forth above for representation in the type of practice involved in the specialty court (e.g., felony, misdemeanor, juvenile); and~~

~~iii. Be familiar with mental health and substance abuse issues and treatment alternatives.~~

~~3. Appellate Representation.~~

~~Each attorney who is counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of Appeals shall meet the following requirements:~~

~~A. The minimum requirements as outlined in Section 1; and~~

~~B. Either:~~

~~i. has filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or~~

~~ii. has equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing or other comparable work.~~

~~C. Attorneys with primary responsibility for handling a death penalty appeal shall have at least five years' criminal experience, preferably including at least one homicide trial and at least six appeals from felony convictions, and meet the requirements of SPRC 2.~~

~~**RALJ Misdemeanor Appeals to Superior Court:** Each attorney who is counsel alone for a case on appeal to the Superior Court from a Court of Limited Jurisdiction should meet the minimum requirements as outlined in Section 1, and have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing an RALJ appeal.~~

~~4. Legal Interns.~~

~~A. Legal interns must meet the requirements set out in APR 9.~~

~~B. Legal interns shall receive training pursuant to APR 9 to inform them of office procedure and policy Standard Nine, Training.~~

2. Adult Criminal Trial Court Cases

a. Misdemeanor Low and Misdemeanor Probation Hearings – Each attorney representing a person accused of Misdemeanor Low cases or Misdemeanor Probation Hearings shall meet the requirements as outlined in Section 14.A.

b. Misdemeanor High Cases – Each lead counsel representing a person accused of:

i. A misdemeanor **domestic violence**²³ offense shall meet the requirements in Section 14.A and have attended a defense training or CLE on domestic violence representation.

ii. A gross misdemeanor **drug offense** shall meet the requirements in Section 14.A and have attended a defense training or CLE on drug offenses.

iii. A misdemeanor **sex offense**²⁴ shall meet the requirements in Section 14.A; and

1. Has served one year as a criminal defense attorney or prosecutor;

2. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

a. Two criminal cases in which the prosecution has rested, at least one of which was presented to a jury, or

b. One criminal trial in which the prosecution has rested and has completed a trial training academy;

3. Has attended a CLE on sex offenses including training about collateral consequences of sex offense convictions and child hearsay.

iv. Each lead counsel representing a person accused of a **misdemeanor DUI** offense shall meet the requirements in Section 14.A and has completed a CLE within the past two years on the topic of DUI defense representation.

²³ Listed in RCW 9A.04.020(2)(a)(i)(B-D) or RCW 10.99.020(4).

²⁴ Includes a violation of RCW 9A.04.020 (Communicating with a Child for Immoral Purposes), 9A.44.063 (Sexual Misconduct with a Minor in the Second Degree), or an attempt, solicitation, or conspiracy to commit a Class C felony that requires sex offender registration upon conviction pursuant to RCW 9A.44.140.

- c. **Felony Mid and Felony Low Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served one year as a criminal defense attorney or one year as a prosecutor;
and
 - iii. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:
 1. Two criminal trials in which the prosecution rested, or
 2. One criminal trial in which the prosecution has rested and has completed a trial training academy.
 - iv. Each attorney shall be accompanied at their first felony trial by an attorney who is qualified for this or higher case categories.
- d. **Felony Sex Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served two years as either a criminal defense attorney or prosecutor;
 - iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a jury; and
 - iv. Has attended a CLE on sex offenses, including training about collateral consequences of sex offense convictions and child hearsay.
- Failure to Register as a Sex Offender cases are in the Felony Mid and Low Category.
- e. **Felony High – Other Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. Has served two years as either a criminal defense attorney or prosecutor; and
 - iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a jury.
- f. **Felony High – Life Without Parole and Murder Cases** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A;
 - ii. At least three years’ experience in adult felony cases, including at least two years as a defense attorney representing people in adult felony cases;
 - iii. Has been lead counsel or co-counsel in four adult felony trials in which the state has rested, at least one of which was submitted to a jury and at least one of which was a Felony High case; and
 - iv. Has completed a defense training or CLE on mitigation and challenging prior convictions.
- g. **Felony Resentencing, Revocation, or Reference Hearing** – Each lead counsel shall meet the following requirements:
- i. The minimum requirements set forth in Section 14.A; and
 - ii. Be qualified to represent the client in a Felony Mid and Low case.
- h. **Felony Material Witness Representation** – Each attorney representing a material witness shall be qualified to represent a client in Felony Mid and Felony Low cases, unless there is reason to believe the witness has legal exposure for a more serious felony offense to be

charged, in which case lead counsel shall be qualified to represent a person accused of that more serious offense.

i. **Specialty Courts** – Each attorney representing a client in a specialty court (e.g., mental health court, drug court, veterans court, homelessness court, juvenile therapeutic court, community court, and family therapeutic court) shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans.

3. **Juvenile Trial Court Cases** –The qualification requirements below apply to representation of respondents in Juvenile Court.

a. **Misdemeanor Low and Misdemeanor Probation Hearings** – Each attorney representing the accused in Misdemeanor Low case or Misdemeanor Probation Hearings shall meet the requirements as outlined in Section 14.A.

b. **Misdemeanor High Cases** – Each lead counsel representing a person accused of:

i. A misdemeanor **domestic violence**²⁵ offense shall meet the requirements in Section 14.A and have attended a defense training or CLE on domestic violence representation.

ii. A gross misdemeanor **drug offense** shall meet the requirements in Section 14.A and have attended a defense training or CLE on drug offenses.

iii. A misdemeanor **sex offense**²⁶ shall meet the requirements in Section 14.A; and

1. Has served one year as a criminal defense attorney or prosecutor;

2. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

a. Two criminal cases in which the prosecution has rested, at least one of which was presented to a judge for verdict, or

b. The significant portion of one criminal trial in which the prosecution has rested and has completed a trial training academy;

3. Has attended a CLE on sex offenses including training about collateral consequences of sex offense adjudications and child hearsay.

c. **Felony Mid and Felony Low Cases** – Each lead counsel shall meet the following requirements:

i. Meet the requirements set forth in Section 14.A;

ii. Has served one year as a criminal defense attorney or one year as a prosecutor; and

iii. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

1. Two criminal trials in which the prosecution rested; or

²⁵ Listed in RCW 9.41.040(2)(a)(i)(B-D) or RCW 10.99.020(4)

²⁶ Includes a violation of RCW 9.68A.090 (Communicating with a Child for Immoral Purposes), 9A.44.063 (Sexual Misconduct with a Minor in the Second Degree), or an attempt, solicitation, or conspiracy to commit a Class C felony that requires sex offender registration upon conviction pursuant to RCW 9A.44.140.

2. Completed at least three hours of CLE training specific to Juvenile Status Offense Cases.

4. Civil Cases – Trial Court Cases

- a. **Representing Children and Youth in Dependency Cases** – Attorneys representing children and youth in dependency matters should be familiar with expert services and treatment resources available in dependency cases. Each lead counsel representing children and youth in a dependency matter shall meet the following requirements:
 - i. Meet the minimum requirements set forth in Section 14.A and the requirements for training and experience in the *Representation of Children and Youth in Dependency Cases Practice, Caseload and Training Standards*, Washington Supreme Court Commission on Children in Foster Care, at the Request of the Legislature (Rev. Sept. 2022)²⁷;
 - ii. Have knowledge, training, experience, and ability in communicating effectively with children, or have participated in at least one consultation per case either with a state Office of Civil Legal Aid resource attorney or other attorney qualified under this section; and
 - iii. Attorneys representing children and youth in termination of parental rights cases shall have six months’ dependency experience or have significant experience in conducting complex litigation.
- b. **Representing Parents in Dependency Cases** – Attorneys representing parents in dependency matters should be familiar with expert services and treatment resources available in dependency cases. Each lead counsel representing children and youth in a dependency matter shall meet the following requirements:
 - i. Meet the minimum requirements as outlined in Section 14.A;
 - ii. Be familiar with the *American Bar Association Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Family Justice Initiative Attributes*; and
 - iii. Attorneys representing parents in termination of parental rights cases shall have either six months’ dependency experience or significant experience in handling complex litigation.
- c. **Civil Commitment Cases (RCW 71.05)** – Each lead counsel representing a respondent shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. Each lead counsel in a 90- or 180-day commitment hearing shall have prepared and conducted at least five 14-day hearings;
 - iii. Each lead counsel shall be accompanied at counsel’s first 90- or 180-day commitment hearing by a supervisor or consult with a qualified attorney before the hearing;
 - iv. Each lead counsel in a civil commitment trial shall have conducted at least two contested 14-day hearings as lead counsel or been co-counsel with a more experienced attorney in two 90- or 180-day contested commitment hearings.

²⁷ Available at:

<https://www.courts.wa.gov/subsite/CommFC/docs/revised%20practice%20standards%20for%20representation%20of%20children%20and%20youth%20in%20dependency%20cases.pdf>.

- v. Have a basic knowledge of the classification of mental disorders, as described in the most recent Diagnostic and Statistical Manual of Mental Disorders (“DSM”)²⁸ and other resources, and the ability to read and understand medical terminology related to mental disorders and treatment of persons with a mental illness, substance use disorder, co-occurring disorders, and chemical dependency. Counsel shall have ready access to the most recent DSM, as well as research resources for related medical conditions. Counsel should also have basic knowledge and understanding of common personality disorders and medical conditions that may produce similar symptoms. Counsel shall be familiar with the classes of medication prescribed to treat mental disorders and chemical dependency and the possible effect of those medications on the client’s ability to interact with counsel and to participate in court proceedings. Counsel should be familiar with treatment facilities, both in-patient and out-patient, that provide services to persons with mental illness, including the scope of those services. Counsel should be familiar with local facilities and state hospitals that may be remote from where the client lives. Counsel should be familiar with the limitations on available treatment and transportation obstacles associated with such facilities.
- d. **Representing Clients Acquitted by Reason of Insanity (RCW 10.77)** – Each attorney representing persons who are acquitted by reason of insanity in post-commitment proceedings shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. Have at least three years’ experience of either criminal trial experience, dependency experience, or civil commitment proceedings under RCW 71.05; and
 - iii. Has a basic knowledge of the classification of mental disorders, as described in the most recent Diagnostic and Statistical Manual of Mental Disorders (“DSM”) and other resources, related to the treatment of persons with a mental illness and substance use;²⁹ and
 - iv. Each counsel representing persons in this category shall meet qualification requirements established by the Washington State Office of Public Defense for this type of representation.
- e. **Sex Offender Commitment Cases (RCW 71.09)** – There should be two attorneys on each sex offender commitment case. The lead counsel shall meet the following requirements:
 - i. The minimum requirements set forth in Section 14.A;
 - ii. At least three years’ criminal trial experience;
 - iii. One year experience as a felony trial defense or criminal appeals attorney;
 - iv. One year of appellate experience or demonstrated legal writing ability;
 - v. Has been lead defense counsel in at least one felony trial; and
 - vi. Has experience as defense counsel in cases involving each of the following:
 - 1. Mental health issues;
 - 2. Sexual offenses;
 - 3. Expert witnesses; and
 - 4. Familiarity with the Civil Rules.

²⁸ Counsel shall be familiar with the diagnostic manual in use by mental health professionals at the time of sentencing and the time of any hearing.

²⁹ Counsel shall be familiar with the diagnostic manual in use by mental health professionals.

vii. Other counsel working on a sex offender commitment case should meet the minimum requirements in Section 14.A and have either one year's experience as a public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.

f. Contempt of Court Cases (Child Support Enforcement) – Each lead counsel representing a respondent in a contempt of court case shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Each lead counsel shall be accompanied by a supervisor or more experienced attorney at his or her first contempt of court hearing and at his or her first two contested contempt of court hearings and participate in at least one consultation per case for their first five non-contested hearings with a WDA resource attorney or another attorney qualified in this area of practice; and

iii. Be familiar with the Rules of Civil Procedure.

5. Appellate Cases

a. Adult Criminal and Juvenile Court Representation in Appellate Courts Other Than Superior Court RALJ Appeals – Each lead counsel in an appellate matter before the Court of Appeals or Supreme Court shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has filed six appellate briefs as counsel for a party in the Washington Supreme Court or Court of Appeals, or appellate courts of other jurisdictions, including at least five criminal, dependency (RCW 13.34), civil commitment (RCW 71.05) or sex offender commitment (RCW 71.09) cases; or participated in consultation with a qualified attorney in each case until this requirement is satisfied; and

iii. Each lead counsel representing a client on appeal in a Felony High Murder, Felony High LWOP, Felony High, or Sex Offender Commitment case shall:

1. Meet the requirements of Standard 14.C.5.a.ii; and

2. Has filed 15 appellate briefs in criminal cases as counsel for a party in the Washington Supreme Court or Court of Appeals, or appellate courts of other jurisdictions, or shall participate in consultation with a qualified attorney in each case until this requirement is satisfied.

b. Dependency Representation in Appellate Courts - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. The requirements in Standard 14.C.5.a.ii; and

iii. Be familiar with the *American Bar Association Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Family Justice Initiative Attributes.*

c. RALJ Misdemeanor Appeals and Writs to Superior Court - Each lead counsel representing a client in an appellate matter to Superior Court from a court of limited jurisdiction shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A; and

ii. Either:

1. Has clerked for an appellate court judge; or

2. Has represented clients in at least three substantive testimonial motion hearings or trials; or

3. Has the assistance of a more experienced attorney in preparing and arguing the RALJ appeal.

6. Legal Interns - Legal interns who appear in court shall:

- a. Meet the requirements set out in Section 14.A;
- b. Meet the requirements set out in APR 9;
- c. Receive training and supervision pursuant to APR 9; and
- d. Complete an orientation and training program for legal interns.

Related Standards:

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, Standard 13.15.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Public Defense Contracts*, 1984, Standard III-7.~~

~~National Legal Aid and Defender Association, *Standards for the Appointment and Performance of Counsel in Death Penalty Cases*, 1987, Standard 5.1.~~

STANDARD FIFTEEN: Disposition of Client Complaints

Standard:

~~15.A. Jurisdictions that administer public defense services shall provide a process for receiving, investigating, and promptly responding. Each agency or firm or individual contract attorney providing public defense services shall have a method to respond promptly to client complaints. Complaints should first be directed to the assigned attorney, firm, or agency which that is providing or provided representation. If the client feels that he or she has not received an adequate response, the contracting authority or public defense administrator should designate a person or agency to evaluate the legitimacy of complaints and to follow up meritorious ones.~~

~~15.B. Public defense agencies and contractors with multi-attorney private firms shall include investigation and disposition of client complaints in their supervisory services.~~

~~15.C. The complaining client should be informed as to the disposition of his or her their complaint within one week in a timely manner.~~

Related Standards:

~~American Bar Association, *Standards for Criminal Justice*, 4-5.1 and 4-5.2.~~

STANDARD SIXTEEN:

Cause for Termination of Defender Services and Removal of Attorney

Standard:

Contracts for ~~indigent public~~ defense services shall include the grounds for termination of the contract by the parties. Termination of a ~~provider's public defense attorney's or private firm's~~ contract unilaterally by the jurisdiction should only be for good cause. Termination for good cause shall include, but not be limited to, the failure of ~~the a contract attorney or firm to render provide adequate effective or quality~~

representation to clients; the willful disregard of the rights and best interests of the client; and the willful disregard of ~~these WSBA Standards or the Court Rule Standards, the standards herein addressed.~~

Removal by the court of ~~counsel~~ an appointed attorney from representation normally should not occur over the objection of the attorney and the client.

Related Standards:

~~American Bar Association, Standards for Criminal Justice, Standard 5-1.3, 5-5.3.~~

~~National Legal Aid and Defender Association, Guidelines for Negotiating and Awarding Indigent Defense Contracts, 1984, Guideline III-5.21~~

~~National Study Commission on Defense Services, Guidelines for Legal Defense Systems in the United States, 1976, Recommendations 2.12 and 2.14.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, Standard 13.8.~~

STANDARD SEVENTEEN: Non-Discrimination

Standard:

Public defense contracts and assigned counsel policies shall include language prohibiting discrimination by the jurisdiction, contractor, contractor's attorneys, or assigned counsel. Neither the Contracting Authority, in its selection of an attorney, firm or agency to provide public defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, ethnicity, religion, national origin, language, age, marital status, gender identity, sexual orientation, or disability. Both the contracting authority and the contractor. The public defense administrator and all public defense attorneys and support staff shall comply with all federal, state, and local non-discrimination requirements.

Related Standards:

~~American Bar Association, Standards for Criminal Justice, Providing Defense Services, Standard 5-3.1.~~

~~National Legal Aid and Defender Association, Standards for Defender Services, 1976, Standard III-8.~~

STANDARD EIGHTEEN:

Guidelines for Awarding Defense Contracts

Standard:

Recruitment for public defense contracts and assigned counsel lists should include efforts to achieve a diverse public defense workforce.

Attorneys or firms applying for contracts or placement on assigned counsel lists must demonstrate their ability to meet these Standards and the Supreme Court Standards for Indigent Defense. Their contracts must comply with Rules of Professional Conduct 1.8(m).

The county or city should award contracts for public defense services and select attorneys for assigned counsel lists only after determining that the applicant has demonstrated professional qualifications

consistent with both these Standards and the Supreme Court Standards for Indigent Defense. Under no circumstances should a contract be awarded on the basis of cost alone.

Judges, judicial staff, city attorneys, county prosecutors, and law enforcement officers shall not select the attorneys who will be included in a contract or an assigned counsel list.

Related Standards:

~~National Legal Aid and Defender Association, Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts, 1984, Standard IV-3.~~

~~King County Bar Association Indigent Defense Services Task Force, Guidelines for Accreditation of Defender Agencies, 1982, Statement of Purpose.~~

(The WSBA Board of Governors adopted revisions to Standard 18 in May 2021)

STANDARD NINETEEN: Independence and Oversight of Public Defense Services³⁰

Standard:

Public defense providers should not be restrained from independently advocating for the resources and reforms necessary to provide defense related services for all clients. This includes efforts to foster system improvements, efficiencies, access to justice, and equity in the legal system.

Judges and judicial staff shall not manage and oversee public defense offices, public defense contracts, or assigned counsel lists. Judges and judicial staff in superior courts and courts of limited jurisdiction shall not select public defense administrators or the attorneys who provide public defense services.

Attorneys with public defense experience insulated from judicial and political influence should manage and oversee public defense services.

The terms “manage” and “oversee” include: drafting, awarding, renewing, and terminating public defense contracts; adding attorneys or removing them from assigned counsel lists; developing case weighting policies; monitoring attorney caseload limits and case-level qualifications; monitoring quality; monitoring compliance with contracts, policies, procedures, and standards; and recommending compensation.

The agencies, organizations, and administrators responsible for managing and overseeing public defense services shall apply these Standards, the Supreme Court Standards for Indigent Defense, and the WSBA Performance Guidelines in their management and oversight duties.

Jurisdictions unable to employ attorneys with public defense experience to manage and oversee public defense services shall consult with established city, county, or state public defense offices, or engage experienced public defense providers as consultants regarding management and oversight duties.

³⁰ See Principle 1 of the ABA Ten Principles of a Public Defense Delivery System and Commentary [\(August 2023\)](#), including the recommendation a nonpartisan commission or advisory board oversee the public defense function, thus safeguarding against undue political pressure while also promoting efficiency and accountability for a publicly funded service.

Related Standards:

~~American Bar Association, *Ten Principles of a Public Defense Delivery System*, 2002, Principle 1.~~

~~National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts, The Defense*, 1973, Chapter 1.3.~~

~~American Bar Association *Standards for Criminal Justice, Providing Defense Services*, 1992, Standards 5-1.3, 5-1.6, 5-4.1.~~

~~National Legal Aid and Defender Association, *Standards for the Administration of Assigned Counsel Systems*, 1989, Standards 2, 3.2.1.~~

~~National Legal Aid and Defender Association, *Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services*, 1984, Guidelines II-1, II-2, II-3, IV-2.~~

~~National Conference of Commissioners on State Law, *Model Public Defender Act*, 1970, Section 10(d).~~

~~Institute for Judicial Administration/American Bar Association, *Juvenile Justice Standards Relating to Counsel for Private Parties*, 1979, Standards 2.1(D), 3.2.~~

~~National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* 1976, Guidelines 2.8, 2.10-2.13, 2.18, 5.13.~~

~~Michigan Indigent Defense Commission, 2020, *Minimum Standard 5*.~~

Additional References:

~~American Legislative Exchange Council (ALEC), *Resolution in Support of Public Defense*, 2019, Independence and Equality.~~

~~<https://sixthamendment.org/the-right-to-counsel/national-standards-for-providing-the-right-to-counsel/the-constitutional-imperative-for-defender-independence-aba-principle-1/>~~

~~<https://sixthamendment.org/the-right-to-counsel/national-standards-for-providing-the-right-to-counsel/the-preeminent-need-for-independence-of-the-defense-function-aba-principle-1/>~~

~~<https://sixthamendment.org/the-right-to-counsel/national-standards-for-providing-the-right-to-counsel/understanding-judicial-interference-with-the-defense-function-aba-principle-1/>~~

~~<https://sixthamendment.org/the-right-to-counsel/national-standards-for-providing-the-right-to-counsel/understanding-political-interference-with-the-defense-function-aba-principle-1/24>~~

~~<https://sixthamendment.org/the-right-to-counsel/national-standards-for-providing-the-right-to-counsel/systemic-accountability-through-an-independent-commission-aba-principle-1/>~~

(The WSBA Board of Governors adopted Standard 19 in May 2021)

Appendix A

*WSBA Standards for Indigent Defense Services and CrR 3.1, CrRLJ 3.1, JuCr 9.2, and CCR 2.1, Supreme Court Standards for Indigent Defense Comparison of Topics, as of February 2024**

<u>Standard #</u>	<u>WSBA Standards for Indigent Defense Services</u>	<u>Supreme Court Adopted Standards for Indigent Defense</u>
<u>1</u>	<u>Compensation</u>	<u>Reserved</u>
<u>2</u>	<u>Duties and Responsibilities of Counsel</u>	<u>Reserved</u>
<u>3</u>	<u>Caseload Limits and Types of Cases</u>	<u>Caseload Limits and Types of Cases</u>
<u>4</u>	<u>Responsibility for Expert Witnesses</u>	<u>Reserved, but see RPC 1.8</u>
<u>5</u>	<u>Administrative Costs</u>	<u>Administrative Costs, partially adopted</u>
<u>6</u>	<u>Investigators</u>	<u>Investigators, partially adopted</u>
<u>7</u>	<u>Support Services</u>	<u>Reserved</u>
<u>8</u>	<u>Reports of Attorney Activity</u>	<u>Reserved</u>
<u>9</u>	<u>Training</u>	<u>Reserved</u>
<u>10</u>	<u>Supervision</u>	<u>Reserved</u>
<u>11</u>	<u>Monitoring and Evaluation of Attorneys</u>	<u>Reserved</u>
<u>12</u>	<u>Substitution of Counsel</u>	<u>Reserved</u>
<u>13</u>	<u>Limitations on Private Practice</u>	<u>Limitations on Private Practice</u>
<u>14</u>	<u>Qualifications of Attorneys with revised list of qualifications</u>	<u>Qualifications of Attorneys</u>
<u>15</u>	<u>Disposition of Client Complaints</u>	<u>Reserved</u>
<u>16</u>	<u>Cause for Termination of Defender Services and Removal of Attorney</u>	<u>Reserved</u>
<u>17</u>	<u>Non-Discrimination</u>	<u>Reserved</u>
<u>18</u>	<u>Guidelines for Awarding Defense Contracts</u>	<u>Reserved</u>
<u>19</u>	<u>Independence and Oversight of Public Defense Services</u>	<u>Not included, but addressed in GR 42</u>

* Readers should check for any subsequent amendments

APPENDIX B

Crimes Categorized by Public Defense Case Category

All unlisted misdemeanors are Misdemeanor Low

<u>PD Misdemeanor Case Category</u>	<u>Seriousness Level</u>	<u>Case Value</u>	<u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Aiming or discharging a firearm (RCW 9.41.230)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Animal cruelty in the second degree committed under RCW 16.52.207(1)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Assault 4 (RCW 9A.36.041(3))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Attempt, Solicitation, or Conspiracy of a Class C Felony ((RCW 9A.28.020-040))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Communication with a Minor for Immoral Purposes (RCW 9.68A.090)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Driving While Under the Influence (RCW 46.61.502(6))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>H&R Attended (RCW 46.52.020)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Harassment (RCW 9A.46.020(1-2))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Indecent Exposure to Person Under Age 14 (first offense) (RCW 9A.88.010)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Possession of a Controlled Substance (RCW 69.50.4013)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Reckless Driving RCW 46.61.150</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Sexual Misconduct with a Minor² (RCW 9A.44.096)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Stalking (RCW 9A.46.110(1-5))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(1))</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Unlawful carrying or handling of a firearm (RCW 9.41.270)</u>
<u>Misdemeanor- High</u>	<u>GM</u>	<u>1.5</u>	<u>Vehicle Prowling 2 (first or second offense) (RCW 9A.52.100(1-2))</u>

Misdemeanor- High	GM	1.5	<u>Violation of Anti-Harassment Protection Order (RCW 7.105.450)</u>
Misdemeanor- High	GM/M	1.5	<u>Domestic Violence Offense listed in RCW 10.99.020(4) or RCW 9.41.040(2)(a)(i)(B-D)</u>
-	GM/M	1.5	<u>Municipal Crimes shall be the same case category as the equivalent State crime. When there is no State crime, a Municipal Gross Misdemeanor is Misdemeanor- High and a Simple Misdemeanor is a Misdemeanor- Felony- Low</u>
Misdemeanor- Low	M	1	<u>Attempt, Solicitation, or Conspiracy to Commit a Gross Misdemeanor (RCW 9A.28.020-040)</u>
Misdemeanor- High	M	1	<u>Minor Driving After Alcohol (RCW 46.61.503)</u>
Misdemeanor- High	M	1	<u>Negligent Driving 1 RCW 46.61.5249</u>

All unlisted felonies are Felony Low

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<u>PD Felony Case Category</u>	<u>Seriousness Level</u>	<u>Case Value</u>	<u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u>
<u>Felony- Low</u>	1	1	<u>Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)</u>
<u>Felony- Low</u>	1	1	<u>False Verification for Welfare (RCW 74.08.055)</u>
<u>Felony- Low</u>	1	1	<u>Forgery (RCW 9A.60.020)</u>
<u>Felony- Low</u>	1	1	<u>Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)</u>
<u>Felony- Low</u>	1	1	<u>Malicious Mischief 2 (RCW 9A.48.080)</u>
<u>Felony- Low</u>	1	1	<u>Mineral Trespass (RCW 78.44.330)</u>
<u>Felony- Low</u>	1	1	<u>Possession of Stolen Property 2 (RCW 9A.56.160)</u>
<u>Felony- Low</u>	1	1	<u>Reckless Burning 1 (RCW 9A.48.040)</u>
<u>Felony- Low</u>	1	1	<u>Spotlighting Big Game 1 (RCW 77.15.450(3)(b))</u>
<u>Felony- Low</u>	1	1	<u>Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))</u>
<u>Felony- Low</u>	1	1	<u>Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)</u>
<u>Felony- Low</u>	1	1	<u>Theft 2 (RCW 9A.56.040)</u>

Felony- Low	<u>1</u>	<u>1</u>	Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
Felony- Low	<u>1</u>	<u>1</u>	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$750 or more but less than \$5,000) (RCW 9A.56.096(5)(b))
Felony- Low	<u>1</u>	<u>1</u>	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Possession of Payment Instruments (RCW 9A.56.320)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Production of Payment Instruments (RCW 9A.56.320)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Trafficking in Food Stamps (RCW 9.91.142)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Use of Food Stamps (RCW 9.91.144)
Felony- Low	<u>1</u>	<u>1</u>	Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))
Felony- Low	<u>1</u>	<u>1</u>	Vehicle Prowl 1 (RCW 9A.52.095)
Felony- Low	<u>1</u>	<u>1</u>	Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))
Felony- Low	<u>2</u>	<u>1</u>	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
Felony- Low	<u>2</u>	<u>1</u>	Computer Trespass 1 (RCW 9A.90.040)
Felony- Low	<u>2</u>	<u>1</u>	Counterfeiting (RCW 9.16.035(3))
Felony- Low	<u>2</u>	<u>1</u>	Electronic Data Service Interference (RCW 9A.90.060)
Felony- Low	<u>2</u>	<u>1</u>	Electronic Data Tampering 1 (RCW 9A.90.080)
Felony- Low	<u>2</u>	<u>1</u>	Electronic Data Theft (RCW 9A.90.100)

<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Escape from Community Custody (RCW 72.09.310)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Failure to Register as a Sex Offender (first, second, or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Health Care False Claims (RCW 48.80.030)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Identity Theft 2 (RCW 9.35.020(3))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Improperly Obtaining Financial Information (RCW 9.35.010)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Malicious Mischief 1 (RCW 9A.48.070)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Organized Retail Theft 2 (RCW 9A.56.350(3))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Possession of a Stolen Vehicle (RCW 9A.56.068)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Possession of Stolen Property 1 (RCW 9A.56.150)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Theft 1 (RCW 9A.56.030)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Theft of a Motor Vehicle (RCW 9A.56.065)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$5,000 or more) (RCW 9A.56.096(5)(a))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Theft with the Intent to Resell 2 (RCW 9A.56.340(3))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Trafficking in Insurance Claims (RCW 48.30A.015)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Unlawful Practice of Law (RCW 2.48.180)</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))</u>

<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))</u>
<u>Felony- Low</u>	<u>2</u>	<u>1</u>	<u>Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Assault of a Child 3 (RCW 9A.36.140)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Bail Jumping with class B or C (RCW 9A.76.170(3)(c))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Burglary 2 (RCW 9A.52.030)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Communication with a Minor for Immoral Purposes (RCW 9.68A.090)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Criminal Gang Intimidation (RCW 9A.46.120)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Custodial Assault (RCW 9A.36.100)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Cyber Harassment (RCW 9A.90.120(2)(b))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Escape 2 (RCW 9A.76.120)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Extortion 2 (RCW 9A.56.130)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>False Reporting 2 (RCW 9A.84.040(2)(b))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Harassment (RCW 9A.46.020)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Hazing (RCW 28B.10.901(2)(b))</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Intimidating a Public Servant (RCW 9A.76.180)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Introducing Contraband 2 (RCW 9A.76.150)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Malicious Injury to Railroad Property (RCW 81.60.070)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)</u>
<u>Felony- Low</u>	<u>3</u>	<u>1</u>	<u>Mortgage Fraud (RCW 19.144.080)</u>

Felony- Low	<u>3</u>	<u>1</u>	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
Felony- Low	<u>3</u>	<u>1</u>	Organized Retail Theft 1 (RCW 9A.56.350(2))
Felony- Low	<u>3</u>	<u>1</u>	Perjury 2 (RCW 9A.72.030)
Felony- Low	<u>3</u>	<u>1</u>	Possession of Incendiary Device (RCW 9.40.120)
Felony- Low	<u>3</u>	<u>1</u>	Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Felony- Low	<u>3</u>	<u>1</u>	Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))
Felony- Low	<u>3</u>	<u>1</u>	Securities Act violation (RCW 21.20.400)
Felony- Low	<u>3</u>	<u>1</u>	Tampering with a Witness (RCW 9A.72.120)
Felony- Low	<u>3</u>	<u>1</u>	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
Felony- Low	<u>3</u>	<u>1</u>	Theft of Livestock 2 (RCW 9A.56.083)
Felony- Low	<u>3</u>	<u>1</u>	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
Felony- Low	<u>3</u>	<u>1</u>	Trafficking in Stolen Property 2 (RCW 9A.82.055)
Felony- Low	<u>3</u>	<u>1</u>	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
Felony- Low	<u>3</u>	<u>1</u>	Unlawful Imprisonment (RCW 9A.40.040)
Felony- Low	<u>3</u>	<u>1</u>	Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
Felony- Low	<u>3</u>	<u>1</u>	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Felony- Low	<u>3</u>	<u>1</u>	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
Felony- Low	<u>3</u>	<u>1</u>	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
Felony- Low	<u>3</u>	<u>1</u>	Unlawful Use of a Nondesigned Vessel (RCW 77.15.530(4))
Felony- Low	<u>3</u>	<u>1</u>	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Felony- Low	<u>4</u>	<u>1</u>	Driving While Under the Influence (3 or more offenses) (RCW 46.61.502(6))
Felony- Low	<u>4</u>	<u>1</u>	Influencing Outcome of Sporting Event (RCW 9A.82.070)

Felony- Low	4	1	Physical Control of a Vehicle While Under the Influence (three or more offenses) (RCW 46.61.504(6))
Felony- Low	4	1	Theft of Livestock 1 (RCW 9A.56.080)
Felony- Low	4	1	Threats to Bomb (RCW 9.61.160)
Felony- Low	4	1	Trafficking in Stolen Property 1 (RCW 9A.82.050)
Felony- Low	4	1	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
Felony- Low	4	1	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
Felony- Low	4	1	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
Felony- Low	4	1	Unlawful transaction of insurance business (RCW 48.15.023(3))
Felony- Low	4	1	Unlicensed practice as an insurance professional (RCW 48.17.063(2))
Felony- Low	4	1	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
Felony- Low	4	1	Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
Felony- Low	5	1	Abandonment of Dependent Person 2 (RCW 9A.42.070)
Felony- Low	5	1	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Felony- Low	5	1	Air bag diagnostic systems (RCW 46.37.660(2)(c))
Felony- Low	5	1	Air bag replacement requirements (RCW 46.37.660(1)(c))
Felony- Low	5	1	Bail Jumping with class A (RCW 9A.76.170(3)(b))
Felony- Low	5	1	Extortionate Extension of Credit (RCW 9A.82.020)
Felony- Low	5	1	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Felony- Low	5	1	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
Felony- Low	5	1	Perjury 1 (RCW 9A.72.020)
Felony- Low	5	1	Possession of a Stolen Firearm (RCW 9A.56.310)

Felony- Low	<u>5</u>	<u>1</u>	Rendering Criminal Assistance 1 (RCW 9A.76.070)
Felony- Low	<u>5</u>	<u>1</u>	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
Felony- Low	<u>6</u>	<u>1</u>	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
Felony- Low	<u>6</u>	<u>1</u>	Bribery (RCW 9A.68.010)
Felony- Low	<u>6</u>	<u>1</u>	Intimidating a Judge (RCW 9A.72.160)
Felony- Low	<u>6</u>	<u>1</u>	Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
Felony- Low	<u>6</u>	<u>1</u>	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
Felony- Low	<u>6</u>	<u>1</u>	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
Felony- Low	<u>6</u>	<u>1</u>	Theft of a Firearm (RCW 9A.56.300)
Felony- Low	<u>6</u>	<u>1</u>	Unlawful Storage of Ammonia (RCW 69.55.020)
Felony- Low	<u>7</u>	<u>1</u>	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
Felony- Low	<u>7</u>	<u>1</u>	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
Felony- Low	<u>7</u>	<u>1</u>	Civil Disorder Training (RCW 9A.48.120)
Felony- Low	<u>7</u>	<u>1</u>	False Reporting 1 (RCW 9A.84.040(2)(a))
Felony- Low	<u>7</u>	<u>1</u>	Malicious placement of an explosive 3 (RCW 70.74.270(3))
Felony- Low	<u>7</u>	<u>1</u>	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
Felony- Low	<u>7</u>	<u>1</u>	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
Felony- Low	<u>7</u>	<u>1</u>	Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
Felony- Low	<u>7</u>	<u>1</u>	Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
Felony- Low	<u>7</u>	<u>1</u>	Use of a Machine Gun or Bump-fire Stock in Commission of a (RCW 9.41.225)
Felony- Low	<u>8</u>	<u>1</u>	Theft of Ammonia (RCW 69.55.010)

<u>Felony- Low</u>	-	<u>1</u>	<u>Attempt, Solicitation, or Conspiracy of a Class B Felony (RCW 9A.28.020-040)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Arson 2 (RCW 9A.48.030)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Assault 2 (RCW 9A.36.021)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Assault by Watercraft (RCW 79A.60.060)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Cheating 1 (RCW 9.46.1961)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Commercial Bribery (RCW 9A.68.060)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Counterfeiting (RCW 9.16.035(4))</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Endangerment with a Controlled Substance (RCW 9A.42.100)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Escape 1 (RCW 9A.76.110)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Hate Crime (RCW 9A.36.080)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Hit and Run—Injury (RCW 46.52.020(4)(b))</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Identity Theft 1 (RCW 9.35.020(2))</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Residential Burglary (RCW 9A.52.025)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Robbery 2 (RCW 9A.56.210)</u>
<u>Felony- Mid</u>	<u>4</u>	<u>1.5</u>	<u>Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)</u>
<u>Felony- Mid</u>	<u>5</u>	<u>1.5</u>	<u>Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070)</u>
<u>Felony- Mid</u>	<u>5</u>	<u>1.5</u>	<u>Extortion 1 (RCW 9A.56.120)</u>
<u>Felony- Mid</u>	<u>5</u>	<u>1.5</u>	<u>Kidnapping 2 (RCW 9A.40.030)</u>
<u>Felony- Mid</u>	<u>5</u>	<u>1.5</u>	<u>Persistent prison misbehavior (RCW 9.94.070)</u>

<u>Felony- Mid</u>	<u>5</u>	<u>1.5</u>	<u>Stalking (RCW 9A.46.110)</u>
<u>Felony- Mid</u>	<u>5</u>	<u>1.5</u>	<u>Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)</u>
<u>Felony- Mid</u>	<u>7</u>	<u>1.5</u>	<u>Burglary 1 (RCW 9A.52.020)</u>
<u>Felony- Mid</u>	<u>7</u>	<u>1.5</u>	<u>Drive-by Shooting (RCW 9A.36.045)</u>
<u>Felony- Mid</u>	<u>7</u>	<u>1.5</u>	<u>Introducing Contraband 1 (RCW 9A.76.140)</u>
<u>Felony- Mid</u>	<u>9</u>	<u>1.5</u>	<u>Explosive devices prohibited (RCW 70.74.180)</u>
<u>Felony- Mid</u>	<u>9</u>	<u>1.5</u>	<u>Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))</u>
<u>Felony- Mid</u>	<u>9</u>	<u>1.5</u>	<u>Malicious placement of an explosive 2 (RCW 70.74.270(2))</u>
<u>Felony- Mid</u>	<u>10</u>	<u>1.5</u>	<u>Malicious explosion 3 (RCW 70.74.280(3))</u>
<u>Felony- Mid</u>	<u>10</u>	<u>1.5</u>	<u>Sexually Violent Predator Escape (RCW 9A.76.115)</u>
<u>Felony- Mid</u>	-	<u>1.5</u>	<u>Attempt, Solicitation, or Conspiracy of a Class A Felony (RCW 9A.28.020-040)</u>
<u>Felony- Mid</u>	<u>DG2</u>	<u>1.5</u>	<u>Felony Offense with Firearm Enhancement or Deadly Weapon Enhancement that becomes a Strike (RCW 9.94A.030(32)(s) and 9.94A.825)</u>
<u>Felony- High</u>	<u>8</u>	<u>3</u>	<u>Arson 1 (RCW 9A.48.020)</u>
<u>Felony- High</u>	<u>9</u>	<u>3</u>	<u>Abandonment of Dependent Person 1 (RCW 9A.42.060)</u>
<u>Felony- High</u>	<u>9</u>	<u>3</u>	<u>Assault of a Child 2 (RCW 9A.36.130)</u>
<u>Felony- High</u>	<u>9</u>	<u>3</u>	<u>Robbery 1 (RCW 9A.56.200)</u>
<u>Felony- High</u>	<u>10</u>	<u>3</u>	<u>Criminal Mistreatment 1 (RCW 9A.42.020)</u>
<u>Felony- High</u>	<u>10</u>	<u>3</u>	<u>Kidnapping 1 (RCW 9A.40.020)</u>
<u>Felony- High</u>	<u>10</u>	<u>3</u>	<u>Leading Organized Crime (RCW 9A.82.060(1)(a))</u>
<u>Felony- High</u>	<u>12</u>	<u>3</u>	<u>Assault 1 (RCW 9A.36.011)</u>
<u>Felony- High</u>	<u>12</u>	<u>3</u>	<u>Assault of a Child 1 (RCW 9A.36.120)</u>
<u>Felony- High</u>	<u>12</u>	<u>3</u>	<u>Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))</u>
<u>Felony- High</u>	<u>13</u>	<u>3</u>	<u>Malicious explosion 2 (RCW 70.74.280(2))</u>
<u>Felony- High</u>	<u>13</u>	<u>3</u>	<u>Malicious placement of an explosive 1 (RCW 70.74.270(1))</u>
<u>Felony- High</u>	<u>14</u>	<u>3</u>	<u>Trafficking 1 (RCW 9A.40.100(1))</u>

Felony- High	<u>15</u>	<u>3</u>	<u>Malicious explosion 1 (RCW 70.74.280(1))</u>
Felony- Sex	<u>2</u>	<u>5</u>	<u>Voyeurism 1 (RCW 9A.44.115)</u>
Felony- Sex	<u>3</u>	<u>5</u>	<u>Promoting Prostitution 2 (RCW 9A.88.080)</u>
Felony- Sex	<u>4</u>	<u>5</u>	<u>Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)</u>
Felony- Sex	<u>4</u>	<u>5</u>	<u>Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))</u>
Felony- Sex	<u>4</u>	<u>5</u>	<u>Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Child Molestation 3 (RCW 9A.44.089)</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Criminal Mistreatment 2 (RCW 9A.42.030)</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Custodial Sexual Misconduct 2 (RCW 9A.44.170)</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Incest 2 (RCW 9A.64.020(2))</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Rape 3 (RCW 9A.44.060)</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Sexual Misconduct with a Minor 1 (RCW 9A.44.093)</u>
Felony- Sex	<u>5</u>	<u>5</u>	<u>Sexually Violating Human Remains (RCW 9A.44.105)</u>
Felony- Sex	<u>6</u>	<u>5</u>	<u>Incest 1 (RCW 9A.64.020(1))</u>
Felony- Sex	<u>6</u>	<u>5</u>	<u>Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))</u>
Felony- Sex	<u>6</u>	<u>5</u>	<u>Rape of a Child 3 (RCW 9A.44.079)</u>
Felony- Sex	<u>7</u>	<u>5</u>	<u>Child Molestation 2 (RCW 9A.44.086)</u>
Felony- Sex	<u>7</u>	<u>5</u>	<u>Custodial Sexual Misconduct 1 (RCW 9A.44.160)</u>
Felony- Sex	<u>7</u>	<u>5</u>	<u>Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))</u>
Felony- Sex	<u>7</u>	<u>5</u>	<u>Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))</u>

Felony- Sex	<u>8</u>	<u>5</u>	<u>Commercial Sexual Abuse of a Minor (RCW 9.68A.100)</u>
Felony- Sex	<u>8</u>	<u>5</u>	<u>Promoting Prostitution 1 (RCW 9A.88.070)</u>
Felony- Sex	<u>9</u>	<u>5</u>	<u>Sexual Exploitation (RCW 9.68A.040)</u>
Felony- Sex	<u>10</u>	<u>5</u>	<u>Child Molestation 1 (RCW 9A.44.083)</u>
Felony- Sex	<u>10</u>	<u>5</u>	<u>Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))</u>
Felony- Sex	<u>11</u>	<u>5</u>	<u>Rape 2 (RCW 9A.44.050)</u>
Felony- Sex	<u>11</u>	<u>5</u>	<u>Rape of a Child 2 (RCW 9A.44.076)</u>
Felony- Sex	<u>12</u>	<u>5</u>	<u>Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)</u>
Felony- Sex	<u>12</u>	<u>5</u>	<u>Rape 1 (RCW 9A.44.040)</u>
Felony- Sex	<u>12</u>	<u>5</u>	<u>Rape of a Child 1 (RCW 9A.44.073)</u>
Felony- Sex	<u>12</u>	<u>5</u>	<u>Trafficking 2 (RCW 9A.40.100(3))</u>
Felony- Sex	-	<u>5</u>	<u>Any Felony Offense where a Special Allegation of Sexual Motivation is alleged pursuant (RCW 9.94A835)</u>
Felony- Sex	-	<u>5</u>	<u>Attempt, Solicitation, or Conspiracy to Commit a Sex Offense (RCW 9A.28.020)</u>
Felony- Murder	<u>7</u>	<u>7</u>	<u>Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)</u>
Felony- Murder	<u>7</u>	<u>7</u>	<u>Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)</u>
Felony- Murder	<u>7</u>	<u>7</u>	<u>Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)</u>
Felony- Murder	<u>8</u>	<u>7</u>	<u>Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)</u>
Felony- Murder	<u>8</u>	<u>7</u>	<u>Manslaughter 2 (RCW 9A.32.070)</u>
Felony- Murder	<u>9</u>	<u>7</u>	<u>Hit and Run—Death (RCW 46.52.020(4)(a))</u>
Felony- Murder	<u>9</u>	<u>7</u>	<u>Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)</u>
Felony- Murder	<u>11</u>	<u>7</u>	<u>Manslaughter 1 (RCW 9A.32.060)</u>

<u>Felony- Murder</u>	<u>11</u>	<u>7</u>	<u>Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)</u>
<u>Felony- Murder</u>	<u>11</u>	<u>7</u>	<u>Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)</u>
<u>Felony- Murder</u>	<u>14</u>	<u>7</u>	<u>Murder 2 (RCW 9A.32.050)</u>
<u>Felony- Murder</u>	<u>15</u>	<u>7</u>	<u>Homicide by abuse (RCW 9A.32.055)</u>
<u>Felony- Murder</u>	<u>15</u>	<u>7</u>	<u>Murder 1 (RCW 9A.32.030)</u>
<u>Felony- Murder</u>	<u>16</u>	<u>7</u>	<u>Aggravated Murder 1 (RCW 10.95.020)</u>
<u>Felony- Murder</u>	-	<u>7</u>	<u>Attempt, Solicitation, or Conspiracy to Commit Murder (RCW 9A.28.020-040)</u>
<u>Felony- LWOP</u>	-	<u>8</u>	<u>Any "Third Strike" or final offense where a life sentence could be imposed (RCW 9.94A575)</u>

Appendix C

Adult Criminal Cases

<u>Case Type</u>	<u>Previous Attorney Experience</u>	<u>Previous Trial Experience</u>	<u>Special Training</u>	<u>Other</u>
<u>A. Misdemeanor Low and Probation Violations</u>	=	=	=	•
<u>B. Misdemeanor High</u> <u>a. Domestic Violence, Violation of No Contact Order, Harassment, or Stalking</u> <u>b. Drug Offenses</u> <u>c. Sex Offenses</u>	<u>a.</u> <u>b.</u> <u>c. Sex Offense - Has served as defense attorney or prosecutor for one year.</u> <u>d.</u>	<u>a.</u> <u>b.</u> <u>c. Sex Offense - Two criminal cases in which the prosecution has rested, or One criminal trial in which the prosecution has rested and completed a trial training academy</u> <u>d.</u>	<u>a. Domestic violence - DV training or CLE.</u> <u>b. Drug offenses - Drug training or CLE.</u> <u>c. Sex Offenses – Has attended a training or CLE on collateral consequences</u>	• •

<u>d. DUI</u>			<u>of sex convictions and on child hearsay.</u> <u>d. DUI – CLE or Training on DUI Defense representation in the last two years.</u>	
<u>C. Felony Mid and Low Cases</u>	<u>One year of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested, either:</u> <ul style="list-style-type: none"> <u>• Two criminal trials; or</u> <u>• One criminal trial and has completed a trial training academy.</u> 		<u>• 1</u> <u>• 9</u> <u>f</u> <u>f</u> <u>a</u>
<u>D. Felony Sex Cases</u>	<u>Two years of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested:</u> <ul style="list-style-type: none"> <u>• Three felony trials, of which at least one was submitted to a jury.</u> 	<u>• Collateral Consequences of Sex offenses</u> <u>• Child hearsay</u>	<u>• 1</u>
<u>E. Felony High Other Cases</u>	<u>Two years of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested:</u> <ul style="list-style-type: none"> <u>• Three felony trials, of which at least one was submitted to a jury.</u> 		<u>• 1</u>
<u>F. Felony High Murder and LWOP</u>	<u>Three years in adult felony cases, of which:</u> <ul style="list-style-type: none"> <u>• Two years as felony defense counsel.</u> 	<u>As lead or co-counsel for the defense, where the state has rested:</u> <ul style="list-style-type: none"> <u>• Four adult felony trials in which the state has rested;</u> <u>• At least one of which was submitted to a jury; and</u> <u>• At least one of which was Felony High Other or from this category.</u> 	<u>• Mitigation</u>	<u>• 1</u> <u>• 1</u>
<u>G. Felony Re-Sentencing, Revocation, and Reference Hearings</u>	<u>One year of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested, either:</u> <ul style="list-style-type: none"> <u>• Three criminal trials; or</u> <u>• Two criminal trials and has completed a trial training academy.</u> 		<u>• 1</u>

<u>H. Material Witness Representation</u>				<ul style="list-style-type: none"> • A F H a V G
<u>I. Specialty Courts</u>				<ul style="list-style-type: none"> • •

Juvenile Court Cases

<u>Case Type</u>	<u>Previous Attorney Experience</u>	<u>Previous Trial Experience</u>	<u>Special Training</u>	<u>O</u>
<u>A. Misdemeanor Low and Probation Violations</u>				• •
<u>B. Misdemeanor High</u> <u>a. Domestic Violence, Violation of No Contact Order, Harassment, or Stalking</u> <u>b. Drug Offenses</u> <u>c. Sex Offenses</u> <u>d. DUI</u>	<u>a.</u> <u>b.</u> <u>c. Sex Offense - Has served as defense attorney or prosecutor for one year.</u> <u>d.</u>	<u>a.</u> <u>b.</u> <u>c. Sex Offense - Two criminal cases in which the prosecution has rested, or One criminal trial in which the prosecution has rested and completed a trial training academy</u> <u>d.</u>	<u>e. Domestic violence - DV training or CLE.</u> <u>f. Drug offenses - Drug training or CLE.</u> <u>g. Sex Offenses – Has attended a training or CLE on collateral consequences of sex convictions and on child hearsay.</u> <u>d. DUI – CLE or Training on DUI Defense representation in the last two years.</u>	• •
<u>C. Felony Mid and Felony Low Cases</u>	<u>One year of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested, either:</u> <u>• Two criminal trials; or</u> <u>• One criminal trial and has completed a trial training academy.</u>		• •
<u>J. Felony Sex Cases</u>	<u>Two years of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested:</u> <u>• Three felony trials, of which at least one was submitted to a jury.</u>	<u>• Collateral Consequences of Sex offenses</u> <u>• Child hearsay</u>	• •
<u>K. Felony High Other Cases</u>	<u>Two years of prosecution or criminal defense.</u>	<u>As lead or co-counsel handling a significant portion, where the state has rested:</u>		• •

		<ul style="list-style-type: none"> • <u>Three felony trials, of which at least one was submitted to a jury.</u> 		
<u>L. Felony High Murder and LWOP</u>	<p>Three years in adult felony cases, of which:</p> <ul style="list-style-type: none"> • <u>Two years as felony defense counsel.</u> 	<p>As lead or co-counsel for the defense, where the state has rested:</p> <ul style="list-style-type: none"> • <u>Four adult felony trials in which the state has rested;</u> • <u>At least one of which was submitted to a jury; and</u> • <u>At least one of which was Felony High Other or from this category.</u> 	<ul style="list-style-type: none"> • <u>Mitigation</u> 	<ul style="list-style-type: none"> • •
<u>D. Felony Re-Sentencing, Revocation, and Reference Hearings</u>	<p><u>One year of prosecution or criminal defense.</u></p>	<p>As lead or co-counsel handling a significant portion, where the state has rested, either:</p> <ul style="list-style-type: none"> • <u>Three criminal trials; or</u> • <u>Two criminal trials; and has completed a trial training academy.</u> 	<ul style="list-style-type: none"> • <u>Sex offenses</u> • <u>Child hearsay</u> • <u>Consequences of adjudications</u> 	<ul style="list-style-type: none"> • •
<u>E. Specialty Courts</u>				<ul style="list-style-type: none"> • •
<u>F. Material Witness Representation</u>	=		=	<ul style="list-style-type: none"> •
<u>G. Juvenile Court Status Offense Cases</u>	<ul style="list-style-type: none"> • <u>Have represented youth in two similar cases while under supervision; or</u> • <u>Have attended three hours of Status Offense training; or</u> • <u>Participates in at least one consultation per case with a qualified attorney.</u> 			<ul style="list-style-type: none"> • •

Civil Cases

<u>Case Type</u>	<u>Previous Attorney Experience</u>	<u>Specialized Training and Other Requirements</u>	
<u>A. Youth Representation in Dependency Cases</u>	<p><u>Before handling a termination case:</u></p> <ul style="list-style-type: none"> • <u>Six months' dependency experience or significant experience in complex litigation.</u> 	<p><u>Shall meet requirements in Section 14.A. and the training/experience requirements in "Representation of Children and Youth in Dependency Cases Practice, Caseload, and Training Standards" developed by the WA Supreme Court Commission on Children in Foster Care.</u></p>	• •
<u>B. Parents Representation in Dependency Cases</u>	<p><u>Before handling a termination case:</u></p> <ul style="list-style-type: none"> • <u>Six months' dependency experience; or significant experience in complex litigation; or certified by a parents representation training program.</u> 	<p><u>Attorneys shall comply with the American Bar Association's "Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases," and the "Family Justice Initiative Attributes."</u></p>	• •
<u>C. RCW 71.05 Civil Commitment Cases</u>	<p><u>Before handling a 90-day or 180-day commitment hearing:</u></p> <ul style="list-style-type: none"> • <u>Lead counsel for give 14-day hearings.</u> <p><u>Before handling a jury trial:</u></p> <ul style="list-style-type: none"> • <u>Two contested 14-day hearings as lead counsel, or</u> • <u>Two 90 or 180-day commitment hearings as co-counsel.</u> 	<ul style="list-style-type: none"> • <u>At first 90 day or 180-day commitment hearing, the attorney must either:</u> <ul style="list-style-type: none"> ○ <u>Be accompanied by a supervisor; or</u> ○ <u>Consult in advance with a qualified attorney.</u> • <u>Must have basic knowledge of:</u> <ul style="list-style-type: none"> ○ <u>The classifications of mental disorders;</u> ○ <u>Mental disorder medical terminology and research resources;</u> ○ <u>Medications; and</u> ○ <u>Treatment facilities.</u> 	•
<u>D. RCW 71.09 Sex Offender Commitment Cases</u>	<p><u>Lead counsel must have:</u></p> <ul style="list-style-type: none"> • <u>Three years criminal trial experience; and</u> • <u>One year felony defense or criminal appeals experience; and</u> • <u>Experience as lead counsel in one felony trial.</u> 	<ul style="list-style-type: none"> • <u>Experience in cases involving:</u> <ul style="list-style-type: none"> ○ <u>Mental health issues;</u> ○ <u>Sex offenses; and</u> ○ <u>Expert witnesses.</u> • <u>Familiarity with the Rules of Civil Procedure.</u> • <u>One year appellate experience or demonstrated legal writing ability.</u> 	• •
<u>E. Contempt of Court Cases</u>	=	<ul style="list-style-type: none"> • <u>Must be accompanied by supervisor or experienced attorney at first contempt of court hearing.</u> • <u>Consult with experienced counsel prior to each of first two contested contempt of court hearings.</u> • <u>Familiarity with the Rules of Civil Procedure.</u> 	•

<p><u>F. RCW 10.77</u> <u>Post</u> <u>Commitment</u> <u>Not Guilty by</u> <u>Reason of</u> <u>Insanity Cases</u></p>	<p><u>Three years' experience in:</u></p> <ul style="list-style-type: none"> • <u>Criminal trial; and/or</u> • <u>Dependencies; and/or</u> • <u>Civil commitment</u> <u>proceedings under RCW</u> <u>71.05.</u> 	<ul style="list-style-type: none"> • <u>Basic knowledge of classified mental health disorders.</u> • <u>Compliance with qualification requirements</u> <u>established by the WA State Office of Public Defense.</u> 	<ul style="list-style-type: none"> •
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Appellate Cases

<u>Case Type</u>	<u>Specific Training or Experience Requirements</u>	<u>O</u>
<u>A. Criminal Appeals in WA Supreme Court or WA Court of Appeals</u>	<ul style="list-style-type: none"> • <u>Appellate counsel must consult with a qualified attorney on each appellate case until having filed six appellate briefs as counsel for a party, of which:</u> <ul style="list-style-type: none"> ○ <u>At least five of the six appellate briefs must be in any of the following case categories: criminal, family defense, civil commitment (RCW 71.05), or sex offender civil commitment (RCW 71.09).</u> • <u>In addition to the above, if representing a client on appeal in any Felony High category or Sex Offender Civil Comment (RCW 71.09), the appellate counsel must consult with a qualified attorney until the appellate counsel has:</u> <ul style="list-style-type: none"> ○ <u>Filed fifteen briefs in criminal cases as counsel for a party in the WA supreme Court, WA Court of Appeals, or equivalent courts of another jurisdiction.</u> 	•
<u>B. Family Defense Appeals</u>	<p><u>Appellate counsel must:</u></p> <ul style="list-style-type: none"> • <u>Have previously acted as counsel in a trial-level family defense case; or</u> • <u>Consult with counsel already qualified for Family Defense Appeals until they have filed six briefs in this category and have consulted with qualified counsel in each one.</u> 	•
<u>C. RALJ Misdemeanor Appeals and Writs to Superior Courts</u>	<p><u>Appellate counsel must:</u></p> <ul style="list-style-type: none"> • <u>Have clerked for an appellate court judge; or</u> • <u>Have represented clients in three testimonial motion hearings or trials; or</u> • <u>Be assisted by a more experienced attorney.</u> 	•

Legal Interns

- Shall meet the requirements of 14.A. (b) – (g);
- Shall meet the requirements set out in Admissions to Practice Rule 9;
- Shall receiving training and supervision pursuant to APR 9; and
- Should complete an orientation and training program for legal interns.

Appendix D

Related Public Defense Standards

The Washington State Bar Association *Standards for Indigent Defense Services* are informed and complemented by other standards and guidelines which bear on public defense attorneys and agencies. Some of those related standards and guidelines are cited in the Standards' text. Others are included here.

Standard 1

- American Bar Association, *Standards for Criminal Justice*, 5-2.4 and 5-3.1.
- National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, 1973, Standards 13.7 and 13.11.
- National Legal Aid and Defender Association, *Standards for Defender Services*, Standard IV-4.
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Council on Public Defense
Report on Revisions to WSBA Standards of
Public Defense

Council on Public Defense Report on Revisions to WSBA Standards of Public Defense

Executive Summary:

1. Washington's public defense system is in crisis. High caseloads and defense attorney attrition have stressed the criminal judicial system to the breaking point. With these problems in mind, the WSBA Council on Public Defense (CPD) has undertaken a comprehensive revision of the WSBA Standards for Indigent Defense Services ("WSBA Standards"). (pgs. 2-5)
2. Based on data and public responses gathered by the CPD, the CPD made significant revisions to the WSBA Standards in three primary areas:
 - a. Attorney Qualifications (pg. 5)
 - The WSBA Standards provide the required qualifications attorneys must meet prior to handling cases at various stages of difficulty.
 - Many of the defense attorneys who meet the qualifications to handle the most serious cases are resigning and there are not enough attorneys qualified under the current standards to take on those serious cases. The COVID-19 pandemic made matters worse by preventing attorneys from becoming trial-qualified while trials were put on hold.
 - The CPD's revisions to attorney qualification standards seek to balance providing a clearer and faster path for attorneys to become qualified to handle cases of increasing difficulty, while ensuring lawyers have the experience necessary to represent clients at those levels.
 - b. Support Staff Requirements (pgs. 5-8)
 - Support staff, such as social workers, investigators, and mitigation specialists, are an indispensable part of the public defense system.
 - At present, Washington's rules recommend that some types of support staff be available to public defenders, but do not require specific staffing ratios.
 - During listening sessions and in responses to surveys, Washington public defenders informed CPD that mandating specific staffing levels was necessary and would assist with encouraging funders to provide for those services.
 - The revised WSBA Standards phase in requirements that agencies maintain specific support staff ratios.
 - c. Caseload Standards (pgs. 8-17)
 - Individuals accused of crimes have a Constitutional right to adequate defense. This means that an attorney must have the time necessary to thoroughly investigate a client's case and to communicate with the client.
 - Changes in the types of evidence used in criminal cases and research on caseload standards have made clear that Washington's standards are outdated and do not permit attorneys to fulfill their Constitutional and ethical obligations to their clients.
 - The proposed revisions phase in reduced caseloads and are urgently needed to bring Washington into compliance with public defense requirements.

I. Introduction

Public defense in Washington is facing a crisis of attrition and an inability to recruit staff brought about by excessive workloads and poor compensation. Repeatedly, law students in Washington report that they do not want to enter public defense because of the volume of work with little staff support and low salaries. Attorneys are resigning from the public defense profession in droves because they cannot continue the work given the volume of cases. Moreover, defendants in criminal prosecutions have a Constitutional right to representation by counsel and that representation must be meaningful. Not only do untenable caseloads create a personal career crisis for dedicated public defender civil servants, but they create a Constitutional crisis where there are insufficient numbers of public defense lawyers to represent the accused.

This crisis is not a distant fear. These proposed revisions are prompted by an unignorable shift in workloads and working conditions in public defense nationwide that has brought public defense to a very public crisis. Post-COVID, some Washington jurisdictions have experienced a surge in criminal case filings and have been unable to appoint qualified defenders to represent the accused. In other jurisdictions, public defense lawyers may be within caseload limits, but the exponential increase in the time required to review the large volumes of electronic and technical discovery generated in each case demonstrates that the current caseload standards are outdated.

The current caseload standards put public defenders in an unsustainable position where they simply lack the time and resources necessary to provide Constitutionally adequate defense to their clients. Moreover, the deprivation of the Sixth Amendment right to counsel for the accused can result in dismissal of cases or, worse, the monthslong pretrial detention of the innocent accused while awaiting appointment of an attorney.

Defenders in Washington recognize that high caseloads and the low level of staff support prevent them from meeting their ethical obligation to efficiently respond to their clients and opposing counsel and investigate cases. These conditions have made for dreadful working conditions and Washington's public defenders are rapidly leaving the profession. In a three-month span, the King County Department of Public Defense lost ten Class A qualified lawyers and eighteen total lawyers requiring the transfer of 700 cases from departing attorneys to other staff. Benton and Franklin Counties were unable to recruit enough attorneys to represent charged defendants such that the accused sat in jails for months waiting for a lawyer for an arraignment.

Washington is not alone in this crisis. Nationally, jurisdictions have arrived at this point due to decades of insufficient funding for public defense lawyers and other essential staff and functions. For example, Oregon is facing a public and political reckoning brought about by years of understaffing public defense. In Washington, the problem is exacerbated by the minimal investment in public defense provided by the State. Moreover, the diverse and decentralized delivery of public defense in Washington presents significant challenges to ensuring that the quality of representation does not vary by geography. Given this backdrop, informed standards that reflect the current demands of public defense are necessary to meet the Constitutional and ethical requirements to provide competent defense to individuals facing criminal prosecution.

The revised WSBA Standards represent two years of work by a diverse cohort of law professors, public and private defense attorneys, public defense administrators, prosecutors, judges, formerly incarcerated

people, and public defense investigators. In addition, the revisions are a product of years of feedback from Washington’s public defense practitioners, prosecutors, judges, community members, and others involved in the public defense system. WSBA’s Council on Public Defense (CPD) heard from more than 300 public defense practitioners, who overwhelmingly supported the proposed revisions. For too long, there has been no light at the end of the tunnel for public defenders and no relief in sight. While this crisis was not created overnight and will take time to correct, the CPD believes the adoption of the proposed WBA Standards will begin to remedy the crisis and bring Washington’s statewide public defense delivery system into alignment with Constitutional standards.

II. Washington Supreme Court Request for Revisions

In January 2022, the Council on Public Defense began its review of the WSBA Standards for Indigent Defense Services by convening public defense lawyers, investigators, and administrators; directors of Washington’s public defense agencies; and law professors with expertise in criminal defense to discuss responses to increased caseloads. Simultaneously, a team of researchers with the RAND Corporation, the National Center for State Courts, the American Bar Association Standing Committee on Legal Aid and Indigent Defense, and public defense expert Attorney Stephen F. Hanlon began a nationwide examination of public defense caseload standards. In September 2023, this team published the National Public Defense Workload Study, setting forth their findings that the caseload standards used by the majority of jurisdictions—including Washington—were far too high to allow defense attorneys to provide Constitutionally adequate representation.

In recognition of the mounting public defense crisis, in October 2023, the Justices of the Washington Supreme Court also requested that the CPD specifically address caseload standards. The Justices, cognizant of the shortage of lawyers and the consequences to the criminal legal system, requested updated caseload standards by November 2023. As this would be a significant undertaking, the CPD asked for and was granted additional time to develop standards to Washington law and to gather feedback from public defense professionals. This report details the CPD’s process, the data considered, and the reasoning for the proposed revisions.

III. Public Engagement in Revision Process

a. Listening Sessions

The CPD sought to engage the public and, in particular, members of the public defense community at each stage of the revisions process. In January 2022, the CPD held a listening session with public defense lawyers and administrators to discuss staff shortages. At that session, the CPD also heard from public defenders about developments in digital discovery, such as video footage and phone call recordings and the overwhelming amount of time required to review that discovery.

While developing recommendations to revisions of the Standards, the CPD requested feedback on the revisions during additional listening sessions. Sessions held in October 2023, December 2023, and February 2024, specifically addressed revisions to support staff requirements and attorney qualifications.

One additional listening session, held in January 2024, sought input from director-level administrators of public defense offices. The CPD heard from Directors about the funding and implementation impacts of the proposed revisions. A second January 2024 session with King County and Whatcom County attorneys addressed case classifications similar to those used in the NPDWS study discussed below.

b. Public Education

The CPD organized two continuing legal education sessions which focused specifically on the updated caseload standards proposed in the National Public Defender Workload Study (NPDWS). In April 2023, at the annual Washington Defender Association (WDA) Defender Conference, Professor Robert Boruchowitz led a CLE detailing the NPDWS study that was underway at that time. In December 2023, CPD Chairperson and Director of the Snohomish County Office of Public Defense Jason Schwartz conducted a CLE on public defense ethical standards and the NPDWS caseload standards at a second WDA-sponsored event. In addition to providing information to Washington attorneys about the updated standards for public defense caseloads, these CLEs were an opportunity for attendees to share their thoughts on the standards and the state of Washington public defense more generally. Many attorneys at these sessions voiced their frustration with Washington's high caseloads.

c. Surveys

To begin with, a 2023 study conducted by the Washington State Office of Public Defense (OPD) asked former public defenders in Washington about their reason for leaving the profession.¹ Low pay and high caseloads were the top reasons respondents cited for leaving²

In February 2024, CPD sought input from attorneys, administrators, and support staff practicing in the area of criminal defense through a survey. The survey presented respondents with the proposed revisions to support staff requirements, attorney qualifications, and the NPDWS caseload recommendations and asked respondents to provide feedback on the proposals. The survey was widely disseminated to individuals working in public defense, including to all members of the Washington Defender Association.

In total, 322 people submitted answers to the survey, although not all respondents answered every question. Of those individuals, nearly three-quarters (72%) were employed by federal, city, county, or non-profit defense agencies, with the remainder coming from private public defense contract attorneys (11%) and solo practitioners (13%). Similarly, close to three-quarters (74%) of respondents were attorneys. The remainder were social workers, mitigation experts, or social services providers (5%); investigators (5%); supervisors (4%); and directors or others in lead management roles (3%).

The survey responses to the proposed updates to the WSBA Standards were overwhelmingly positive. This report discusses the responses to specific proposed revisions in more detail below. However, overall, when asked to compare the proposed revisions to the current standards, 92% of survey respondents reported that the proposed revisions reflected the standards needed to meet their legal and ethical obligations to their clients better than the current standards.

d. CPD Composition and Meetings

Lastly, the CPD itself is made up of a diverse group of individuals who work or have worked in the criminal legal system. For example, members of the CPD include law professors, Washington Supreme Court Justices, public defenders, and prosecuting attorneys. These members' knowledge and experience was invaluable to the CPD during this revision process.

¹ See OPD Memorandum to Justices of the Washington State Supreme Court, 3 (Nov. 27, 2023).

² *Id.*

CPD meetings are advertised on the WSBA website and are open to the public. There was a noticeable increase in attendance and participation of non-Council attorneys during discussions of the standards revisions. In addition, CPD members received many emails and phone calls from public defense practitioners who added input to the revision process. Those communications were taken into consideration by the CPD.

IV. Revisions to Attorney Qualifications Standards

The Indigent Defense Standards provide the required qualifications attorneys must meet prior to handling cases at various stages of difficulty. For instance, to represent a client charged with an adult Class A felony, the current Standards require an attorney to have a minimum of two years' experience as a prosecutor or public defender and have handled a significant portion of three trials in felony cases.³

Revisions to these standards are needed because the standards as currently drafted do not reflect the types of experience actually available to attorneys and are contributing to the shortage of public defense lawyers. There has been a significant attrition of attorneys qualified to represent clients in the most serious cases throughout the State. The COVID-19 pandemic only served to make the shortage worse because attorneys were unable to gain the trial experience required for higher levels of representation while trials were on hold. The lack of attorneys qualified for higher levels of representation under the Standards contributes to the vicious cycle of high caseloads and further attrition.

The CPD's goal, therefore, was to balance the need for a clearer and faster path for attorneys to become qualified to handle cases of increasing difficulty, while also ensuring defense lawyers have the experience necessary to represent clients at those levels. If lawyers can more easily become qualified to represent the accused in more serious cases, the pool of attorneys available to take such cases will grow, relieving the shortages that lead to underrepresentation for defendants.

The revisions also reflect changes in practice and the need for additional or alternative training and supervision to supplement trial experience. Many of the current standards require extensive trial experience. While such experience is invaluable, trials are increasingly less common and, therefore, the experience is difficult to acquire. For this reason, the revised standards place a greater emphasis on acquiring experience through training and other in-court practice.

Practitioners have indicated that the revised qualifications remain sufficient to provide attorneys with the necessary experience to defend clients at each level. The February 2024 survey asked if the proposed revisions to attorney qualifications reflected the qualifications needed to effectively represent client charged with each category of offense. 67% of respondents answered "yes" with respect to qualifications for misdemeanor cases and 62% answered "yes" for qualifications for felony cases.

V. Revisions to Support Staff Requirements

The CPD has also proposed revisions to the sections of the WSBA Standards addressing the recommended ratio of support staff to attorneys. At present, Washington's WSBA Standards, Court Rules, and other practice guidance provide few requirements with respect to the support staff necessary for

³ See WSBA Standards for Indigent Defense Services, Standard 14.2.A, available at https://wsba.org/docs/default-source/legal-community/committees/council-on-public-defense/standards-for-indigent-defense-services-approved-by-bog-revised-september-2021.pdf?sfvrsn=b40d17f1_4.

agencies to provide public defense services. The current WSBA Standards recommend, but do not require, that public defense offices employ a minimum of one investigator and legal assistant for every four attorneys.⁴ The Supreme Court Standards for Indigent Defense merely state that “[p]ublic defense attorneys shall use investigation services as appropriate,”⁵ and Washington provides no guidance on the appropriate ratio of social workers or mitigation specialists.

The present WSBA and Court Standards do not fully reflect the important role support staff play in ensuring defendants receive adequate representation. Defendants are entitled to meaningful defense. “To receive this representation, clients must be provided attorneys who have the basic tools of an adequate defense. Necessarily, this includes adequate staff to support the work of the lawyer.”⁶ Support staff—which may encompass social workers, legal assistants, investigators, and mitigation specialists—benefit the public defense system by providing skills that attorneys may not possess and by freeing up attorney time for tasks that require the particularized skill set of a lawyer. For example, client interviews may be conducted by a social worker while the attorney performs legal research and appears in court. Especially with the increase in digital records, such as video footage from police body cameras, support staff are an indispensable resource for attorneys who have limited time to review such evidence on their own.⁷

The early involvement of investigators, mitigation specialists, and social workers can also lead to earlier resolution of cases and more appropriate sentencing, benefiting the health of the entire criminal legal system. For instance, “[t]he earlier an investigator can uncover facts that exculpate a client, the sooner the prosecution can determine that pursuing the case is not the best use of its resources. Similarly, the sooner a client is presented with facts that inculpate him or her, the earlier the client can make an informed decision about the wisdom of a plea.”⁸ Similarly, “social workers can very often provide important assistance in advocating for alternatives to incarceration, by identifying substance-abuse problems, informing the court about the client’s relevant history, and locating possible treatment programs that address the client’s needs. By identifying clients for whom placement in a program is appropriate, [the public defense agency] not only benefits individual clients, but also decreases the heavy costs borne by the state associated with incarceration.”⁹ Access to investigators is also crucial because of the evidence admissibility challenges that can arise when an attorney both defends a case and gathers evidence.¹⁰

⁴ WSBA Standards for Indigent Defense, Standard 6.1.

⁵ CrR 3.1, Standard 6.1.

⁶ National Association for Public Defense, *Policy Statement on Public Defense Staffing*, 1 (May 2020) (available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://publicdefenders.us/app/uploads/2023/10/NAPD_Policy-Statement-on-Public-Defense-Staffing.pdf).

⁷ See *Id.*, at 10 (The need for support staff for defense attorneys is even more crucial due to “[r]ecent changes in police and prosecution practices, including the widespread use of police video camera recordings” which “have increased the need for investigator and paralegal assistance for defender lawyers.”)

⁸ Legal Aid Society, *Analysis of Time and Resources Necessary for an Effective Defense*, 3 (Aug. 29, 2014), available at <https://www.nycourts.gov/courts/ad1/Committees&Programs/IndigentDefOrgOversightComm/IDOO%20FY%2012-13%20Report,%20Addendum%20and%20Appendix.pdf>.

⁹ *Id.* at, 32.

¹⁰ See, e.g., ABA Model Rule of Professional Conduct 3.7: Lawyer as Witness: “A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless: (1) the testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered in the case; or (3) disqualification of the lawyer would work substantial hardship on the client.”

Given the importance of adequate support staff to providing the Constitutionally-required standard of representation, the CPD's proposed revisions to the WSBA Standards would require public defense agencies to provide a minimum of one full-time mitigation specialist or social worker for every three full-time attorneys and one full-time legal assistant or paralegal for every four full-time attorneys.¹¹ The revised Standards also require, rather than recommend, that agencies employ one investigator for every three attorneys.¹²

Agencies would be required to implement these support staff ratios by no later than July 3, 2028, but must make meaningful progress towards these requirements prior to that date.¹³ Revisions to the caseload standards discussed in more detail below will necessitate changes to attorney staffing levels in most jurisdictions over the next three years. Because support staff levels are based on the number of defense attorneys at an agency, the revised Standards allow for public defense providers to come into compliance with support staff ratios within one year following full adoption of the revised caseload standards. This is intended to allow jurisdictions to better plan for funding such positions.

These proposed ratios are in line with the recommendations of rigorous studies of public defense staffing and staffing ratios adopted by other states. First, in 2020, the National Association of Public Defenders recommended that public defense providers should provide one investigator and mental health professional, typically a social worker, for every three attorneys, and one paralegal and administrative assistant for every four attorneys.¹⁴

Likewise, a study by New York's Legal Aid Society (LAS) and the law firm Davis, Polk, & Wardwell, LLP, recommended public defense agencies employ one social worker and one investigator for every three attorneys based on a comprehensive analysis of support staff needs in cases assigned to public defenders.¹⁵ The study concluded that insufficient support staff levels were "inconsistent with the reality of the criminal justice system today."¹⁶

To determine the level of support staff that would meet Constitutional requirements, the LAS study convened two task forces of investigators, social workers, and attorneys.¹⁷ The task forces identified the proportion of cases assigned to the public defense agency that would require investigative or social work services, and estimated the amount of time support staff would require to perform those services.¹⁸ The task forces erred on the side of conservatively estimating these case times.¹⁹ The task forces then calculated the total number of support staff needed by dividing the total investigative and social work case

¹¹ Proposed WSBA Standards of Indigent Defense Services, Standards 4.B, 7.C.

¹² *Id.*, Standard 6.B.

¹³ *Id.*, Standards 4.B, 6.B, 7.C.

¹⁴ National Association for Public Defense, *Policy Statement on Public Defense Staffing*, 1 (May 2020) (available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://publicdefenders.us/app/uploads/2023/10/NAPD_Policy-Statement-on-Public-Defense-Staffing.pdf).

¹⁵ Legal Aid Society, *Analysis of Time and Resources Necessary for an Effective Defense* (Aug. 29, 2014), available at <https://www.nycourts.gov/courts/ad1/Committees&Programs/IndigentDefOrgOversightComm/IDOOOC%20FY%2012-13%20Report,%20Addendum%20and%20Appendix.pdf>.

¹⁶ *Id.*, at 8.

¹⁷ *Id.*, at 10.

¹⁸ *Id.*, at 12-16, 34-59.

¹⁹ *Id.*, at 16, 29, 37.

time required for all cases assigned to the agency by the total number of cases a single investigator or social worker is capable of handling in one year.²⁰ Based on these calculations, the LAS Study concluded the public defense agency would need one investigator for every 2.9 attorneys and one social worker for every 2.6 attorneys to meet the needs of the agency.²¹

The ratios proposed by the CPD also closely track standards adopted in several other states. At the time of the LAS study, Colorado, Connecticut, New Hampshire, New Jersey, and Vermont maintained a ratio of at least one investigator for every four attorneys.²² Indiana's Indigent Defense Guidelines go even farther and consider offices that do not employ one secretary/paralegal, paralegal investigator, *and* one other litigation support staff position for every four attorneys (total of 0.75 support staff for every one attorney) to have inadequate staff and generally prohibits such offices from taking on a full caseload.²³

Lastly, when asked in the February 2024 CPD survey to comment on increasing the proportion of support staff to public defenders, Washington practitioners overwhelmingly approved of the updated Standards (91% and 88% for investigators and social worker/mitigation experts, respectively). These responses indicate there is a pressing, unfulfilled need for additional support staff for Washington's public defenders.

VI. Revisions to Caseload Capacity Standards

Perhaps the most consistent concern raised by attorneys during the CPD's review of Washington's Indigent Defense Standards was that the maximum caseloads permitted under the current standards were far too high. When public defenders are overburdened, defendants do not receive the representation guaranteed to them by the United States and Washington Constitutions. Due in part to the untenable position in which these high caseloads place public defenders, many attorneys are leaving the profession, which only leaves more cases for the attorneys remaining. For those attorneys who remain in public defense, caseload standards that do not reflect the actual time necessary to effectively represent a client put those attorneys at risk of violating their ethical duties to their clients.

a. Constitutional and Ethical Obligations of Public Defense Attorneys

The right to an attorney for those subject to criminal prosecution has been a fundamental tenet of our justice system since the formation of this country. This protection is enshrined in the Sixth Amendment to the United States Constitution, which provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense."²⁴ Similarly, the Washington Constitution states that "[i]n criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel."²⁵

²⁰ *Id.*, at pg. 30, Ex. 7.

²¹ *Id.*, at pgs. 931, 60.

²² *Id.*, at pg. 8.

²³ Indiana Public Defender Commission, Standards for Indigent Defense Services in Non-Capital Cases, Standard J, Table 2 (June 14, 2023) (available at <https://www.in.gov/publicdefender/files/Commission-Standards-2-current-as-of-Aug-25,-2023.pdf>).

²⁴ U.S. Const. Amend. VI.

²⁵ Wash. Const. Art. I, § 22; *see also State v. A.N.J.*, 225 P.3d 956, 959 (Wash. 2010) ("The right of effective counsel and the right of review are fundamental to, and implicit in, any meaningful modern concept of ordered liberty.").

Moreover, the U.S. Supreme Court made clear in *Strickland v. Washington*, 446 U.S. 668 (1984), that even if a defendant is represented by an attorney, that representation does not meet Constitutional standards unless it is adequate and meaningful.²⁶ As one Washington judge has explained,

If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, if there is no opportunity for appointed counsel to confer with the accused to prepare a defense, or circumstances exist that make it highly unlikely that any lawyer, no matter how competent, would be able to provide effective assistance, the appointment of counsel may be little more than a shall and an adverse effect on the reliability of the trial process will be presumed.²⁷

A number of ethics opinions and standards elaborate on what it means to provide adequate meaningful defense. The WSBA Performance Guidelines for Criminal Defense Representation, for example, require "conscientious ardent, and quality representation . . . at all stages of the criminal process"²⁸ Among many other responsibilities, the WSBA Guidelines direct defense attorneys to communicate regularly with clients;²⁹ and "conduct an independent investigation regardless of the client's admissions or statements to the lawyer of facts constituting guilt."³⁰ Substantial investigation and evaluation of evidence is required of defense attorneys even in cases that will not result in a trial. Prior to considering a plea deal, the WSBA Guidelines also direct that "[u]nder 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."³¹

Excessively high caseloads, however, interfere with defense attorneys' ability to provide the required level of representation. The Washington Defender Association's comments to the 2007 version of the Washington caseload standards hold true today: "Caseload levels are the single biggest predictor of the quality of public defense representation. Not even the most able and industrious lawyers can provide effective representation when their workloads are unmanageable. Without reasonable caseloads, even the most dedicated lawyers cannot do a consistently effective job for their clients."³²

Perhaps due to the persistent problem of excessive caseloads, defense attorneys are required by multiple ethical standards to ensure they do not take on more clients than they have time to represent. In any representation, Washington Rule of Professional Conduct (RPC) 1.1 requires a lawyer to "provide competent representation to a client." Competent representation "requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."³³ Similarly, RPC 1.3 requires

²⁶ *Strickland v. Washington*, 446 U.S. 668, 685 (1984) ("That a person who happens to be a lawyer is present at trial alongside the accused, . . . is not enough to satisfy the constitutional command.")

²⁷ *Wilbur v. City of Mt. Vernon*, 989 F. Supp. 2d 1122, 1131 (W.D. Wash. 2013) (citing *United States v. Cronin*, 466 U.S. at 658-60, *Avery v. Alabama*, 308 U.S. 444, 446 (1940)).

²⁸ WSBA Performance Guidelines for Criminal Defense Representation, Guideline 1.1 (2020).

²⁹ *Id.*, Guideline 1.4.

³⁰ *Id.*, Guideline 4.1

³¹ *Id.*, Guideline 6.1(c).

³² Washington Defender Association Comments to Standards for Public Defense Services, at 13 (available at https://defensenet.org/wp-content/uploads/2017/12/Final-2007-WDA-Standards-with-Commentary_18.12.06.pdf.)

³³ RPC 1.1.

an attorney to “act with reasonable diligence and promptness in representing a client” and the commentary to the rule states that “[a] lawyer’s work load must be controlled so that each matter can be handled competently.” RPC 1.7, which addresses conflicts of interest, also prohibits attorneys from representing clients 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.” The ABA has concluded that assignment of more cases to an attorney than that person is capable of handling, “create[s] a concurrent conflict of interest as a lawyer is forced to choose among the interests of various clients, depriving at least some, if not all clients, of competent and diligent defense services.”³⁴

With respect to criminal cases specifically, the Court Standards mandate that “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.”³⁵ The WSBA Standards of Indigent Defense likewise require the same standard of caseload management.³⁶

The ABA’s practice standards likewise warn against high caseloads. For instance, the ABA Criminal Justice Standards state that “[n]either defender organizations, assigned counsel nor contractors for services should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations.”³⁷ In circumstances where acceptance of a case will prevent a lawyer from fulfilling his or her obligations to that client or another client, the ABA’s Criminal Justice Standards require the lawyer to refuse the case.³⁸ The ABA instructs courts “not [to] require individuals or programs to accept caseloads that will lead to the furnishing of representation lacking in quality or to the breach of professional obligations.”³⁹

Similarly, the ABA’s *Ten Principles of a Public Defense Delivery System*, states that workload standards “should ensure compliance with recognized practice and ethical standards and should be derived from a reliable data-based methodology. Jurisdiction-specific workload standards may be employed when developed appropriately, but national workload standards should never be exceeded.”⁴⁰

It is abundantly clear from caselaw and ethical rules, that if caseload standards require attorneys to take on excessive caseloads, those standards violate the Constitutional guarantee of effective representation of counsel and put attorneys at risk of violating their professional duties.

a. Current Standards

With respect to felony and misdemeanor cases, the current Washington Indigent Defense Standards permit attorneys to take on caseloads of up to 150 felony cases; 300 misdemeanor cases if the jurisdiction

³⁴ ABA, *Ten Principles of a Public Defense Delivery System*, Principle 3: Control of Workloads, n. 1 (Aug. 23, 2023).

³⁵ CrRLJ 3.1, CrRLJ 3.1, JuCR 9.2, and CCR 2.1 Stds, Standard 3.2.

³⁶ WSBA Standards for Indigent Defense Services, Standard 3.2.

³⁷ ABA, Criminal Justice Standard 5-5.3(a).

³⁸ ABA, Criminal Justice Standard 5-5.3(b).

³⁹ ABA, Criminal Justice Standard 5-5.3(b).

⁴⁰ ABA, *Ten Principles of a Public Defense Delivery System*, Principle 3: Control of Workloads (Aug. 23, 2023).

employs case weighting and, if not, 400 misdemeanor cases; and 250 juvenile court offender cases.⁴¹ At the time they were adopted, the Washington caseload standards constituted a watershed in public defense practice in Washington and helped move Washington to a more uniform defense practice across the state. However, it is now apparent these caseload standards are based on outdated, widely criticized standards, and do not account for the actual time necessary to provide Constitutionally adequate defense.

In 1984, the WSBA Board of Governors first adopted caseload standards very similar to the ones that are still in place today.⁴² These standards were primarily based on caseload guidelines recommended by a 1973 study published by the National Advisory Commission on Criminal Justice Standards and Goals (NAC)⁴³ and the 1984 Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts published by the National Legal Aid and Defender Association (NLADA).⁴⁴ The present standards for felony, misdemeanor, and juvenile caseloads are essentially unchanged from those adopted in 1984.

Although widely adopted by jurisdictions across the country, the 1973 NAC standards upon which Washington's standards are based have been criticized as unworkable and lacking evidence-based foundations almost since the day they were proposed.⁴⁵ As the authors of the 2023 National Public Defense Workload Study (NPDWS) note, a 1978 NLADA study of public defense systems in the United States stated of the NAC standards that "one is hard put to imagine carefully investigating every case, as is required by American Bar Association Standards Relating to the Defense Function, if the lawyers are handling 150 felony cases per year, or 400 misdemeanors per year."⁴⁶

Indeed, the most significant problem with the NAC—and by extension, Washington—standards is that they vastly underestimate the time necessary to provide Constitutionally adequate defense. Under Washington's current standards, even if an attorney were to devote forty hours every week of the year to case time with no holidays, no vacation time, and no sick leave, that attorney handling a full felony caseload of 150 cases would have just 13.9 hours to spend on each case—less than two working days. An

⁴¹ WSBA Standards of Indigent Defense Services, Standard 3.4; *see also* CrRLJ 3.1, CrRLJ 3.1, JuCR 9.2, CCR 2.1, Standard 3.s4.

⁴² *See* WSBA Board of Governors Sept. 11, 1984 Meeting Minutes, 10.

⁴³ The NAC caseload standards recommended that defense attorney caseloads not exceed 150 felonies, 400 misdemeanors, 200 juvenile court cases, 200 Mental Health Act cases, or 25 appeals per year. These standards were later incorporated into standards provided by other organizations such as NLADA and the ABA. *See* Nicholas M. Pace, Malia N. Brink, Cynthia G. Lee, Stephen F. Hanlon, *National Public Defense Workload Study Research Report*, 15-17 (Sept. 2023).

⁴⁴ *See* WSBA Board of Governors Sept. 11, 1984 Meeting Public Materials, pg. G-1; *see also* WSBA Board of Governors Jan. 12-13 1990 Meeting Public Materials, pgs. R-17 ("The caseload levels recommended here follow closely those caseload guidelines specified by two national studies, the National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, and the National Legal Aid and Defender Association Guidelines for Negotiating and Awarding Indigent Legal Defense Contracts (1984).").

⁴⁵ Based on a review of the manner in which the NAC devised their recommendations, the NPDWS report concluded that "the empirical foundations of the NAC caseload standards are not compelling ones." *See* Nicholas M. Pace, Malia N. Brink, Cynthia G. Lee, Stephen F. Hanlon, *National Public Defense Workload Study Research Report*, 22 (Sept. 2023).

⁴⁶ *See* Nicholas M. Pace, Malia N. Brink, Cynthia G. Lee, Stephen F. Hanlon, *National Public Defense Workload Study Research Report*, 20 (Sept. 2023) (quoting Shelvin Singer, Beth Lynch, and Karen Smith, *Indigent Defense Systems Analysis (IDSA)*, National Legal Aid and Defender Association, 1978, p. 52).

attorney handling a full weighted caseload of 300 misdemeanors would have just seven hours to spend on each case, and only 5.2 hours for an unweighted caseload of 400 misdemeanors.

The current standards clearly do not reflect public defense realities. Few, if any, felony cases are capable of resolution in 13.9 hours. This distance between the current caseload standards and reality has only grown as the demands of public defense practice have significantly increased since the NAC and Washington standards were crafted. Criminal defense practice, especially for those who qualify for appointment of a public defender, has become more time consuming. Beyond connecting clients to social workers and public health workers, the complexity of forensic and digital discovery has altered the demands on public defenders' time. The use of dash- and body-cam footage, cell tower data, cell phone data, advances in understandings of mental health and youth development all increase the amount of pretrial investigation required of today's public defenders. As detailed above, such comprehensive investigation and evaluation of evidence is required of public defenders. The NAC standards on which Washington's are based "reflect a criminal justice system that no longer exists and professional responsibilities that have since been greatly expanded."⁴⁷ Under the current caseload standards, it is simply inconceivable that a public defense lawyer with a caseload at maximum capacity could provide the kind of defense contemplated by the Supreme Court in *Strickland v. Washington*.

b. 2023 National Public Defense Workload Study

With so many public defenders around the country facing unsustainable caseloads under NAC-based standards, a collaborative team from the RAND Corporation, the National Center for State Courts, the American Bar Association Standing Committee on Legal Aid and Indigent Defense, and Attorney Stephen F. Hanlon, undertook a thorough examination of public defense caseload standards. The goal of this study was to give public defense agencies realistic estimates of the time necessary to provide adequate representation to defendants in criminal proceedings and to give jurisdictions a tool to craft reasonable caseloads and estimate staffing needs. The results of this research, the National Public Defense Workload Study (NPDWS), were published on September 12, 2023.

To arrive at updated caseload standards, the NPDWS researchers analyzed seventeen prior state-level public defense workload studies from 2005 to 2022. The researchers also employed quantitative research techniques with a panel of thirty-three expert criminal defense attorneys to reach a consensus on the number of hours required to provide effective defense in several categories of cases. Participants in the expert panel reviewed the seventeen prior workload studies, the applicable professional and ethical standards, and other caseload research before arriving at their results.⁴⁸ The expert panel participants were instructed to estimate the average attorney time necessary to provide representation in eleven categories of cases, assuming access to support staff. The results of this research are reproduced in the table below:⁴⁹

Case Type	Case Type Description	NPDWS Average Case Time (in hours)	Average Case Time Under Current WA
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⁴⁷ *Id.*, at 32.

⁴⁸ *Id.*, at 69-71.

⁴⁹ *Id.*, at 59, 85.

			Standards (in hours)
Felony-High-Life Without Parole (LWOP)	Felonies with possible sentences of LWOP	286.0	13.9
Felony-High-Murder	Non-LWOP felonies involving the intentional killing of a person	248.0	
Felony-High-Sex	Non-LWOP felonies involving serious sex offenses	167.0	
Felony-High-Other	Non-LWOP felonies (including DUIs resulting in death) other than charges falling into the high felony categories for murder or serious sex offenses	99.0	
Felony-Mid	Felonies (including DUIs resulting in death) including serious property crimes, serious drug distribution crimes, and less serious violent crimes	57.0	
Felony-Low	Felonies (including DUIs resulting in death) including less serious property crimes, less serious drug felonies, and minor crimes of violence	35.0	
DUI-High	Repeat DUIs, serious DUIs, and DUIs causing nonfatal injuries (can be a felony or a misdemeanor)	33.0	N/A
DUI-Low	First or successive DUIs (typically misdemeanors)	19.0	N/A
Misdemeanor-High	Serious misdemeanors (other than DUIs) involving enhanceable misdemeanors (such as misdemeanors triggering repeat offender sentencing), sex misdemeanors, or violent misdemeanors	22.3	5.2
Misdemeanor-Low	Less serious misdemeanors (other than DUIs or those falling into the high misdemeanor category)	13.8	
Probation and Parole Violations	Probation or parole violations derived from either felony or misdemeanor offenses	13.5	N/A

Clearly, the estimates of the time necessary to adequately defend most case types are significantly higher than the current Washington standards. The NPDWS estimates more accurately reflect the time required to provide a Constitutionally acceptable level of representation for defendants in criminal case. In the February 2023 CPD survey of Washington public defense professionals, respondents were presented with the NPDWS caseload time estimates. Seventy-three percent of survey respondents agreed that the NPDWS caseload standards for felony-type cases better reflected the actual time necessary to meet their legal and ethical obligations to their clients, and sixty-nine percent agreed that the NPDWS standards for misdemeanor-type cases were a better reflection of actual case times.

Apart from more realistic estimates of case times, the NPDWS standards have other benefits. To begin with, the NPDWS standards are based on a defensible methodology. In addition, unlike the NAC-based caseload standards which simply categorized cases as either felonies or misdemeanors, the NPDWS standards categorize cases by severity with estimates of case times for each category. This more granular case breakdown better reflects the variability in time required for cases of differing complexity.

Given the improvement the NPDWS case time estimates provided over the current Washington standards, the study estimates were the primary basis for the CPD's proposed revisions to the current caseload standards.

c. Revised Standards

To convert the NPDWS estimated case times into useable caseload standards for Washington public defenders, the CPD first calculated the estimated annual case time available to public defense attorneys. Next the CPD mapped Washington criminal offense types onto the NPDWS case categorizations. Based on the hours required to handle each type of case, the CPD then calculated the relative weight of each case type and assigned "case credits" to the case types that corresponded to their weight. Lastly, using the calculated annual case time available to public defense attorneys, the CPD calculated the maximum number of case credits an attorney could be expected to handle per year.

i. Calculation of total annual case-related time

The first step to arrive at appropriate case weights was to calculate the number of hours per year that a typical public defense attorney has to devote to case time. For the sake of simplicity, the NPDWS report assumed 2,080 hours of casework-specific time for each attorney per year.⁵⁰ The report, however, explicitly states that this is not a realistic assumption of the number of case-time hours an attorney has each year.⁵¹ Public defense attorneys do not spend their entire working day on case time. The assumption of 2,080 hours of case-specific work time fails to include holidays, vacation time, sick leave, training time, and time spent on non-case work. Rather, the NPDWS report explains that devising caseload standards requires a "jurisdiction-dependent decision" as to the number of case-related hours available to public defense attorneys on an annual basis.⁵²

Consequently, the CPD does not recommend caseload standards based on the 2,080 case hours per year used in the NPDWS report, but rather undertook its own calculation of the case-related time available to Washington public defense attorneys. Based on information received from public defense offices around the state, the CPD estimated that the average public defense attorney would receive eleven holidays, twenty-two vacation days,⁵³ and twelve sick leave days⁵⁴ per year. In addition, Washington attorneys are required to complete fifteen hours of mandatory professional continuing legal education every year.⁵⁵ The CPD also assumed conservatively that attorneys would spend one hour per week on non-case specific work, such as meetings or administrative tasks. Given these estimations, the CPD calculated that public defense attorneys would spend 427 hours per year on non-case-related work. Subtracting this non-case time from the total 2,080 yearly work hours available to a full-time employee, the CPD calculated

⁵⁰ *Id.*, at 98-99.

⁵¹ *Id.*, at 33, n. 124 ("The 2,080 annual hours assumption is extremely conservative; it does not account for time not spent working during normal business hours (such as legal holidays, vacation time, sick leave, and other absences) or for work time spent on non-case related activities (such as travel time, training time, administrative time, and supervisory time). If such adjustments were made to the 2,080 hours assumption, additional public defense attorneys would be required in the examples shown here.")

⁵² *Id.*, at 33, 98-99.

⁵³ At an accrual rate of 14.67 hours per month.

⁵⁴ At an accrual rate of 8 hours per month.

⁵⁵ APR 11.

1,653 as the total number of case-related hours available to public defense attorneys each year. The CPD has rounded that number to 1,650 to simplify calculations based on this number.

1,650 case-related hours aligns with prior Washington standards and is in keeping, or more conservative, than standards employed in other states. The WSBA Standards for Indigent Defense Services have long been based on the assumption that public defense attorneys spend at most 1,650 hours per year on case time.⁵⁶ A recent study of Kansas public defenders' caseloads also estimates that non-supervisory public defenders in the state have approximately 1,480 hours per year to devote to case-related activities.⁵⁷ Massachusetts likewise caps billable hours for appointed counsel at 1,650 hours and generally prohibits attorneys from accepting new appointments in nonhomicide cases if they have already billed 1,350 hours that year.⁵⁸

ii. Applying NPDWS case categories to Washington law

Next, CPD largely adopted the case categories used in the NPDWS report, and categorized Washington criminal charges according to the modified case categories. Some case types identified by the NPDWS do not track seamlessly to Washington's criminal legal system. Therefore, to make the caseload standards usable for Washington practitioners, CPD mapped Washington offenses to the case types in the NPDWS. The CPD consulted with lawyers, public defense agency directors and administrators, and law professors from around the State to make recommendations about how to best correspond Washington-specific offenses to the NPDWS case type categories. In making categorization recommendations, the focus was on the amount of attorney hours required to defend certain types of cases.

In a few instances, the CPD chose to deviate from the NPDWS guidelines. First, CPD sought to simplify the standards by merging categories with similar time expectations. Specifically, CPD subsumed offenses that would be included in the NPDWS DUI-High and DUI-Low categories into the appropriate Felony-Mid, Felony-Low, or Misdemeanor-High cases according to the severity of the charge. Second, the CPD opted to not use the Probation Violation Case Type. In general, the NPDWS report overestimates the amount of time necessary to handle probation violation cases in Washington due to unique state and local circumstances that make our probation violation hearings different than other jurisdictions. This is in keeping with the NPDWS findings that there are significant differences across states in the procedures and complexity for representing clients in parole and probation violation cases.⁵⁹

The resulting recommendations about how to categorize many commonly charged Washington offenses are included in Appendix B of the revised Standards. Appendix B will allow attorneys to appropriately identify the type into which their cases fall and assign the appropriate credits to each case.

iii. Calculating relative case weights and case credits

⁵⁶ See WSBA Board of Governor Jan. 12-13 1990 Meeting Public Materials, Comment to Standard 3 of WSBA Standards of Indigent Defense Services, pg. R-17 ("An accepted national standard for attorneys is to work 1650 billable hours per year.")

⁵⁷ Kansas State Board of Indigents' Defense Services, *Kansas Public Defense Workloads Report, Part One: Criminal Defense in Crisis*, 30 (Dec. 2023).

⁵⁸ See Mass. Gen. Laws Ann. Ch. 211D, § 11(a).

⁵⁹ See Nicholas M. Pace, Malia N. Brink, Cynthia G. Lee, Stephen F. Hanlon, *National Public Defense Workload Study Research Report*, 84 (Sept. 2023).

Using the NPDWS estimates for the number of hours required to handle each of the types of cases, the CPD next calculated the relative weight of each case type and assigned “case credits” to the felony case types and misdemeanor case types that corresponded to their weight. Here, the least time-consuming felony and misdemeanor case types within the broader felony and misdemeanor categories were assigned one case credit each:

Case Type	NPDWS Average Case Time (in hours)	Case Credits
Felony-Low	35.0	1 felony case credit
Misdemeanor-Low	13.8	1 misdemeanor case credit

Using the NPDWS average case time for the baseline Felony-Low and Misdemeanor-Low case types, the more time-intensive case types were assigned more case credits within the felony and misdemeanor groupings. The number of credits for more complex cases was calculated relative to the Felony-Low and Misdemeanor-Low case types. For example:

$$286.0 \text{ (case Time for Felony-High-LWOP)} \div 35.0 \text{ (case time for Felony-Low)} = 8.17 \text{ felony credits}$$

Or

$$22.3 \text{ (case time for Misdemeanor-High)} \div 13.8 \text{ (case time for Misdemeanor-Low)} = 1.62 \text{ misdemeanor credits}$$

In other words, one Felony-High-LWOP case is equivalent in terms of time demands to 8.17 Felony-Low cases. Performing this calculation on all case types resulted in the following case credits, rounded to the nearest 0.5:

Case Type	NPDWS Average Case Time (in hours)	Case Credits
Felony-High-LWOP	286.0	8
Felony-High-Murder	248.0	7
Felony-High-Sex	167.0	5
Felony-High	99.0	3
Felony-Mid	57.0	1.5
Felony-Low	35.0	1
Misdemeanor-High	22.3	1.5
Misdemeanor-Low	13.8	1

Using this system, an attorney assigned to a new case would be awarded the number of credits assigned to that case type and could calculate when they had reached the maximum allowable annual case credits.

Lastly, using the calculated annual case time available to public defense attorneys, the CPD calculated the maximum number of case credits an attorney could be expected to handle per year. Again taking Felony-Low and Misdemeanor-Low cases as the baseline, the maximum number of case credits an

attorney can be expected to take on in one year was calculated by dividing the 1,650 annual case time hours calculated above by the average case time for Felony-Low and Misdemeanor-Low case:

$$1,650 \text{ available case time hours} \div 35.0 \text{ (case time for Felony-Low)} = 47.14 \text{ case credits}$$

$$1,650 \text{ available case time hours} \div 13.8 \text{ (case time for Misdemeanor-Low)} = 119.57 \text{ case credits}$$

Put differently, assuming an attorney has 1,650 hours available each year to devote to case work, the attorney has space to take on felony cases worth up to 47.14 case credits or misdemeanor cases worth up to 119.57 case credits. Based on these calculations, the CPD has recommended maximum caseloads of 47 felony case credits and 120 misdemeanor case credits per year.

iv. Implementation

While there is pressing need to implement these standards immediately, the CPD recognizes that the revisions to caseload standards will put additional demands on jurisdictions for funding and staffing. Therefore, the CPD has recommended a multi-year implementation to allow local jurisdictions time to plan for these additional costs and spread costs over multiple years. The proposed caseload revisions would first go into effect in July 2025, allowing jurisdictions approximately one year to seek any additional funding they may need and hire additional staff, if necessary. The revised caseload standards would then be phased in gradually over the course of the following three years. Beginning July 2025, attorney caseloads should not exceed 110 felony cases or 280 misdemeanor case credits. Beginning July 2026, caseloads should not exceed 90 felony case credits or 225 misdemeanor case credits, and beginning July 2027, the revised caseload standards would come into full effect, with caseloads of no more than 47 felony case credits or 120 misdemeanor case credits.⁶⁰ The CPD, Washington Defender Association, and Washington State Office of Public Defense will be publishing calculators to assist jurisdictions with determining their staffing needs based on the number of cases assigned in those jurisdictions.

VII. Future Work

a. Funding

CPD understands that adoption of the proposed revised standards, while a first step to alleviating some problems, will place additional pressures on an already stressed public defense system. Adequate funding is a longstanding problem for public defense in Washington. In acknowledgement of this, CPD is recommending phased implementation of the costliest revisions. CPD is well aware, however, that pulling Washington's public defense system out of crisis will require far more than the adoption of improved caseload standards and support staff requirements. Rather, truly addressing this crisis will require legislative action to increase state funding for public defense and policies that decrease the demand for public defense services. The CPD encourages the Courts and other public defense organizations to engage with legislators and local funders to increase funding of public defense services. Jurisdictions should also be encouraged to defray some of the costs by engaging in conversations around pre-charging diversion and other alternatives to traditional prosecution. For example, Seattle-based LEAD is a nationwide leader in providing social services to those interacting with law enforcement in a way that can avoid the cost of prosecution.

⁶⁰ WSBA Proposed Standards For Indigent Defense Services, Standard 3.O.

Nonetheless, public defense in Washington is in crisis now and steps towards resolving this crisis cannot wait. It is clear that updates to the WSBA and Court Standards, particularly with respect to caseload standards, are required by the U.S and Washington Constitutions and by public defenders' ethical duties to their clients. The recent changes in client needs, evidentiary demands, and the time required to represent defendants highlights just how out far current standards—both in Washington and across the nation—have deviated from the Constitutional standard of adequate defense. Moreover, public defense agencies are struggling to retain staff due to excessive caseloads and inadequate support. Leaving these problems unaddressed will only lead Washington's public defense system deeper into crisis and will likely result in greater costs to implement solutions in the future.⁶¹

The CPD's role in public defense and the WSBA and Court Standards for Indigent Defense are only one piece of a complex public defense delivery system. Fixing the entire public defense system may not be within the scope of the WSBA Board of Governors or Washington Supreme Court alone, but adopting more realistic, workable standards for Washington's public defenders is a concrete step the Board and Court can take to start addressing the problem. As Justice Richard Sanders stated in concurrence in *State v. A.N.J.*, 225 P.3d 956, 959 (Wash. 2010):

The judiciary should accept no shortcuts when it comes to discharging its constitutional obligation to appoint effective attorneys to represent indigent criminal defendants. If no such attorney is to be found because adequate funding is not available, then no attorney should be appointed and the case dismissed. It is not up to the judiciary to tax or appropriate funds; these are legislative decisions. However, it *is* up to the judiciary to facilitate a fair proceeding with effective appointed counsel if there is to be one.

Without significant changes in the way Washington funds public defense, the proposed revisions to the Standards will undoubtedly create hardship for public defense administrators, at least in the short term. It is the CPD's hope that these revisions provide a tool for administrators to advocate for additional funding. Regardless, the imperatives of the federal and state Constitutions require that Washington's public defense system recognize the realities of public defense. Adoption of the proposed revised standards is a crucial first step of many more steps that must come to ensure Washington has a well-functioning public defense system that better serves its clients and staff.

b. Caseload Standards for Additional Case Types

Several types of cases handled by appointed counsel in Washington were not covered by the NPDWS research. These include criminal appellate cases, Family Defense cases, and Involuntary Treatment Act cases. At present, revisions to the appellate caseload standards are under consideration by the Washington Appellate Project and OPD. Revisions to caseload standards for Family Defense cases and Involuntary Treatment Act cases requires additional data and research that was outside the scope of the current Standards revisions. CPD intends to examine standards for these types of cases in the coming year. For the sole purpose of providing guidance to practitioners in the meantime, the current caseload standards have been maintained until revised standards can be adopted.

⁶¹ For instance, because the national consensus on acceptable caseload standards has been shifting to significantly reduced caseloads, failing to adapt Washington's standards to the realities of current case demands runs the risk of creating additional litigation challenging the current standards. Already, Washington is facing a lawsuit by the Washington State Association of Counties challenging the lack of funding by the state for public defense.

c. Enforcement of the Standards

In the October 2023 request for caseload revisions, the Washington Supreme Court also asked the CPD to comment on an updated method to enforce the court rules and indigent defense standards. At present, the primary enforcement mechanism is the requirement that attorneys sign a certification that they are in compliance with the Supreme Court Standards for Indigent Defense.⁶²

A closer study of mechanisms to enforce the indigent defense standards is needed. However, such study is beyond the capacity of the CPD at the moment. It is possible that undertaking will require the involvement of stakeholders beyond those represented on the CPD, such as the Office of Public Defense, the Washington courts, and local and state legislators. The CPD plans to convene a workgroup to provide recommendations for proceeding with an evaluation of enforcement mechanisms.

VIII. Conclusion

CPD's revision of the WSBA Standards of Indigent Defense has been a vast undertaking. Changes in the demands of public defense cases in recent years have made clear that revisions to the WSBA Standards of Indigent Defense Services are necessary to stem the flood of defense attorneys leaving the profession and to ensure clients receive the excellent representation to which they are entitled. These changes cannot wait. In our adversary system of justice, well-functioning public defense services are essential to the health of the criminal adjudication system. The CPD encourages the WSBA Board of Governors to adopt the proposed revisions and for the Washington Supreme Court to consider adapting the Court Standards of Indigent Defense to reflect the changes to the WSBA Standards.

⁶² See Washington Supreme Court Standards for Indigent Defense, Certification of Compliance.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: President Elect and Governor Sunitha Anjilvel, Co-Chair
Raina Wagner, Co-Chair
DATE: February 28, 2024
RE: Request for Approval of Supporting LGBTQ2S+ Community

REQUEST FOR APPROVAL: The DEI Council requests approval to make a written inquiry for information from the City of Seattle’s Joint Enforcement Team and the Liquor Control Board about their January visits to bars that cater to the LGBTQ2S+ community.

Background

The DEI Council was recently contacted by WSBA Governor and DEI Council member Brent Williams-Ruth, who was approached by one of his constituents about a series of events that took place between January 26, 2024 and January 27, 2024. These events involved JET (the City of Seattle’s Joint Enforcement Team) and the Liquor Control Board (LCB) conducting a series of visits to a number of bars in Seattle, including several that cater to LGBTQ2S+ clientele. It has been reported that during these visits, patrons were photographed without their consent by agents from JET and LCB. Subsequent to these actions the LCB issued two statements (see attached), where the LCB indicated it was no longer acting in concert with JET.

The Executive Committee of QLAW asked Governor Williams-Ruth if the DEI Council could make a written inquiry for information from JET and the LCB about the events in question that took place in January 2024. On February 14, 2024, the Council unanimously passed a motion supporting making a written inquiry to the LCB and JET regarding the circumstances of those entities’ involvement with the establishments in question. The DEI Council ask the Board of Governors to allow the Council to make this inquiry.

Community Input

We did not seek input from community outside of the DEI Council as the request came from QLAW.

Information for Fiscal Analysis

The proposed amendment does not create any fiscal additions. If the amendment is approved, the staffing will remain the same.

Information for Equity Analysis

There are concerns that JET and LCB’s actions have further marginalized the LGBTQ2S+ community.

Attachments

LCB Statements

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

The risk analysis is provided in a separate attorney client privileged document.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

This inquiry does not generate a fiscal impact to the WSBA, outside of staff support to draft and bring forward the request to the Board of Governors for action. The level of support is included in the overall duties of existing WSBA staff and did not require additional staff or allocation of resources from other internal sources.

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

There are no equity-related concerns about the proposed action.



LCB Statement on Media Reports and Concerns from LGBTQ+ Community

The Liquor and Cannabis Board (LCB) on Tuesday Jan. 30, 2024, released the following statement regarding concerns expressed by representatives of certain historically gay Capitol Hill liquor-licensed locations and members of the Seattle LGBTQ+ community.

The LCB wishes to assure the LGBTQ+ community that, in no uncertain terms, the agency does not and will not target LGBTQ+ locations. As expressed in the public statement by representatives of several gay bars in Seattle and representatives of Seattle's LGBTQ+ community, LCB recognizes that these venues are considered "safe spaces for historically marginalized community members" and concerns raised by the visits over the last weekend raised alarm and concern among community members.

Background

On Friday Jan. 26, two LCB officers joined members of the [City of Seattle's Joint Enforcement Team \(JET\)](#) as part of a monthly review of code enforcement at locations within Seattle. As part of that night's work, the [LCB visited 10 locations](#), two of which were known gay venues. Members of the JET team observed seven violations at these ten locations ranging from public safety violations of overservice to low-priority lewd conduct (WAC 314-11-050)

On Saturday Jan. 27, two LCB officers conducted routine premise checks at eight Seattle licensed locations. Of these, two were known LGBTQ+ liquor-licensed locations. Officers reported witnessing one violation involving lewd conduct. At this location, LCB officers spoke to the manager about the lewd conduct rules.

No Notices of Violation Were Issued

When an LCB officer witnesses a violation, it is incumbent upon them to take appropriate action. They do not typically issue a citation on the spot. Officers will discuss the violation with their supervisor, review whether past education has been provided, and ultimately decide if a verbal or written warning is appropriate or whether it should be escalated to an Administrative Violation Notice (AVN). An AVN is an administrative citation that results in a fine for first offenses within a two-year period.

That is the process in these instances and as of today no decision has been made. There is no emphasis on patrolling activity at LGBTQ+ establishments or any crackdown on lewd conduct violations. The actions of the weekend were the result of routine work by LCB and other agencies.

Conclusion

The LCB acknowledges the concerns raised in the public statement and the history behind them. The Board and agency staff remain committed to fostering good relations with business owners across all industries we regulate. The LCB has reached out to some signers on the statement to clarify our actions and our intent. We will continue to be available to the club owners and others in the community to further our mutual understanding.

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LCB Takes Immediate Steps to Address Concerns Raised by LGBTQ+ Community

OLYMPIA –The Liquor and Cannabis Board (LCB) today took a series of actions to address concerns raised by members of the LGBTQ+ community since the agency’s participation last week with the City of Seattle’s Joint Enforcement Team (JET) on Capitol Hill and additional enforcement work Saturday at some historically gay venues in the greater Seattle area.

"At Wednesday’s Board meeting and in many private conversations, we heard strong objections to our actions," said Director Will Lukela. "The community also stressed the value of these clubs as a safe place for people who often face discrimination, threats, and violence. Message received."

In a letter to Gov. Inslee, concerned legislators, the state LGBTQ+ Commission, and others, the LCB outlined seven steps it was taking, effective immediately.

1. Paused Lewd Conduct Enforcement. We are immediately suspending enforcement of the lewd conduct rule (WAC 314.11.050) while the board considers possible changes to our regulations or any legislative modifications that might come this session.
2. Paused JET Participation. The board and leadership have decided to suspend our participation with the City of Seattle’s Joint Enforcement Team. The LCB Enforcement and Education division has already communicated this to city officials.
3. Rule Violations. LCB’s Seattle enforcement team has also decided that no citations or violations related to lewd conduct from this weekend’s activities will be issued. Officers have begun the process of notifying the impacted licensees.
4. Rulemaking. Staff is preparing a proposal to open rulemaking to review, amend, or repeal the lewd conduct regulations (WAC 314-11-050). Staff will brief the board on a proposal at caucus on Feb. 6, 2024. The board will take a vote on whether to accept that recommendation at its next regularly scheduled Board meeting Feb. 14, 2024.
5. Legislative Engagement. We will continue to work with legislators this session, particularly the LGBTQ+ caucus and our legislative committees, to try to find solutions through legislation that further our mutual efforts.
6. Agency Review. We have already begun to review our past practices and policies based on the complaints we’ve heard in recent days, including the use of photographs as evidence and our complaint process. We will continue that work and share the findings as part of our commitment to build further trust with those we regulate.
7. Engaging the LGBTQ+ Community. Agency staff at all levels will remain engaged with community leaders as we work through these immediate steps as well as our ongoing efforts at training and education.

Board member and member of the LGBTQ+ community Jim Vollendroff added, "I will work to ensure that we're accountable. I'm going to poke at things until I feel satisfied that we've come up with a long-term solution and make sure this doesn't happen again."

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March 1, 2024

Washington State Bar Association Board of Governors
1325 Fourth Ave., Ste. 600
Seattle, WA 98101-2539

RE: Washington State Bar Association Indigent Defense Standards

Dear Board of Governors,



Washington

PO Box 2728
Seattle, WA 98111
(206) 624-2184
aclu-wa.org

Sherri Nichols
Board President

Michele Storms
Executive Director

La Rond Baker
Legal Director

John Midgley
Of Counsel

Taryn Darling
Senior Staff Attorney

Susannah Porter Lake
Adrien Leavitt
Brent Low
David Montes
Jonathan Nomamiukor
Staff Attorneys

Sagiv Galai
Legal Fellow

Tracie Hooper Wells
Paralegal

We write to ask the Board of Governors to adopt changes to the Indigent Defense Standards to make them consistent with the comprehensive, thorough, and evidence-based study recently produced by the RAND corporation. The updated standards reflect the current reality of attorneys representing indigent clients charged with crimes—attorneys face untenable caseloads under the previous standards that do not account for the realities of indigent defense today. Adopting the proposed changes to the Indigent Defense Standards is the only way indigent clients charged with crimes can be afforded competent legal representation.

The current Indigent Defense Standards are outdated and vastly underestimate the work necessary to try criminal cases in 2024. The current standards were created in the 1970s, long before the regular use of DNA, cell phone location tracking, body worn cameras, in-car video, and many other technologies that complicate criminal cases. Criminal cases are simply more complex than they were in the 1970s. With the advent of each new technology—which have become the norm in criminal investigations—providing a defendant competent representation requires public defenders to invest more time and develop greater expertise. However, under the current outdated Indigent Defense Standards, this is not feasible.

This is not abstract. Three of the below signatories to this letter are former public defenders who have carried impossible caseloads and know from personal experience that the current standards are not sustainable. Even in King County, where the Department of Public Defense adjusts the standards to account for hours worked on a case, many attorneys carry multiple full caseloads by the standards articulated in the RAND study. It is not uncommon for a qualified attorney to have six murders, several dozen class A and sex offenses, along with a smattering of other cases. This is a crushing caseload and prevents attorneys from meeting minimum standards of representation on every case in a timely manner. People wait in jail for years for a trial—including people that are then acquitted.¹

In parts of the state where there are fewer resources, the situation is even more dire.² The ACLU of Washington has challenged public defense

¹ Two of the undersigned attorneys represented a client who was acquitted of murder after waiting four years in custody. This client was forced to wait in jail because this was simply how long the case took to get to trial with the rest of our caseloads.

² Daniel Beekman, *WA's public defender system is breaking down, communities*

systems all over our state, including Mt. Vernon,³ Grant County,⁴ and Gray's Harbor County.⁵ In each of these cases, the ACLU saw the damage that inadequate public defense systems can create in people's lives. The new RAND study tells us, in no uncertain terms, that every public defense system in our state is below the minimum standard necessary to protect the rights of people charged with crimes.

The RAND study provides proposed standards based on a comprehensive and thorough approach to determining exactly what is needed to provide an adequate defense:

To create new national public defense workload standards, researchers conducted a comprehensive review and analysis of 17 state-level public defense workload studies conducted between 2005 and 2022 and then employed the Delphi method to facilitate the efforts of a panel of 33 expert criminal defense attorneys from across the country to come to a consensus on the average amount of time needed to provide constitutionally appropriate representation in an array of adult criminal cases.

As a result, we have one of the first nation-wide, comprehensive studies of the minimum standard for trying a criminal case since the 1970s. Washington should lead the way and make this the minimum standard for every attorney representing indigent clients in the state.

This Board must take seriously the duty of setting the minimum standard for public defense in our state. We now know, based on the comprehensive RAND study, that the current standards are well below the minimum standards for trying a criminal case in 2024. This Board must adopt the RAND standards and ensure that no one charged with a crime in our state is deprived an adequate defense.

Thank you,

/s/ La Rond Baker

La Rond Baker, Legal Director

Jazmyn Clark, Smart Justice Policy Program Director

David Montes, Staff Attorney

Adrien Leavitt, Staff Attorney

American Civil Liberties Union of Washington

reeling, (February 25, 2024), <https://www.seattletimes.com/seattle-news/politics/was-public-defender-system-is-breaking-down-communities-reeling/>.

³ *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122 (W.D. Wash. 2013)

⁴ *Best v. Grant County*, 04-02-00189 (2004).

⁵ *Davison v. State*, 196 Wn.2d 285, 288, 466 P.3d 231, 234 (2020).

TO: WSBA Board of Governors

FROM: Brent Williams-Ruth, Governor
Hunter M. Abell, President
Sara Niegowski, Director of Communications

DATE: February 26, 2024

RE: WSBA Public Engagement Plan

ACTION/DISCUSSION: Approve the 2024 Public Engagement Plan.

Background: The Washington State Bar Association (“WSBA”) has many purposes under General Rule (“GR”) 12.2. Several of these purposes include interaction with and service to the public. These include: “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.” GR 12.2(a)(11) They also include: “Foster collegiality among its members and goodwill between the legal profession and the public.” GR 12.2(a)(5).

Toward that end, the WSBA is authorized to take various actions, including the following: “Maintain and foster programs of public information and education about the law and the legal system.” GR 12.2(b)(19).

Despite these purposes and authorization, the WSBA has not had a concerted public outreach and engagement plan in recent memory. Accordingly, pursuant to GR 12.2(b)(19), this proposed Public Engagement Plan (“Plan”) is brought to the Board of Governors (“BOG”) for consideration.

The Plan: As specified in GR 12.2, the Plan’s goal is to increase public awareness of the law and the legal system and to foster collegiality between the profession and the public. The strategy is utilization of existing WSBA resources and members in an effort to engage in direct outreach to target public audiences and highlight those efforts in the media and through WSBA communication channels. **The vision is a low-cost, high-return public outreach effort that is ongoing and reflects well on the WSBA and the legal profession.**

The Plan includes three components:

- 1) **BOG Member Outreach** – Due to their geographic distribution, and high level of knowledge of the profession and the WSBA, BOG members are uniquely well-situated to interact with members of the public. Accordingly, a key component of the Plan is for BOG members to commit themselves to adopting public interaction as part of their duties, in addition to interacting with practitioners.
 - A) **Action Item #1:** Add a bullet point to the March 2022 Roles and Responsibilities document in the section for individual Board member responsibilities as well as Officer responsibilities:

- *Engaging with members of the public as an ambassador of the WSBA to increase trust and confidence in the legal profession; this includes messaging about the legal profession’s role of serving the public, upholding the Constitution and the rule of law, and defending individual freedoms.*
- B) **Action Item #2:** The WSBA President or Executive Director publicly recognize any BOG member who accomplishes two (2) or more public outreach events per year.
- 2) **Communications Team Toolkit** – The Communications Department is authorized to develop an electronic “toolkit” for use by the BOG members in public outreach efforts that emphasize rule of law, the independence of the judiciary, and the role of lawyers in a free society.
- A) **Action Item #1:** The Communications Department will research effective messaging on these issues and how to present them in a meaningful way to a variety of different public audiences, including students, service organizations, local governments, the media, etc.
- B) **Action Item #2:** After engaging in the research, the Communications Department will design an annual [U.S. Rule of Law Toolkit](#) (public facing) and quarterly speaking points about the organization (member facing).
- 3) **Ambassador Program** – The Communications Department is also authorized to develop and execute a low-cost, volunteer program for WSBA members to interact with members of the public. This will involve identification of 5-10 WSBA member “Ambassadors,” appointed by the WSBA President and confirmed by the Board of Governors for two (2) year terms, who are willing and able to represent the profession to the public, and creation of a website on the WSBA webpage to advertise the program. Such Ambassadors should be current or former members of the WSBA with outstanding demonstrated records of service to the profession and the public, and of the character and temperament to succeed in public outreach efforts. The Communications Department will also develop a page on the WSBA webpage to advertise the program.
- A) **Action Item #1:** The Communications and Outreach Department will prepare a memorandum for review by the Executive Director outlining the operations of the Ambassador Program, including method for member selection.
- B) **Action Item #2:** The WSBA President and Executive Director will begin recruiting members to participate in the Ambassador Program.
- C) **Action Item #3:** The Communications and Outreach Department will support the members engaged in outreach through the Ambassador Program and highlight the outreach activities on the WSBA website and through social media.

A non-exclusive list of target audiences for the Plan are as outlined on **Exhibit A**.

Future Efforts: This Plan codifies the BOG’s role and responsibility to engage with the public to foster trust and confidence in the legal profession and rule of law. It also provides tools for the BOG and member Ambassadors to fulfill this role. Concurrently, the WSBA has an operational goal to conduct a wide-ranging review of its public-facing services and communication efforts, with the purpose of returning to the Board with recommendations in FY23, which may evolve into a strategic goal with a related fiscal impact.

Conclusion: The WSBA is uniquely situated to interact with the public in a manner that builds the public’s trust and confidence in the legal system. Adoption of the Plan is a first step toward realizing that vision. We request it be approved.

EXHIBIT A

Non-Exclusive Target Audience Examples:

Students – High School, Undergraduate Students

Service Organizations – Rotary, Lions, Elks

Veteran Organizations – VFW, American Legion, County “Stand Down” Events

Local Government – City/Town Council(s), County Council/Commission

Local Media – Seattle Times, Tacoma News Tribune, Spokesman Review, smaller daily or weekly newspapers

Business/Civic Organizations – Chamber(s) of Commerce, League of Women Voters