

WSR 23-03-030
RULES OF COURT
STATE SUPREME COURT
[January 5, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1491
ADMISSION AND PRACTICE RULES)
(APR) 1, 2, 3, 5, 8, 9, 11, AND 28)

The Washington State Bar Association, having recommended the suggested amendments to Admission and Practice Rules (APR) 1, 2, 3, 5, 8, 9, 11, and 28, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments and new comment as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2023.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2023. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 5th day of January, 2023.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULES (APR)

Rules 1, 2, 3, 8, 9, 11, & 28

Submitted by the Washington State Bar Association

A. Name of Proponent:

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C. Purpose:

The primary purpose of the suggested amendments to the Admission and Practice Rules (APR) is to correct errors, clarify a rule, or update a rule to align with modern processes. The APR underwent signifi-

cant amendments in January 2014 based on recommendations from an APR Task Force, and subsequently were amended significantly again in 2017 when LPOs and LLLTs were made members of the WSBA. Since then, the COVID-19 pandemic, technological implementations, the advent of certain legal education degrees, and simple oversights in previous amendments have led to this effort to "clean-up" the APR. The suggested amendments were presented at the September 2022 WSBA Board of Governors meeting, where the Board of Governors voted unanimously to approve the amendments and submit them to the Washington Supreme Court.

Only a few of the suggested amendments have a substantive change and even most of those are primarily to clarify the intent of the rule, incorporate current procedure, or reinstate a provision previously provided for in a temporary order of the Washington Supreme Court. The primary purposes of the suggested amendments with the most significant modifications are described below.

APR 2 (a) (1) and (2): Allowing Judicial Members on the Board of Bar Examiners and Law Clerk Board.

APR 2 grants the Board of Governors the power to appoint a Board of Bar Examiners and a Law Clerk Board. Currently, members of both boards must be active members of the WSBA. The suggested amendments would allow judicial members of the WSBA to serve on these boards also. Allowing judicial members to serve would increase the pool of potential volunteers to assist with filling the need for volunteers on these boards. In addition, it would be beneficial to have a judicial perspective on the Law Clerk Board as judicial members may serve as tutors in the APR 6 law clerk program.

APR 3 (b) (3): Clarifying a Law Degree Is Required for Common Law Lawyer Qualification for Bar Exam.

APR 3(b) sets forth the various ways in which a person can qualify for the lawyer bar examination¹ in Washington. APR 3 (b) (3) allows lawyers from jurisdictions where the common law of England is the basis of its jurisprudence to qualify for the bar exam if they have active legal experience for at least three of the five years preceding the filing of the application. The suggested amendment expressly adds a legal education requirement for these lawyers, as is the case in all other means of qualifying for the bar exam in Washington. See APR 3 (b) (1), (2) and (4). It is also important to note that the language in the suggested amendment specifies that it must be a law degree that would qualify the applicant to practice law in the other jurisdiction. This addresses the fact that many law degrees in foreign jurisdictions are not the JD and in some cases may not be a graduate degree.

¹ There are other avenues lawyers from foreign jurisdictions may pursue for admission to practice law or licensure for the limited practice of law such as a house counsel license. However, this suggested amendment specifically addresses the qualifications for the bar examination and only for lawyers from common law jurisdictions with practice experience.

The suggested amendment is intended to be a clarification rather than a substantive change. The rule, when adopted, presumed the person applying for the bar exam from a common law jurisdiction would also have a law degree qualifying them to be admitted to practice law. In fact, this provision was included in the APR for the first time in September 1992 after someone petitioned the Board of Governors for an exception based on their graduation from a law school in England and their admission and practice experience in both England and California. See Supplemental Materials No. 1. This suggested amendment merely clarifies the original intent of this rule which is a law degree is required to qualify for the bar exam under this provision of APR 3(b).

APR 9 (b) (4) & (5): Permitting Law Clerks Who Recently Completed the Law Clerk Program and Recent LLM Graduates Who Qualify for the Bar Exam to Be Licensed Legal Interns.

Currently, law students who have completed 2/3 of their law school education, APR 6 law clerks who have completed 5/8 of their law clerk program, and recent law school graduates can be licensed legal interns under APR 9. In a temporary order issued as a result of the pandemic, the Washington Supreme Court also allowed law clerks who recently completed the law clerk program and those LLM graduates who qualify for the bar exam under APR 3 (b) (4) to be licensed legal interns. See Supplemental Materials No. 2. The temporary order has since expired. The suggested amendments would reinstate those provisions of the order that expired and allow the following to apply for a APR 9 licensed legal intern license:

- Law clerks who completed the APR 6 law clerk program as long as the intern application is submitted within nine months of completing the program; and
- LLM graduates who qualify for the bar exam under APR 3 (b) (4) as long as the intern application is filed within nine months of graduation.

Including these individuals who qualify to apply for the bar exam applies the same standard as is applied to J.D. graduates of law school who are permitted to apply under Rule 9 within nine months of graduation. This will allow these candidates for admission opportunities to gain valuable practical experience while preparing for the bar exam and awaiting bar exam results.

APR 9 (d) (8): Misconduct and Action Against Rule 9 License.

The suggested amendments to this provision of APR 9 relate to misconduct by a licensed legal intern. The suggested amendments clarify and broaden the conduct that could, but would not necessarily, result in the WSBA taking action against the Rule 9 license. Importantly, it removes the language about forfeiture of the privilege to take the bar exam, as that privilege can only be denied by the Court following a character and fitness hearing under APR 20-24.3.

Suggested Amendments to Correct, Clarify, or Modernize Rules

The purposes of the remaining and vast majority of the suggested amendments are to:

- correct errors and omissions in previous submissions of suggested amendments;
- clarify certain aspects of rules that cause confusion for either members, applicants, or staff. For example, with the advent of new law degrees such as Executive Juris Doctor (EJD), there is now a need to clarify the law degree referred to in APR 9 is the Juris Doctor (JD); and
- modernize administrative processes to align with technological advances and implementation of online procedures. For example, applications are submitted online and documents are "delivered" to applicants and others electronically instead of via U.S. mail.

All suggested amendments in this category are defined in the following table:

Rule	Type of Amendment	Explanation
APR		
APR 1 (e)(2)	Correction	Includes "Association" in full name of WSBA

Rule	Type of Amendment	Explanation
APR 3 (i)(1)(B)	Clarification	Court does and should approve admission application fees
APR 5(h)	Correction	Spells out LPO
APR 5(h)	Correction	Removes "Limited Practice Officer" in signature line as oath taker is not yet admitted as LPO
APR 5(i)	Correction	Prior amendments omitted in error the provision that LPO applicants also take their oath before a Washington judge in open court
APR 5(j)	Correction	Removes "Limited License Legal Technician" in signature line as oath taker is not yet admitted as LLLT
APR 8(b)	Clarification	Adds language to make very clear that a Washington lawyer cannot appear pro hac vice
APR 9 (b)(1)	Clarification	Specifies J.D. program and a law school course of study
APR 9 (b)(2)	Clarification	Specifies law clerk program course of study
APR 9 (b)(3)	Clarification	Specifies J.D. graduate
APR 9(d)	Modernization	
APR 9 (d)(3)	Clarification	Court does and should approve admission application fees
APR 9 (d)(4)	Correction	Corrects rule citations
APR 9 (d)(7)	Modernization	
APR 9 (d)(9)	Correction and Modernization	Replaces "attorney" with "lawyer" to be consistent throughout rule
APR 9 (h)(1)	Modernization	
APR 11 (j)(1)	Correction	"LLLT or LPO" was omitted in error in prior amendments
APR 28G (2)(a)	Correction	Removes language that should have been deleted when the negotiation provisions for LLLTs was previously amended.
APR 28I(2)	Correction	The word "active" was omitted in error; only active LLLTs need financial responsibility

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material:

1. GR 9 Coversheet re 1991 Amendment to APR 3(b) and Related Documents [NOTE: This document could not be reproduced by Rules Committee Staff and is available upon request.]

2. Order Temporarily Modifying APR, Dated May 15, 2020

Reviser's note: The typographical error in the above material occurred in the copy filed by the state supreme court and appears in the Register pursuant to the requirements of RCW 34.08.040.

IN THE MATTER OF STATEWIDE)
 RESPONSE BY WASHINGTON)
 STATE COURTS TO THE COVID-19)
 PUBLIC HEALTH EMERGENCY)
) ORDER
) TEMPORARILY
) MODIFYING
) ADMISSION AND
) PRACTICE RULES
) No. 25700-B-623

WHEREAS, the COVID-19 pandemic necessitates special measures to allow for the safe administration of the bar exam and may affect the ability of some applicants to take the Bar exam in July, and

WHEREAS, Washington's Admission and Practice Rule (APR) 9 permits eligible law school and law clerk students and graduates to engage in limited and supervised legal practice within the delineated scope of their APR 9 licenses, and

WHEREAS, the Court recognizes the benefit to members of the public who need legal services of continuing to authorize educated and trained APR 9 Licensed Legal Interns to provide assistance to clients, within the scope of their APR 9 licenses and supervision, and

WHEREAS, the Court has reviewed Washington's APRs to consider whether any of its provisions should be modified in light of the COVID-19 pandemic,

The Court hereby unanimously enters the following order establishing temporary modifications to some provisions of the current APRs:

1) APR 4 (d) (1) is temporarily modified for the bar exams to be administered in Washington in July and September 2020 only, to allow for a minimum passing score of 266;

2) Notwithstanding any provision of APR 3, the court authorizes the WSBA to modify exam procedures to the extent necessary for the safe and effective administration of the bar exam in July and September 2020.

3) The provisions of APR 9(h) regarding the term of the license are modified so that no APR 9 license will be subject to termination solely because the APR 9 Licensed Legal Intern has been licensed for more than 30 consecutive months or for more than 18 months after graduation from an approved law school or completion of the APR 6 Law Clerk program;

4) The provisions of APR 9 (f) (6) regarding the limits on the number of Licensed Legal Interns that one Active lawyer may supervise at one time are modified so that: an Active lawyer in private practice may supervise up to three APR Licensed Legal Interns at one time; and an Active lawyer employed by a recognized institution of legal aid, legal assistance, public defense or similar programs furnishing legal assistance to indigents, or by the legal department of a state, county or municipality may supervise up to six APR 9 Licensed Legal Interns at one time; and

5) The provisions of APR 9 (b) (3) are modified to clarify that the term "graduate of an approved law school" includes all applicants with the educational requirements to qualify to sit for the lawyer bar examination, as established in APR 3 (b) (1), (2), and (4).

The temporary modifications stated above will remain in effect until December 31, 2021, or until further order of the Court.

In recognition of the economic realities facing recent law school graduates, the Court takes this opportunity to express its support for efforts to ensure that any Licensed Legal Intern who is covered by the eligibility provisions of APR 9 (b) (3) shall receive monetary compensation in compliance with federal and state law governing employment or monetary compensation provided through grants or other funding sources.

DATED at Olympia, Washington this 15th day of May, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

SUGGESTED AMENDMENTS TO ADMISSION AND PRACTICE RULES

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 1. IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; COMMUNICATIONS TO THE BAR; CONFIDENTIALITY;

DEFINITIONS

(a) - (d) Unchanged.

(e) **Definitions.** The following definitions apply throughout these Admission and Practice

Rules except where otherwise stated:

(1) Unchanged.

(2) "Bar" means the Washington State Bar Association, including Bar staff.

(3) - (9) Unchanged.

RULE 2. BOARD OF GOVERNORS;

(a) **Powers.** In addition to any other power or authority in other rules, the Board of Governors shall have the power and authority to:

(1) Appoint a Board of Bar Examiners from among the active and judicial members of the Bar for the purposes of assisting the Bar grading examinations for admission or licensing and in writing and maintaining the Washington Law Component;

(2) Appoint a Law Clerk Board from among the active and judicial members of the Bar for the purposes of assisting the Bar in supervising the Law Clerk Program;

(3) - (7) Unchanged.

(b) Unchanged.

RULE 3. APPLICANTS FOR ADMISSION TO PRACTICE LAW

(a) Unchanged.

(b) **Qualification for Lawyer Bar Examination.** To qualify to sit for the lawyer bar examination, a person must not be eligible for admission by motion or UBE score transfer and must present satisfactory proof of:

(1) graduation with a Juris Doctor (JD) degree from a law school approved by the Board of Governors; or

(2) completion of the law clerk program prescribed by these rules; or

(3) graduation from a university or law school in any jurisdiction where the common law of England is the basis for its jurisprudence with a degree in law that would qualify the applicant to practice law in that jurisdiction and admission to the practice of law in that same or other jurisdiction where the common law of England is the basis of its jurisprudence, together with current good standing, ~~in any jurisdiction where the common law of England is the basis for its jurisprudence,~~ and active legal experience for at least three of the five years immediately preceding the filing of the application; or

(4) Unchanged.

(c) - (h) Unchanged.

(i) **Applications; Fees; Filing.**

(1) Every applicant for admission shall:

(A) Execute and file an application, in the form and manner and within the time limits that may be prescribed by the Bar;

(B) Pay upon the filing of the application such fees as may be set by the Board of Governors subject to ~~review~~ approval by the Supreme Court; and

(C) Furnish whatever additional information or proof may be required in the course of investigating the applicant's qualification for admission or licensure, and investigating the applicant's good moral character and fitness pursuant to APR 20-25.6.

(2) Unchanged.

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

(a) - (g) Unchanged.

(h) Oath for LPOs Limited Practice Officers - Content of Oath.

STATE OF WASHINGTON

COUNTY OF

I, _____, do solemnly declare:

1. - 6. Unchanged.

Signature ~~Limited Practice Officer~~

Subscribed and sworn to before me this _____ day of

JUDGE

(i) Oath for Limited Practice Officer and of Limited License Legal Technician. The Oath for Limited Practice Officer and the Oath of Limited License Legal Technician shall be taken before an elected or appointed judge, excluding judges pro tempore, sitting in open court in the State of Washington.

(j) Content of Oath of Limited License Legal Technician. The oath which all applicants shall take is as follows:

OATH OF LIMITED LICENSE LEGAL TECHNICIAN

STATE OF WASHINGTON

COUNTY OF

I, _____, do solemnly declare:

1. - 8. Unchanged.

Signature ~~Limited License Legal Technician~~

Subscribed and sworn to before me this _____ day of

JUDGE

(k) - (m) Unchanged.

RULE 8. NON-MEMBER LAWYER LICENSES TO PRACTICE LAW

(a) Unchanged.

(b) Exception for Particular Action or Proceeding. A lawyer member who is not admitted in Washington state but who is in good standing of, and permitted to practice law in, the bar of any other state or territory of the United States or of the District of Columbia, or a lawyer who is providing legal services for no fee through a qualified legal services provider pursuant to rule 8(f), may appear as a lawyer in any action or proceeding only

(i) and (ii) Unchanged.

(1) - (6) Unchanged.

(c) - (g) Unchanged.

RULE 9. LICENSED LEGAL INTERNS

(a) Unchanged.

(b) Eligibility. To be eligible to apply to be a Licensed Legal Intern, an applicant must have arranged to be supervised by a qualifying lawyer and:

(1) Be a student duly enrolled and in good academic standing in a J.D. program at an approved law school who has:

(A) successfully completed not less than two-thirds of a law school's prescribed 3-year course of study or five-eighths of a law school's prescribed 4-year course of study, and

(B) obtained the written approval of the law school's dean or a person designated by such dean and a certification by the dean or designee that the applicant has met the educational requirements; or

(2) Be an enrolled law clerk who:

(A) is certified by Bar staff to be in compliance with the provisions of APR 6 and to have successfully completed not less than five-eighths of the law clerk program's prescribed 4-year course of study, and

(B) has the written approval of the primary tutor; or

(3) Be a J.D. graduate of an approved law school who has not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of graduation; ~~or~~

(4) Have completed the APR 6 law clerk program and not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of completion of the APR 6 law clerk program; or

(5) Be a graduate of an approved law school with an LL.M. that meets the requirements in APR 3 (b) (4) and who qualifies under APR 3 (b) (4) to take the Washington lawyer bar examination and who has not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of graduation.

(c) Unchanged.

(d) Application. The applicant must submit an application ~~on~~ in a form provided and manner as prescribed by the Bar and ~~signed by both the applicant and the supervising lawyer.~~

(1) - (2) Unchanged.

(3) Full payment of any required fees must be submitted with the application. The fees shall be set by the Board of Governors subject to review approval by the Supreme Court.

(4) Bar staff shall review all applications to determine whether the applicant and the supervising lawyer have the necessary qualifications, and whether the applicant possesses the requisite good moral character and fitness to engage in the limited practice of law provided for in this rule. Bar staff may investigate any information contained in or issues raised by the application that reflect on the factors contained in APR 21(a)-24, and any application that reflects one or more of the factors set forth in APR 21(a) shall be referred to Bar Counsel for review.

(5) - (6) Unchanged.

(7) Upon Supreme Court approval of an applicant, the Bar shall ~~send to the applicant, in care of the supervising lawyer's mailing address on record with the Bar,~~ deliver to the supervising lawyer, with a copy to the applicant, a letter confirming confirmation of approval by the Supreme Court and a Licensed Legal Intern identification card. An applicant must not perform the duties of a Licensed Legal Intern before receiving the ~~confirming letter~~ confirmation and identification card.

(8) Once an application is accepted and approved and a license is issued, a Licensed Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this state, and is personally responsible for all services performed as a Licensed Legal Intern. Any ~~offense conduct by a Licensed Legal Intern that would subject a lawyer admitted to practice law in this state to suspension or disbarment may be punished~~ discipline may result in the Bar taking action on the Licensed Legal Intern's license, including by termination of the Licensed Legal Intern's license, or requiring closures by or condition on the Licensed Legal Intern and supervising

~~lawyer that appear reasonably necessary to safeguard against unethical conduct by the Licensed Legal Intern during the term of the limited license. suspension or forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and being admitted to practice law in this state.~~

(9) A Licensed Legal Intern may have up to two supervising attorneys lawyers in different offices at one time. A Licensed Legal Intern may submit an application for approval to add a supervising attorney lawyer in another office or to change supervising attorneys lawyers any time within the term of the limited license. When a Licensed Legal Intern applies to add a concurrent supervising attorney lawyer in another office, the Intern must notify both the current supervising attorney lawyer and the proposed new supervising attorney lawyer in writing about the application, and both the current and the new supervising attorney lawyer must approve the addition and certify that such concurrent supervision will not create a conflict of interest for the Licensed Legal Intern. The qualifications of the new supervising attorney lawyer will be reviewed by Bar staff who may approve or deny the supervisor. The Licensed Legal Intern will be notified of approval or denial of the new supervising attorney lawyer as described above and must not perform the duties of a licensed legal intern before receiving a new ~~confirming letter~~ confirmation containing notification of approval and a new identification card.

(e) Scope of Practice, Prohibitions and Limitations. In addition to generally being permitted to perform any duties that do not constitute the practice of law as defined in General Rule 24, a Licensed Legal Intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule.

(1) A Licensed Legal Intern may engage in the following activities without the presence of the supervising attorney lawyer:

(A) Advise or negotiate on behalf of a person referred to the Licensed Legal Intern by the supervising lawyer;

(B) Prepare correspondence containing legal advice to clients or negotiating on behalf of clients, pleadings, motions, briefs or other documents. All such correspondence, pleadings, motions, and briefs must be reviewed and signed by the supervising attorney lawyer, as well as any other documents requiring the signature of a lawyer. On any correspondence or legal document signed by the Licensed Legal Intern, the Licensed Legal Intern's signature shall be followed by the title "Licensed Legal Intern" and the licensed legal intern's identification number;

(C) and (D) Unchanged.

(2) - (7) Unchanged.

(f) Additional Obligations of Supervising Lawyer. Agreeing to serve as the supervising lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule shall be grounds for disciplinary action pursuant to the Rules for Enforcement of Lawyer Conduct. In addition to the duties stated or implied above, the supervising lawyer:

(1) - (6) Unchanged.

(7) must meet with ~~any~~ the Licensed Legal Intern ~~he/she is supervising,~~ in person or by telephone, a minimum of one time per week, to review cases being handled and to provide feedback on performance, additional guidance and instruction, and to answer questions or issues raised by the Licensed Legal Intern;

(8) - (10) Unchanged.

(g) Unchanged.

(h) **Term of Limited License.** A limited license issued pursuant to this rule shall be valid, unless it is revoked or supervision is terminated, for a period of not more than 30 consecutive months, and in no case will it be valid if it has been more than 18 months since the Licensed Legal Intern graduated from law school or completed the APR 6 Law Clerk program.

(1) The approval given to a law student by the law school dean or the dean's designee or to a law clerk by the tutor may be withdrawn at any time by ~~mailing~~ delivering notice to that effect to the Bar, and must be withdrawn if the student ceases to be duly enrolled as a student prior to graduation, takes a leave of absence from the law school or from the clinical program for which the limited license was issued, or ceases to be in good academic standing, or if the APR 6 law clerk ceases to comply with APR 6. When the approval is withdrawn, the Licensed Legal Intern's license must be terminated promptly.

(2) - (3) Unchanged.

RULE 11. MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

(a) - (i) Unchanged.

(j) **Sponsor Duties.** All sponsors must comply with the following duties unless waived by the Bar for good cause shown:

(1) The sponsor must not advertise course credit until the course is approved by the Bar but may advertise that the course credits are pending approval by the Bar after an application has been submitted. The sponsor shall communicate to the lawyer, LLLT or LPO the number of credits and denominate whether the credits are "law and legal procedure" as defined under section (f)(1), "ethics and professional responsibility" as defined under section (f)(2), or "other," meaning any of the other subjects identified in sections (f)(3)-(7).

(2) - (7) Unchanged.

(k) Unchanged.

RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

A. - F. Unchanged.

G. Conditions Under Which A Limited License Legal Technician May Provide Services

(1) Unchanged.

(2) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician, that includes the following provisions:

(a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process ~~or negotiate the client's legal rights or responsibilities~~, unless permitted under GR 24(b) or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;

(b) - (g) Unchanged.

(3) - (4) Unchanged.

H. Unchanged.

I. Continuing Licensing Requirements

(1) Unchanged.

(2) *Financial Responsibility.* Each active LLLT shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 28 by:

a. - c. Unchanged.

(3) - (4) Unchanged.

J. - O. Unchanged.

APPENDIX APR 28. REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD

Unchanged.

Reviser's note: The typographical error in the above material occurred in the copy filed by the state supreme court and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 23-03-033
RULES OF COURT
STATE SUPREME COURT
 [January 5, 2023]

IN THE MATTER OF THE)	ORDER
SUGGESTED AMENDMENT TO APR)	NO. 25700-A-1494
11—MANDATORY CONTINUING)	
LEGAL EDUCATION (MCLE))	

The Mandatory Continuing Legal Education Board, having recommended the suggested amendment to APR 11—Mandatory Continuing Legal Education (MCLE), and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2023.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar, and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2023. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 5th day of January, 2023.

For the Court

Gonzales, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULE (APR) 11

Mandatory Continuing Legal Education

Submitted by the Mandatory Continuing Legal Education Board

A. Name of Proponent:

Mandatory Continuing Legal Education (MCLE) Board

Staff Liaison/Contact:

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 Washington State Bar Association (WSBA)
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539 (Phone: 206-727-8249)
 AdelaineS@wsba.org

B. Spokesperson:

Todd Alberstone
 Chair of MCLE Board
 c/o Washington State Bar Association (WSBA)
 1325 Fourth Avenue, Suite 600

Seattle, WA 98101-2539

C. Purpose:

The purpose of Mandatory Continuing Legal Education (MCLE) is "to enhance lawyers', LLLTs', and LPOs' legal services to their clients and protect the public by assisting lawyers, LLLTs, and LPOs in maintaining and developing their competence ..." (APR 11(a)). The MCLE Board suggests that APR 11 be amended to allow tutors in the APR 6 Law Clerk Program to claim MCLE credit for their personal supervision of APR 6 law clerks. The need for this amendment is evidenced by requests from tutors in the APR 6 Law Clerk Program to receive credit for the supervisory and teaching work they perform, and the current absence of a credit provision that permits them to do so. Currently, teaching a law school course (when the instructor is not a fulltime professor) and presenting an approved continuing legal education course are eligible for MCLE credit under APR 11. We believe the analogous activity of tutoring law clerks pursuing legal education under APR 6 should have the same benefit. The MCLE Board believes the work performed by law clerk tutors should be recognized as valuable continuing legal education for themselves, as well as the education they provide to APR 6 law clerks. APR 11(e) should be amended to allow those engaged in this work to receive MCLE credit for their efforts.

Background

Pursuant to APR 11 (d) (2) (i), "The MCLE Board shall review and suggest amendments or make regulations to APR 11 as necessary to fulfill the purpose of MCLE and for the timely and efficient administration of these rules and for clarification of education requirements, approved activities, and approved course subjects. Suggested amendments are subject to review by the Board of Governors and approval by the Supreme Court."

Over the years, there have been several requests by tutors in the APR 6 Law Clerk Program to receive MCLE credit for giving their time as tutors to clerks enrolled in the Law Clerk Program. As part of the Law Clerk Program, tutors provide three hours of "personal supervision" (as defined in APR 6) each week to clerks, including substantive discussion of the law. In addition to this personal supervision, tutors are responsible for shaping educational content through their role in selecting texts and course materials for each prescribed course. Within each year of this four-year program, clerks are required to study six subjects and to pass monthly examinations. The exams are developed, administered, and graded by the tutors.

Periodically, Law Clerk Program tutors have sought MCLE credit under both the "teaching" credit and "mentoring" credit provisions of APR 11. However, neither credit provision is designed to accommodate for law clerk tutoring and such requests have been denied. Tutors cannot claim teaching credit under APR 11 (e) (6) as such credit is specifically limited to the teaching of law school courses. Likewise, requests for mentoring credit are not successful because both the mentee and mentor must be active members of the WSBA. See APR 11 (e) (8) and Standards for Approving Structured Mentoring Programs (Attachment #4, page 2).

In response to requests and the need to address this issue, the MCLE Board formed a workgroup—including two members of the Law Clerk Board—to explore a potential amendment to APR 11. The workgroup drafted a report and recommendation for a preliminary suggested amendment to APR 11. The MCLE Board decided to move forward with exploring a suggested amendment to APR 11.

On February 4, 2022, the Law Clerk Board reviewed the report and recommendation at its regularly scheduled meeting. No edits or suggestions to the preliminary suggested amendment were made by the Law Clerk Board at that time.

On April 10, 2022, a public comment survey requesting feedback regarding the preliminary suggested amendment was posted on the WSBA website. The MCLE Board web page also informed WSBA licensed legal professionals and the general public of the opportunity to make a public comment regarding the preliminary suggested amendment at the May 13, 2022 MCLE Board Meeting. On April 15, 2022, an email was sent to all active licensed legal professionals and those with judicial status soliciting written feedback by way of the public comment survey. The online public comment survey closed on May 6, 2022. The MCLE Board received 183 survey responses. Out of those responses, respondents were largely in favor of the preliminary suggested amendment with 136 in favor and 35 not in favor. The remaining 12 respondents were partially in favor (See Attachment #3).

At its May 13, 2022, meeting, the MCLE Board reviewed and considered all feedback produced from the survey. At the same meeting, the MCLE Board opened the proposed amendment for additional public comment during the meeting; however, no licensed legal professional or interested member of the public appeared for such purpose. After having given due consideration to any public concerns identified in the survey, the MCLE Board voted unanimously to continue to move forward with the preliminary suggested amendment by sending it to the Board of Governors for review.

MCLE Board Chair Todd Alberstone and Vice-Chair Robert Malae presented the MCLE Board's preliminary suggested amendment to APR 11 at the WSBA Board of Governors meeting in July 2022. The Board of Governors voted unanimously to support the preliminary suggested amendment. Taking into consideration the feedback and support from the WSBA Board of Governors, the MCLE Board made revisions to the suggested amendment and decided at its August meeting to proceed. The revisions did not change the substance of the suggested amendment.

The attached suggested amendment as revised by the MCLE Board clarifies that law clerk tutors are eligible for the "law and legal" credit category, in addition to the "other" and "ethics" credit categories, by stating that clerks are participating in "courses" (see APR 11 (c)(1)). Additionally, the revisions create a new subsection to APR 11(e) so that law clerk tutoring will have its own approved activity category instead of having the credit consolidated with the law school teaching category. The revisions are intended to assist with implementing the suggested amendment without impacting the spirit of the preliminary suggested amendments presented at the July Board of Governors meeting.

The revised suggested amendment as attached was provided to the Board of Governors at its September 2022 meeting and no concerns were raised by the Board of Governors at that time. In addition, the Law Clerk Board voted to unanimously support the suggested amendment at its October 7, 2022 meeting.

Considerations in Support of the Suggested Amendment

The role of the MCLE Board is to suggest amendments to APR 11 that support the purpose of mandatory continuing legal education. The MCLE Board reviewed and discussed all feedback received about the preliminary suggested amendment. The MCLE Board presents the following as important factors in support of the amendment.

Value of the Law Clerk Program

The four-year Law Clerk Program stands as a viable alternative to traditional law school that provides education through a combination of work and study under the supervision of a lawyer or judge. The lawyer or judge must have at least ten years of experience to qualify as a tutor and be in good standing with the Washington State Bar Association. The Law Clerk Program increases opportunities of non-traditional law school students by offering an affordable alternative for those seeking to practice law in Washington state. Those who complete its education requirements qualify to apply for the Washington State bar exam. The Law Clerk Program provisions enable quality supervision, and the curriculum ensures a comprehensive legal education. Tutors provide a valuable service as volunteer educators that increases access to legal education and the legal profession.

MCLE Credit for "Personal Supervision"

Tutors in the law clerk program spend an average of three hours per week—over the course of the four-year program—personally instructing and advising the law clerk. As the coursework for this program includes 6 courses every 12 months, as prescribed by APR 6 and the Law Clerk Program Regulations (Attachment #5), the supervision time is functionally equivalent to the "teaching" that would be done in fulfillment of APR 11 (e)(6). Personal supervision is defined in APR 6 (d)(2) which provides:

Meet the minimum monthly requirements of an average of 32 hours per week of employment with the tutor which may include in-office study time and must include an average of 3 hours per week for the tutor's personal supervision of the law clerk. "Personal supervision" is defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments.

As the personal supervision time includes exposition and discussion of the law, case recitation, and analysis of assignments as part of coursework, this time would be eligible for "teaching" credit per APR 11 (e)(6) if it were a law school course. The Law Clerk Program curriculum includes "using an apprenticeship model that includes, theoretical, scholastic, and clinical components." These components are designed to parallel the extensive and comprehensive nature of law school curriculum. The law clerk program's curriculum includes topics such as civil procedure, contracts, property, and torts.¹

¹ The full curriculum can be found in Regulation 5 of the Law Clerk Program Regulations, Attachment #5 pages 11-13.

Additional Benefits of Offering MCLE Credit

In addition to recognizing the educational value of teaching the law clerk program curriculum, offering MCLE credit for supervision and instruction time may encourage lawyers to serve as tutors for the Law Clerk Program. Tutors must commit an extensive amount of time both to instruct and supervise the law clerk. The tutor is not only responsible for the personal supervision of the law clerk but also charged with the responsibilities of guiding the law clerk's study of all subjects, selecting all reading and instructional material to be used throughout the clerk's education, and assisting law clerks with the development of elective curriculum. This time is uncompensated volun-

teer time separate from the full-time job of the tutor. This status is analogous to that of a law school instructor claiming credit under APR 11 (e)(6) who, according to the rule cannot be "a full-time law school professor." As the tutor's full-time job is not tutoring, the MCLE credit eligibility will be consistent with this law school teaching requirement.

Recognizing law clerk program tutoring for MCLE credit deservedly rewards the incredible time commitment and dedication to advancing the profession through this program as a law school alternative. Such a measure will hopefully increase the appeal of serving as a law clerk program tutor and ultimately affirm the WSBA's commitment to increasing access to justice and access to the legal profession.

Suggested Effective Date

The MCLE Board recommends that this suggested amendment become effective in accordance with GR 9(i).

D. Hearing: Because of the outreach conducted and input previously received by the MCLE Board, a hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Attached are:

1. Suggested Amendments to APR 11 - Redline

2. Suggested Amendments to APR 11 - Clean

3. Public Comments on the Preliminary Suggested Amendment [NOTE:

This document could not be reproduced by Rules Committee Staff and is available upon request.]

4. Standards for Approving Structured Mentoring Programs for MCLE Credit

5. APR 6 and Law Clerk Program Regulations

SUGGESTED AMENDMENTS TO APR 11 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 11. MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

(a) - (e) (9) No Changes.

(10) Tutoring clerks through the APR 6 Law Clerk Program courses when providing "personal supervision" as defined in APR 6 (d)(2).

(f) - (k) No Changes.

Suggested Amendment - Collected Feedback

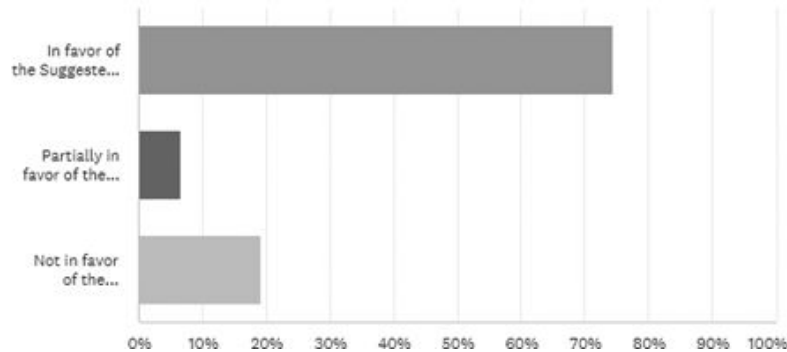
The below comments have not been edited in any way, including content, typographical errors, etc., and because the comments were submitted for consideration at a public meeting, we have included the commenters' names but not their email addresses or other identifying information.

Based on the survey questions, comments have been assigned to one of three categories: "In Favor of the Suggested Amendment", "Partially in Favor of the Suggested Amendment", and "Not in Favor of the Suggested Amendment". Within these three major groupings, comments are displayed in random order.

As of May 6, 2022:

Position on the MCLE Board's Suggested Amendment to APR 11(e)(6):

Answered: 183 Skipped: 0



ANSWER CHOICES	RESPONSES	
▼ In favor of the Suggested Amendment	74.32%	136
▼ Partially in favor of the Suggested Amendment, with some changes	6.56%	12
▼ Not in favor of the Suggested Amendment	19.13%	35
TOTAL		183

STANDARDS FOR APPROVING STRUCTURED MENTORING PROGRAMS FOR MCLE CREDIT

The MCLE Board will approve structured mentoring programs for MCLE credit that meet the requirements of APR 11 and the following requirements and standards:

1. **Purpose.** Structured mentoring programs are intended to:
 - a. Foster professionalism, civility and collegiality in the legal community;
 - b. Bridge the gap for new and transitioning attorneys;
 - c. Promote inclusion and eliminate bias with respect to the practice of law;
 - d. Encourage professional development, including insights into the practice of law;
 - e. Encourage personal development, including the need for healthy work-life balance and awareness of mental health, addiction, and stress issues; and/or
 - f. Support the community through public service.
2. **Structured Mentoring Program Standards.** The minimum structural standards for a program to be approved include facilitating and requiring the mentor and mentee to:
 - a. Attend an orientation meeting for which MCLE credit is not earned;
 - b. Sign a mentoring agreement;
 - c. Create a personalized mentoring plan that includes meetings on approved subjects under APR 11(f);
 - d. Have face-to-face mentoring meetings related to the approved course subjects under APR 11(f). Face-to-face meetings can be in person or via electronic means of communication; and
 - e. Provide an evaluation of the mentoring experience to the organization. The forms or the information from the forms must be retained for two years and provided to the MCLE Board upon request.
3. **Goals of Approved Structured Mentoring Programs.** Approved Structured Mentoring Programs should:
 - a. Strive to appropriately match qualifying mentors with qualifying mentees;

b. Assist mentors and mentees in creating a mentoring plan that will best serve them in achieving their goals; and

c. Provide support as needed to help mentors and mentees fulfill their responsibilities.

4. **Application for Approval of Structured Mentoring Program.** Organizations shall submit an application, program materials and sample forms to the MCLE Board to be considered for approval.

5. **Self-Directed Structured Mentoring Programs.** Mentors and mentees wishing to develop their own mentoring relationship and attain MCLE credit for mentoring may do so through the Self-Directed Structured Mentoring Program Guide available at <https://www.wsba.org/for-legal-professionals/mcle/mcle-credit-for-mentorship>.

6. **Mentor Eligibility.** The mentor must be an active member of the WSBA in good standing and have been admitted to the practice of law in Washington for at least five years. The mentor and mentee shall not be employed by the same employer.

7. **Mentee Eligibility.** The mentee must be an active member of the WSBA. The mentor and mentee shall not be employed by the same employer.

8. **MCLE Credit for Participation.** Mentors and mentees may earn one MCLE credit per each 60 minutes during which they held mentoring meetings and covered topics or issues related to the approved course subjects under APR 11(f). Law and Legal Procedure credits may not be earned through mentoring. There are no limits on the number of MCLE ethics and "other" credits attorneys may earn and attorneys may participate as often as they wish. The mentor may not receive payment for the mentoring time.

RULES AND REGULATIONS
GOVERNING THE WASHINGTON STATE
LAW CLERK PROGRAM

Effective Date: September 1, 2022

APR 6 Amended effective September 1, 1984; March 6, 1992; September 1, 1994; June 2, 1998; April 1, 2003; January 13, 2009; January 1, 2014; September 1, 2017; September 1, 2022.

Regulations approved by the Board of Governors September 26, 2013, effective January 1, 2014; amended effective May 19, 2017; September 1, 2022.

ADMISSION AND PRACTICE RULES (APR)

RULE 6. LAW CLERK PROGRAM

(a) **Purpose.** The Law Clerk Program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, experiential, and clinical components. Successful completion of the Law Clerk Program provides a way to meet the education requirement to apply for the lawyer bar examination in Washington; it is not a special admission or limited license to practice law.

(b) **Application.** Every applicant for enrollment in the law clerk program shall:

(1) Be of good moral character and fitness, as defined in APR 20;

(2) Present satisfactory proof of having been granted a bachelor's degree by a college or university with approved accreditation; if the degree was earned in a non-US jurisdiction, the applicant shall provide supporting documentation as to its equivalency;

(3) Be engaged in regular, full-time employment in Washington State for an average of 32 hours per week with the primary tutor or

primary tutor's employer in a (i) law office, (ii) legal department or (iii) a court of general, limited, or appellate jurisdiction in Washington State. The employment must include tasks and duties which contribute to the practical aspects of engaging in the practice of law;

(4) Submit in such form and manner as prescribed by the Bar (i) an application for enrollment in the program, (ii) the tutor's application, and, (iii) the application fee;

(5) Appear for an interview, provide any additional information or proof, and cooperate in any investigation, as may be deemed relevant by the Bar; and

(6) If applicable, present a petition for Advanced Standing based on law school courses completed or courses completed in this program during a previous enrollment. The Bar may grant Advanced Standing to an applicant approved for enrollment for courses deemed recently and successfully passed and equivalent to courses in the program.

(7) Where the Bar is satisfied that a primary tutor has arranged a relationship with the applicant's full-time employer consistent with the purposes of the Program, the requirement that the primary tutor, or primary tutor's employer, be the law clerk's employer may be waived.

(8) Where the Bar is satisfied that the applicant has employment with a tutor whose practice has substantial contacts with Washington state, the requirement that the full-time employment be in Washington state may be waived.

(c) Tutors. To be eligible to act as a tutor in the law clerk program, a lawyer or judicial member as defined in the WSBA Bylaws, shall:

(1) Act as a tutor for only one law clerk at a time;

(2) Be an active member in good standing of the Bar, or be a judicial member of the Bar, who has not received a disciplinary sanction in the last 5 years, provided that if there is discipline pending or a disciplinary sanction has been imposed upon the member more than 5 years preceding the law clerk's application for enrollment, the Bar shall have the discretion to accept or reject the member as tutor;

(3) Have active legal experience in the practice of law as defined by APR 1 or have held the required judicial position for at least 10 of the last 12 years immediately preceding the filing of the law clerk's application for enrollment. The 10 years of practice must include at least 2 years in Washington State and may be a combination of active practice and judicial experience but may not include periods of suspension for any reason;

(4) Certify to the applicant's employment as required above and to the tutor's eligibility, and to agree to instruct and examine the applicant as prescribed under this rule; and

(5) Act as a tutor only upon the approval of the Bar which may be withheld or withdrawn for any reason.

(d) Enrollment. When an application for enrollment has been approved by the Bar, an enrolled law clerk shall:

(1) Pay an annual fee as set by the Board of Governors.

(2) Meet the minimum monthly requirements of an average of 32 hours per week of employment with the tutor which may include in-office study time and must include an average of 3 hours per week for the tutor's personal supervision of the law clerk. "Personal supervision" is defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments.

(3) Complete the prescribed course of study which shall be the equivalent of four years of study. Each year of study shall consist of 6 courses completed in 12 months. Months of leave, failed courses, and months in which the enrollee does not meet the minimum number of hours of work and study may not be counted toward the completion of a course and may extend the length of a year of study. Advanced Standing granted may reduce the months of program study. The course of study must be completed within 6 years from the initial date of enrollment.

(4) Abide by APR 6 and the Law Clerk Program Regulations approved by the Board of Governors which provide the course of study, program requirements and other guidelines to successfully complete the program.

(e) Course of Study. The subjects to be studied, the sequence in which they are to be studied, and any other requirement to successfully complete the program shall be prescribed in the Law Clerk Program Regulations. Progress toward completion of the program shall be evaluated by submission of examinations, certificates, reports and evaluations as follows:

(1) Examinations. At the end of each month, the law clerk shall complete a written examination prepared, administered, and graded by the tutor. The examination shall be answered without research, assistance, or reference to source materials during the examination. The examination shall be graded pass/fail.

(2) Certificates. Within 10 days following the month of study, the tutor shall submit the examination, including the grade given for the examination and comments to the law clerk, and a monthly certificate, stating the law clerk's hours engaged in employment, study, and the tutor's personal supervision. If an examination is not given, the monthly certificate shall be submitted stating the reason.

(3) Book Reports. The law clerk shall submit three book reports for the Jurisprudence course requirement corresponding to each year of study.

(4) Evaluations. At intervals deemed necessary by the Bar, the law clerk shall participate with the tutor in an evaluation of the law clerk's progress.

(f) Completion of the program. A law clerk shall be deemed to have successfully completed the program when:

1) All required courses have been completed and passed as certified each month by the tutor, and all book reports have been submitted,

(2) The tutor has certified that the law clerk, in the tutor's opinion, is qualified to take the lawyer bar examination and is competent to practice law; and

(3) The Bar has certified that all program requirements are completed.

(g) Termination. The Bar may direct a law clerk to change tutors if approval of a tutor is withdrawn.

The Bar may terminate a law clerk's enrollment in the program for:

1) Failure to complete the prescribed course of study within 6 years from the date of enrollment;

(2) Failure of the tutor to timely submit the monthly examinations and certificates;

(3) Failure to comply with any of the requirements of the law clerk program; and

(4) Any other grounds deemed pertinent.

(h) Effective Date. Revision of this rule shall not apply retroactively. A law clerk may complete the program under the version of the rule in effect at the start of enrollment.

(i) Confidentiality. Unless expressly authorized by the Supreme Court, the program applicant, or by a current or former law clerk, enrollment and related records, documents, and proceedings are confidential and shall be privileged against disclosure.

APR 6 LAW CLERK PROGRAM REGULATIONS

1-1 Authority

Regulation 1. GENERAL

A. The law clerk program established in Rule 6 of the Admission and Practice Rules (APR) and implemented in these regulations is conducted by the Washington State Bar Association at the direction of the Supreme Court. It is administered by the Law Clerk Board under the direction of the Board of Governors.

B. The good moral character and fitness of an applicant is determined pursuant to APR 20 through 24.3.

C. To facilitate prompt administration of APR 6 and these regulations, designated staff of the Washington State Bar Association may act on behalf of the Law Clerk Board under APR 6 and these regulations.

D. The Law Clerk Board, with the approval of the Board of Governors, may amend these regulations as necessary. Revisions of these regulations shall not apply retroactively to an enrolled law clerk. These changes shall apply to applications, petitions and requests made after the effective date of the revisions.

1-2 Purpose and Expectations.

A. The law clerk program provides access to legal education guided by a qualified tutor using an apprenticeship model that includes theoretical, scholastic and clinical components. Successful completion of the law clerk program qualifies a person to apply for the Washington State bar exam. Participation in the law clerk program is not a special admission or limited license to practice law.

B. The program relies on the good faith and integrity of the participants. The Board cannot administer and supervise the clerkship on a daily basis. The Board assumes the tutor and the law clerk will adhere to the letter and spirit of the program.

C. The law clerk program is an alternative legal education. The program issues a certificate of completion; it is not approved by the American Bar Association and it does not confer a Juris Doctor degree or other degree.

D. The Board will not assist an applicant for the law clerk program to find employment or to evaluate in advance the qualifications of a potential tutor.

1-3 Definitions.

For the purpose of these regulations, the following terms are defined:

A. "Approved accreditation" means accredited by an accrediting agency recognized by the US Department of Education.

B. "Assistant Tutor" means a qualifying lawyer or judge who has been approved to teach specific courses.

C. "Bar Association" means the Washington State Bar Association.

D. "Board of Governors" means the Board of Governors of the Washington State Bar Association.

E. "Board" means the Law Clerk Board as authorized by APR 2.

F. "Board Liaison" means an individual member of the Law Clerk Board in his or her role as liaison between the law clerk and the Board.

G. "Employment waiver" means a relationship in which the primary tutor is not the law clerk's direct employer but has received Board approval of an alternative relationship under APR 6 (b) (7) and Regulation 3-1A(2).

H. "Employment Location Waiver" means an employment arrangement in which the law clerk is not employed in Washington state but has received Board approval for an out-of-state employer under APR 6 (b) (8) and Regulation 3-1A(3).

I. "Law clerk" means a person whose application for enrollment in the law clerk program has been accepted by the Board. It refers to applicants to the program in that applicants must have employment as a law clerk, legal assistant, or equivalent to qualify for enrollment. Law clerks are not authorized or licensed to engage in the practice of law by virtue of APR 6.

J. "Program" means the law clerk program established by APR 6 and implemented in these regulations.

K. "Regular, full-time employment" means that the law clerk is hired by the tutor or the tutor's employer in a (i) law office, (ii) legal department, or (iii) a court in Washington State, for an average of 32 hours per week for at least 48 weeks each calendar year.

L. "Tutor" means a qualifying lawyer or judicial member who has agreed to teach the law clerk and be responsible for all aspects of compliance with the program.

Regulation 2. LAW CLERK BOARD

2-1 Responsibilities.

The Board will make decisions regarding:

- A. Approval or rejection of an application for enrollment in the program.
- B. Approval or rejection of a lawyer or a judge to act as a tutor.
- C. A petition for advanced standing.
- D. A direction to the law clerk to change tutors.
- E. A recommendation to the Board of Governors for the termination of a law clerk's enrollment in the program.
- F. A petition for readmission.
- G. Changes in course contents, course descriptions, or program completion requirements.
- H. Applicability of the effect of prior decisions regarding other law clerks and tutors.
- I. Recommendations to the Board of Governors regarding amendments to these regulations.
- J. Any other matter related to the program or referred to the Board by the Board of Governors.

2-2 Board Liaisons.

- A. A law clerk will be assigned to a Board member who shall act as a liaison between the law clerk and the Board.
- B. A Board liaison will make decisions regarding:
 - (1) Recommendations to the Board regarding the acceptance or rejection of an applicant.
 - (2) An annual evaluation of the law clerk's second and third years.
 - (3) Recommendations regarding any other matter related to the program or referred to the Board.

2-3 Staff Administration.

A. The Board may delegate duties to staff to facilitate prompt administration of the program.

B. The duties may regularly include but are not limited to:

(1) Review of applications to the program, recommendation regarding their qualifications for the program, and assignment of a Board Liaison;

(2) Approval of assistant tutors to teach specific courses;

(3) Approval of leaves of absence of less than 12 months;

(4) Approval of petitions by law clerks to take courses or electives out of order;

(5) Approval of the 4th year courses; and

(6) Notices of involuntary withdrawal.

2-4 Filing, general.

All applications, petitions or requests shall be submitted to the Board in a form and manner as directed by the Bar Association.

2-5 Review Procedure.

A. Review of Right. An applicant, law clerk or tutor, has a right to have the Board of Governors review the following decisions of the Board:

(1) Rejection of an application for enrollment in the program;

(2) Termination of a law clerk's enrollment in the program; or

(3) Requiring a law clerk to change tutors.

B. Discretionary. An applicant, law clerk or tutor may ask the Board of Governors to review any decision made by the Board.

C. Filing. A petition requesting either review of right or discretionary review shall be:

(1) in writing,

(2) directed to the Board of Governors;

(3) filed with the Bar Association office; and

(4) filed within 30 days of the date the law clerk or applicant received notice of the decision.

Regulation 3. APPLICATION PROCEDURE

3-1 Applicants. Every applicant for enrollment in the program shall:

A. Be engaged in regular, full-time employment as defined in Regulation 1-3 unless requesting an employment waiver or employment location waiver as defined in Reg. 1-3.

(1) Under no circumstances may the tutor assess a fee or require any other form of compensation in return for instructing or employing the law clerk. The law clerk shall receive monetary compensation in compliance with federal and state law governing employment. The Board may require proof of employment as deemed necessary.

(2) Approval of any relationship requiring an employment waiver is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the alternative relationship, show how the purpose of the program will be maintained, and describe how client confidentiality and conflicts of interest will be resolved. Applications or requests for reinstatement that include a petition to waive the requirement that the primary tutor or primary tutor's employer be the law clerk's employer, may be approved under the following conditions:

(a) The Board received applications for the law clerk, primary tutor and the *employing lawyer*. The employing lawyer must establish that the clerk's employment includes tasks and duties that contribute to the practical aspects of engaging in the practice of law required by APR 6 (b) (3).

(b) The Employing lawyer must at least meet the requirements of an assistant tutor (whether or not they teach a course). Regulation 4-2A defines the assistant tutor's qualifications as meeting all the qualifications of a tutor except that only five years of active practice is required.

(c) The minimum three hours a week of personal supervision between the law clerk and the tutor required by APR 6 (d)(2) must occur in person. Because the pair do not otherwise work together, a minimum amount of personal contact is required.

(d) The law clerk, employing lawyer and primary tutor must have regular contact. It is anticipated that the lawyer's develop a relationship to discuss the progress of the law clerk and guide work and course assignments as required of the tutor in Regulation 4-1 D(7).

(e) The employing lawyer must agree to contribute to the monthly certificate. The certificate will include prompts for what the employing lawyer should include in their report.

(f) All three participants must agree to meet with the liaison for their initial interview and at any other meeting the Law Clerk Board Requests. The employing lawyer, as the provider of the practical and experiential component of the program, may not be a passive participant.

(g) A law clerk with an employment waiver may not work or learn in a primarily virtual/remote office situation.

(3) Approval of employment with an out-of-state employer is within the discretion of the Board. The applicant and proposed tutor must explicitly describe the out-of-state location, its proximity to Washington, the type and amount of interaction with the laws and courts of Washington state, and how the purpose of the program will be maintained. Applications or requests for reinstatement that include a petition to waive the requirement that the law clerk be employed in Washington state may be approved under the following conditions:

(a) The primary tutor must be an active member of the Bar Association and intend to remain so throughout the law clerk's course of study.

(b) The primary tutor must certify that the tutor's, or the tutor's workplace, has a case load with at least 51 percent of the cases involving Washington law or being subject to the jurisdiction of the Washington state courts, and that the law clerk will spend some work time on these cases.

(c) The tutor must agree to maintain a caseload that has substantial contact with Washington State. Substantial contact means having a caseload where at least 51 percent of the cases on average in a given year involve Washington law or are subject to the jurisdiction of Washington State courts. The tutor must annually certify that the caseload meets the substantial contact definition and must notify the Board if the caseload fails to meet the substantial contact definition.

B. Submit the following with the application fee by the deadlines established by the Board:

(1) A completed program application and all required supplemental information;

(2) Official transcripts from all undergraduate and graduate institutions attended, which show the grades received, the date a bachelor's degree was awarded by a school with approved accreditation, and the subject in which it was granted;

(3) Two letters attesting to the applicant's good moral character and appraising the applicant's ability to undertake and successfully complete the program; and

(4) The tutor's application establishing the applicant's and the tutor's eligibility and certifying to compliance with APR 6 and these regulations.

C. Appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board, the Board of Governors, or pursuant to APR 20-24.3. No decision regarding the good moral character of an applicant made in connection with a program pursuant to APR 6 is binding on the Bar Association or Character and Fitness Board at the time an applicant applies for admission to practice law and membership in the Bar Association, and such issues may be reinvestigated and reconsidered by Bar staff, Bar Counsel, and the Character and Fitness Board. The Bar Association may require any disclosures and conditions of applicant and tutor that appear reasonably necessary for enrollment in the program.

3-2 Advanced Standing. A petition to request consideration for advanced standing for law school courses completed or previous enrollment in the law clerk program must be submitted with an application for enrollment.

A. Petition for Advanced Standing. All law clerks must pass the prescribed courses established in these regulations. No courses may be waived. Applicants seeking advanced standing must establish, to the satisfaction of the Board, that the courses for which they seek credit are equivalent to specified prescribed courses in these regulations. The petition shall include:

(1) A list of courses in the law clerk program for which advanced standing is sought. No advanced standing may be sought for Basic Legal Skills;

(2) A list of law clerk program courses completed during a prior enrollment in the program to be used to satisfy the request for advanced standing. Law clerk program courses completed more than five years prior to the application date will not be considered for advanced standing.

(3) A list of the law school courses and course descriptions from the law school course catalogue with an explanation of how each course is equivalent to the law clerk program courses;

(4) Official transcripts for the law school courses. Courses in which the applicant earned a grade less than a B- or 2.7 and/or completed more than five years prior to the Law Clerk Program application date will not be considered. For applicants admitted to the practice of law in a foreign jurisdiction, grades older than five years may be considered in combination with proof of current good standing and active practice of law for three out of the last five years; and

(5) Any additional information the applicant believes will be helpful or which the Board has requested.

B. Determination. In granting advanced standing, the Board will specify:

(1) Any prescribed courses or portions thereof that the law clerk applicant has been deemed to have completed;

(2) Any prescribed courses or portions thereof that the law clerk applicant will be required to pass; and

(3) Any law school courses that the law clerk applicant will be allowed to use to satisfy the fourth-year curriculum.

3-3 Additional and Remedial Courses. In its discretion, the Board may also require the law clerk applicant to take and pass certain sub-

jects which appear necessary to prepare the applicant to practice law in this state, regardless of whether or not those courses are prescribed courses or approved elective courses. The Board may require the law clerk applicant to take remedial or other legal or nonlegal instruction.

3-4 Notification. The Board will notify an applicant of acceptance or rejection of the application for enrollment. If accepted, the notification will specify the month the law clerk is authorized to begin the program. If rejected, the notification will provide the basis for the rejection.

3-5 Acknowledgement of Enrollment.

A. Before beginning the program the law clerk must acknowledge enrollment, pay the annual fee, and agree to disclose in writing to the Bar Association any new conduct or information relevant to the questions in the program application while enrolled in the law clerk program.

B. The Bar Association may require the law clerk to disclose to the tutor any new conduct or information disclosed by the law clerk during enrollment.

C. All programs shall begin the first day of the month specified by the law clerk in the acknowledgement of enrollment; this will be the enrollment date. The enrollment date must not be more than six months after the date of approval by the Board. Any changes to the enrollment date must be amended with a new acknowledgement of enrollment.

Regulation 4. TUTORS

4-1 Tutor's Responsibilities.

A. The tutor is responsible for supervising and guiding the law clerk's education, and for setting an example of the highest ethical and professional conduct. The tutor has an obligation not only to instruct the law clerk, but to ensure only fully competent law clerks are deemed to be qualified to sit for the bar examination.

B. In addition to any other requirements, a potential tutor shall appear for an interview, provide any additional information or proof, or cooperate in any investigation, as may be directed by the Board.

C. The tutor is required to continue to meet the qualifications for a tutor established in APR 6 and remain in good standing throughout the period of the clerkship.

D. In addition to the "personal supervision" required by APR 6, defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments, the tutor's responsibilities include:

(1) Guiding and assisting the law clerk's study of each subject, using the course descriptions as a basic outline of course content and emphasizing pertinent state law;

(2) Choosing textbooks, casebooks, and other written, legal materials, selected from those in use at any of the law schools in the state, to guide the law clerk through the subject matter of each course;

(3) Assisting the law clerk in planning the sequence and timing of each prescribed course and of the fourth-year curriculum;

(4) Evaluating the law clerk's progress;

(5) Developing, administering, and grading the monthly examinations;

(6) Submitting the graded monthly examination with written comments and the required certificate to the Board within 10 days of the end of the month in which it was administered;

(7) Assigning the law clerk tasks and duties which are intended to contribute to the law clerk's understanding of the practical aspects of engaging in the practice of law; and

(8) Providing the law clerk with an adequate work station and with reasonable access to an adequate law library.

4-2 Assistant Tutors. When an assistant tutor is proposed to teach a course instead of the primary tutor, the Board may approve the application(s) of one or more assistant tutors for up to 6 months of each year of study. The assistant tutor may teach only the course(s) for which the assistant tutor was approved by the Board. Informal assistance to a lesser degree, by other lawyers, judges or staff is generally acceptable without specific approval.

A. Qualification. The assistant tutor shall meet all the qualifications and continuing qualifications established for the tutor in APR 6 and these regulations, except the assistant tutor shall have been actively and continuously engaged in the practice of law or have held the required judicial position for at least five years immediately preceding the commencement of the assistant tutorship.

B. Scope of Delegation.

(1) The assistant tutor may undertake the following duties for the course(s) for which he/she is approved:

i. Choosing textbooks, casebooks, and resource materials for the course.

ii. Guiding and assisting the law clerk's study of the subject, using the course description as a basic outline of course content and emphasizing pertinent state law.

iii. Developing, administering, and grading the monthly examination.

(2) The primary tutor shall:

i. In consultation with the assistant tutor, determine if the law clerk passed or failed the course;

ii. Remain ultimately responsible for the conduct of the clerkship;

iii. Complete all monthly and other certificates; and

iv. Appear with the law clerk at all oral evaluations with the Board, although the assistant tutor may also be in attendance where appropriate.

Regulation 5. COURSE OF STUDY

5-1 Structure.

A. The program is designed to be a four year course of study in combination with employment. Each year consists of 12 months during which the law clerk is required to study 6 subjects, pass 12 exams and submit 3 book reports.

B. The program is structured so the law clerk studies only one subject at a time and passes it before beginning the next subject. All courses in a given year, including jurisprudence reading, must be completed before the law clerk may study courses in a subsequent year. A law clerk may not take more course work in any calendar year than is prescribed by these regulations without prior Board approval. The length of time to be devoted to each subject is prescribed by regulation.

C. A law clerk may take leave or vacation in increments of one month upon written notice to the Board. A law clerk may take leave of longer than one month only upon advance written request and approval

by the Board. Exceptions for emergency medical situations may be considered. A law clerk may not request leave of more than 12 consecutive months.

5-2 Subjects.

A. Jurisprudence Reading. Every law clerk is required to take the Jurisprudence course, which is a four year reading program, intended to familiarize the law clerk with legal history, philosophy, theory and biography.

B. First Year. To complete the first year of the program, the law clerk shall pass the following prescribed courses. The course entitled "Basic Legal Skills" shall be studied and passed first. Thereafter, the courses may be studied in any order.

Course	Months
Basic Legal Skills	2
Civil Procedure	2
Torts	2
Contracts	2
Agency & Partnerships	2
Property	2

C. Second Year. To complete the second year of the program, the law clerk shall pass the following prescribed courses, in any order:

Course	Months
Community Property	1
Criminal Law	2
Constitutional Law I	2
Corporations	2
Evidence	2
Uniform Commercial Code	3

D. Third Year. To complete the third year of the program, the law clerk shall pass the following prescribed courses, in any order:

Course	Months
Constitutional Law II	2
Professional Responsibility	1
Domestic Relations	2
Wills, Estates, Trusts, Probate	3
Conflict of Laws	2
Criminal Procedure	2

E. Fourth Year. The fourth year of the program is devoted to elective subjects. The law clerk, in consultation with the tutor, shall develop a fourth year curriculum of six electives. The law clerk shall then make a written petition to the Board, at least six months prior to the commencement of the fourth year, for approval of the proposed fourth year course of study.

(1) Under no circumstances will approval or recognition be given to courses directed to fulfillment of a continuing legal or other professional education requirement, or intended to provide a preparation for a bar examination, or taught through correspondence or any equivalent.

(2) Recommended Electives. The following electives are recommended because they will broaden the law clerk's legal background, perspective, and skills. A law clerk may petition the Board for approval

of alternative areas of study by including a detailed course description for each proposed course.

Course	Months
Administrative Law	2
Personal Federal Income Tax	2
Land Use	2
Labor Law	2
Remedies	2
Antitrust	2
Creditor-Debtor Relations	2
Securities Regulation	2
Legal Accounting	2
International Law	2
Insurance	2
Consumer Protection	2
Environmental Law	2
Real Property Security	2
American Indian Law	2
Trial Practicum	2
Elder and Disability Law	2

5-3 Monthly Examinations. The tutor is responsible for the content and administration of all monthly examinations.

A. Content. Although no specific substantive content is prescribed by the Board, it is anticipated such an examination will test the law clerk's comprehension of the current subject matter, and the law clerk's understanding of the ethical, professional and practical aspects of practicing law.

B. Course Descriptions. The course descriptions in Regulation 7 state the minimum level of knowledge the Board expects a law clerk to obtain in each subject, and provide guidance to the tutor in formulating monthly examinations.

C. Timing. The tutor shall administer an examination covering that month's subjects to the law clerk on or before the last day of each month.

D. Grading. All courses in the program are to be graded as pass/fail only. "Pass" means that the law clerk has exhibited reasonable comprehension of the theory and practice of any given subject to the satisfaction of the tutor and the Board. If a law clerk earns a "Fail" grade the law clerk shall continue to study the subject for an additional month.

E. Certificates. Within 10 days following the month of study, the tutor shall submit the exam, including the grade given for the examination and written comments to the law clerk, and a monthly certificate, stating the law clerk's hours engaged in employment, study and the tutor's personal supervision.

(1) If an exam is not given, the monthly certificate shall be submitted stating the reason.

(2) The date of receipt will be recorded. A pattern of late certificates may be cause for remedial action or termination from the program.

5-4 Board Evaluations. At intervals as may be established by the Board, the Board shall conduct an evaluation at which the law clerk

and the tutor shall be personally present. The law clerk and the tutor shall be personally present when required by the Board.

A. The Board will not normally test the law clerk's substantive knowledge, but may do so to evaluate whether or not the law clerk is progressing satisfactorily in the program.

B. Materials. In making its evaluation, the Board may consider:

- (1) The substantive contents of all monthly examinations;
- (2) The tutor's monthly certificates and timeliness of receipt;
- (3) Any written course work; and
- (4) Any other written or oral materials deemed to be pertinent by the Board.

C. Decision. At the conclusion of the evaluation, the Board may:

- (1) Determine the law clerk has successfully mastered the preceding year's course work and is eligible and authorized to begin the next year of the program;
- (2) Determine the law clerk has satisfactorily completed the program and is qualified to sit for the bar examination, subject to any other requirements for sitting for the bar examination as set forth in the Admission and Practice Rules;
- (3) Advise the tutor regarding the quality, timeliness, or appropriateness of coursework, exams, and certificates;
- (4) Direct the law clerk to repeat designated prescribed or elective courses, devote more time to each course, take remedial legal or nonlegal instruction, appear before the Board at more frequent intervals for an examination which may be written or oral;
- (5) Require the law clerk to change tutors;
- (6) Advise the law clerk that the law clerk's enrollment in the program is terminated.

D. At the conclusion of any evaluation, the Board will provide a brief written summary of its decision to the law clerk and to the tutor.

Regulation 6. WITHDRAWAL AND TERMINATION OF ENROLLMENT

6-1 Withdrawal by Law Clerk.

A. Voluntary. A law clerk who wishes to withdraw from the program shall notify the Board in writing, filed as required by Regulation 2-4.

B. Involuntary. A law clerk will be deemed to have withdrawn from the program if:

- (1) The law clerk is absent from the program for more than one month in any calendar year without the Board's prior approval of a petition for a leave of absence. Failure to submit exams and tutor's certificates shall be interpreted as absence from the program;
- (2) The law clerk takes a leave of absence from the program for more than 12 consecutive months; or
- (3) The annual fee is not paid by the established deadline.

6-2 Withdrawal by Tutor.

A. Voluntary. A tutor who wishes to withdraw from that position shall notify the Board and the law clerk in writing, filed as required by Regulation 2-4.

B. Involuntary. If a disciplinary sanction is imposed upon a tutor, the tutor will be deemed to have withdrawn from that position. The Board may determine that the imposition of a sanction does not necessitate automatic withdrawal.

C. The Board may direct a law clerk to change tutors if approval of a tutor is withdrawn.

6-3 Termination of Enrollment by the Board.

A. The Board must terminate a law clerk's participation in the program for:

- (1) Failure to complete the prescribed course of study within 6 years from the date of enrollment; or
- (2) A determination by the Board that the clerk does not meet the character or fitness requirement for continued enrollment in the program

B. The Board may terminate a law clerk's participation in the program for the law clerk's failure to otherwise comply with the requirements of the program or a decision or order of the Board.

Regulation 7. COURSE DESCRIPTIONS

7-1 Jurisprudence Reading. A four-year course of reading consisting of three (3) books each year, to be selected from a list approved by the Board. The Board has discretion to select and require specific books which must be read to meet this requirement.

A. Upon completion of each book, the law clerk shall prepare and submit to the Board a short book report. Reports should be submitted every 4 months.

B. A year's coursework shall not be deemed completed unless the book reports are submitted. A law clerk may not begin the next year's course work until the current year's book reports are completed and submitted to the Board.

7-2 First Year Clerkship.

A. Basic Legal Skills. Introduction to basic legal reference materials (including judicial, legislative and administrative primary and secondary sources) and their use; techniques of legal reasoning, analysis and synthesis; legal writing styles. Familiarization with the structure of the federal and state court systems; the concept of case law in a common law jurisdiction; fundamental principles of stare decisis and precedent; the legislative process; principles of statutory construction and interpretation. Law Clerk should be assigned projects of increasing difficulty such as: case abstracts; analysis of a trial record to identify issues; short quizzes to demonstrate ability to locate primary and secondary sources; office memoranda or a trial oriented memorandum of authorities to demonstrate ability to find the law applicable to a factual situation and to differentiate unfavorable authority; an appellate level brief.

B. Civil Procedure. Fundamentals of pleading and procedure in civil litigation, as structured by the Federal Rules of Civil Procedure and the Washington Superior Court Civil Rules. Study shall include: jurisdiction over the person and subject matter; venue; time limits; commencement of actions; pleadings; parties; impleader; interpleader; motions; class actions and intervention; res judicata and collateral estoppel; discovery and other pretrial devices; joinder; summary judgment; judgments; post-trial motions. Law Clerk should be required to draft summons; pleadings; motions; findings of fact and conclusions of law; judgment; interrogatories; requests for admission.

C. Contracts. Study of legal principles related to the formation, operation and termination of the legal relation called contract. General topics include: offer and acceptance; consideration; issues of interpretation; conditions; performance; breach; damages or other remedies; discharge; the parol-evidence rule; the statute of frauds; illegality; assignments; beneficiaries.

D. Property. Study of the ownership, use, and transfer of real property in both historical and modern times. Topics include: estates and interests in land; concurrent ownership; easements; equitable ser-

vitudes; conveyances; real estate contracts; nuisance; adverse possession; land use controls; landlord-tenant; the recording system; title insurance.

E. Torts. Study of the historical development, principles, concepts and purposes of the law relating to redress of private injuries. Topics include: conversion; trespass; nuisance; intentional tort; negligence; strict liability; products liability; concepts of duty, causation, and damage; limitations on liability such as proximate cause, contributory negligence, assumption of the risk, immunity; comparative negligence.

F. Agency and Partnership. Legal principles of agency law including definition of the agency relationship, authority and power of agents, notice and knowledge, rights and duties between participants in the relationship, termination of agency relationship, master-servant relationship. Partnership law using the Revised Uniform Partnership Act as a model code. Topics include: formation, partners' rights and duties between themselves, powers, unauthorized acts, notice and knowledge, incoming partner liability, indemnification, contribution, partner's two-fold ownership interest, co-ownership interests and liabilities, creditor's claims and remedies, dissolution events, winding up, distribution of asset rules. Study of the Uniform Limited Partnership Act and joint venture law.

7-3 Second Year Clerkship.

A. Community Property. Relationship necessary for creation of community property, classification of property as community or separate, management and control of community assets, rights of creditors, disposition of community property upon dissolution of the community, problems of conflict of laws encountered in transactions with common-law jurisdictions.

B. Criminal Law. Study of substantive criminal law including concepts such as elements of criminal responsibility; principles of justification and excuse; parties; attempts, conspiracy; specific crimes; statutory interpretation; some introduction to sentencing philosophies and to juvenile offender law.

C. Constitutional Law I. Course covers basic constitutional document, excluding the Bill of Rights. Topics include: taxing clause, commerce clause, contract clause, war power and treaty power. Allocation and distribution of power within the federal system, and between federal and state systems, including economic regulatory power and police power; limitations on powers of state and national governments; constitutional role of the courts.

D. Corporations. Business corporations for profit using the Model Business Corporations Act and state law provisions. Topics include: promotion, formation and organization; theories of corporations; corporate purposes and powers; disregard of corporateness; common law and statutory duties and liabilities of shareholders, directors, and officers; allocation of control, profit and risk; rights of shareholders; derivative suits and class action suits by shareholders; mergers and consolidations, sale of assets, and other fundamental changes in corporate structure; corporate dissolution; SEC proxy rules and Rule 10(b)(5).

E. Evidence. Rules of proof applicable to judicial trials. Topics include: admission and exclusion of evidence, relevancy, hearsay rule and its exceptions, authentication of writings, the best evidence rule, examination and competency of witnesses, privileges, opinion and expert testimony, demonstrative evidence, presumptions, burden of proof, judicial notice.

F. Uniform Commercial Code. Course covers Articles I, II, III, IV, VI, VII, and X of the Uniform Commercial Code. Course first examines problems in the sale of goods as governed by Article II (with a brief survey of its antecedents) including: warranty, risk of loss, acceptance and rejection, tender of delivery, revocation, remedies for breach of contract. Some discussion of other laws relating to warranties, Article VI on Bulk Sales, and Article VII on documents of title and bills of lading. Course next examines commercial paper, bank deposits and collections under UCC Articles III and IV, including: formation and use of negotiable instruments with an emphasis on checks, rights and liability of parties to negotiable instruments, defenses to liability, study of bank collection process and bank's relationship with its customers. Course finally examines secured transactions under UCC Article IX, including: types of security interests, perfection of such interests, priority of claims, rights to proceeds of collateral, multi-state transactions, rights of parties after debtor's default.

7-4 Third Year Clerkship.

A. Constitutional Law II. Course examines the Bill of Rights. Topics include: free speech, prior restraint, obscenity, libel, fair trial and free press, loyalty oaths, compulsory disclosure laws, sedition and national security, picketing, symbolic conduct, protest, subversive advocacy; due process; equal protection development and analysis; fundamental rights and entitlements; religious clause; jury trial right in civil actions; constitutional protection and interpretation under state as contrasted to federal constitutional documents.

B. Professional Responsibility. Study of legal ethics and a lawyer's roles in society, including lawyer-client relations, lawyer-public relations, and a lawyer's responsibility to the courts and the profession. Topics also include: organization of an integrated bar, Supreme Court's supervisory powers, professional service corporations, pre-paid legal services arrangements, malpractice, the Admission to Practice Rules, the Rules for the Enforcement of Lawyer Conduct, the Rules of Professional Conduct and the ABA Model Rules of Professional Conduct.

C. Domestic Relations. Study of the substantive and procedural law affecting the formation, disintegration and dissolution of family relations, including those of husband and wife, parent and child, and non-marital. Topics include: jurisdiction, procedure, costs, maintenance, child support, property division, custody, modification and enforcement of orders, some discussion of conflict of laws, taxation, URESA and UPA.

D. Wills, Estates, Trusts, Probate. Study of the voluntary transmission of assets in contemplation of and at death. Topics include: disposition by will, creation of and disposition by a trust, effectiveness of the disposition in the creation of present and future interests in property, intestate succession, construction problems, powers of appointment, restrictions on perpetuities and accumulations, alternative methods of wealth transmission, some introduction to the basic tax framework important in formulating plans of disposition, and fiduciary administration and management of decedent's estates and trusts.

E. Conflict of Laws. Study of that part of the law that determines by which state's law a legal problem will be solved. Topics include: choice-of-law problems in torts, contracts, property, domestic relations, administration of estates, and business associations.

F. Criminal Procedure. Constitutional doctrines governing criminal procedure. Topics include: Fourth, Fifth, Sixth and Eighth Amendments, pertinent due process provisions of Fourteenth Amendment; search and seizure, confessions, identification procedures, right to counsel, arrest, jury trial, double jeopardy, and pertinent provisions of the state constitution. The Superior Court Criminal Rules are examined as they relate to the procedural aspects of raising the constitutional issues.

7-5 Fourth Year Clerkship; Electives.

A. Administrative Law. Study of the administrative process and its role in the legal system. Subjects include: powers and procedures of administrative agencies, relationship of administrative agencies to executive, judicial and legislative departments of government.

B. Personal Federal Income Tax. Examination of federal income tax law as it applies to individuals, but not in their role as partners, shareholders, or beneficiaries of trusts or estates. Topics include: concepts of income, gross income, net income, when income should be taxed, to whom it should be taxed and its character as unearned, earned or capital gain income. Deductions are also examined in detail.

C. Land Use. Study of legal principles and constitutional limitations affecting systems for public regulation of the use of private land. Topics include: planning, zoning, variances, special use permits, subdivision controls, environmental legislation, nuisance, eminent domain, powers of public agencies, "taking" without just compensation, due process, administrative procedures and judicial review, exclusionary zoning and growth control.

D. Labor Law. Study of the organizational rights of employees and unions and the governance of the use of economic force by employers and unions. Other topics include the duty to bargain collectively, the manner in which collective bargaining is conducted, subjects to which it extends, administration and enforcement of collective bargaining agreements, and relations between a union and its members.

E. Remedies. Historical development and use of judicial remedies that provide relief for past or potential injuries to interests in real or personal property. Topics include: history of equity, power of equity courts, restitution, specific performance, injunctions, equitable defenses, compensatory and punitive damages, unjust enrichment, constructive trusts, equitable liens, tracing and subrogation.

F. Antitrust. An examination of the antitrust laws including the Sherman Act, Clayton Act, Robinson-Patman Act, Federal Trade Commission Act; and topics such as monopolies, restraint of trade, mergers, price fixing, boycotts, market allocation, tying arrangements, exclusive dealing and state antitrust law.

G. Creditor-Debtor Relations. Rights and remedies of creditors and debtors under the Federal Bankruptcy Code, particularly in straight bankruptcy cases and under state laws relating to judgments, judgment liens, executions, attachments, garnishments, fraudulent conveyances, compositions, assignments for the benefit of creditors, and debtor's exemptions.

H. Securities Regulation. Study of legal control over the issuance and distribution of corporate securities. Topics include: registration and distribution of securities under the Federal Securities Act of 1933, including the definition of a security; basic structure, applicability, and prohibitions of the Act; underwriting; preparation, processing and use of registration statement and prospectuses; exemptions from registration under the Act, including Regulation A, private offerings, and business reorganizations and recapitalizations; secon-

dary distributions; brokers transactions; and civil liability for violation of the Act. Registration, distribution and regulation of securities under state "blue sky" laws, including the State of Washington Securities Act. Regulation of franchise arrangements under the Federal Securities Act of 1933 and the State of Washington Franchise Investment Protection Act. Regulation of national securities exchanges and broker-dealers; registration and listing of securities on national securities exchanges; periodic reporting and public disclosure of information requirements for companies whose securities are traded on national securities exchanges; and civil liability for violation of the Act. Regulation of mutual funds and other types of investment companies under the Federal Investment Company Act of 1940.

I. Legal Accounting. Bookkeeping, use of journals and ledgers, analysis of financial statements, professional responsibility of a lawyer to a corporate client and relationship to accountants involved in a client's financial affairs. Course also addresses lawyer's accounting and recordkeeping obligations to his or her client under the Rules of Professional Conduct or its successor.

J. International Law. Legal process by which interests are adjusted and authoritative decisions made on the international level. Topics include: nature and source of international law, law of treaties, jurisdiction, some discussion of international legal organizations, state responsibility and international claims for wrongs to citizens abroad, and application of international law in United States courts.

K. Insurance. Legal principles governing formal mechanisms for the distribution of risk of loss. Emphasis is on property, casualty, life insurance. Topics include: marketing of insurance, indemnity principle, insurable interest, amount of recovery and subrogation, persons and interests protected, brokers, and identification of risks transferred by insurance.

L. Consumer Protection. Selected laws for protection of consumers, including federal, state and local laws that prohibit deceptive advertising, mandate disclosure of information, regulate credit practices, license occupations, establish quality standards for products and services, and condemn "unfair" practices. Emphasis on the theoretical justifications for governmental intervention in the marketplace. Attention to problems of consumer justice administration, including informal dispute resolution procedures and representation of consumer interests in administrative and legislative proceedings.

M. Environmental Law. Survey of citizen, legislative, administrative and judicial action in response to the reality and the threat of man-induced alteration to the natural environment; focuses on National Environmental Policy Act, federal air and water pollution control legislation, state air and water pollution control statutes and shoreline management.

N. Real Property Security. Methods by which an obligation may be secured by real property of the obligor or of a third person. Covers the common-law principles and statutes that regulate the creation, operation, and extinguishment of the legal relations known as the real property mortgage and deed of trust, considered in the context of financing the purchase or development of land. Some attention must be given to principles governing operation of the lending industry.

O. American Indian Law. Tribal/state/federal judicial and legislative jurisdiction in Indian country. Criminal and civil jurisdiction. Indian religious freedom. Indian water rights. Special hunting and fishing rights. History of federal laws and policies towards Indians. Current federal law and policy. Judicial trends in Indian cases.

The federal trust responsibility toward Indian tribes; tribal powers of self government. Tribal courts. Federal supremacy (preemption) over state law in Indian country.

P. Trial Practicum. Advanced course in preparing for trial. Resources should include sample cases and text books as well as evidence and civil rules. The clerk will write a fully researched brief, motions in limine, prepare ER 904; prepare objections to opposition motions in limine and ER 904; argue pretrial motions; research and perform voir dire; prepare and give an opening statement; prepare and give a direct exam with introduction of multiple exhibits; prepare and give a cross exam with introduction of exhibits; draft and argue jury instructions; prepare and give a closing statement.

Then to be assigned an actual case in litigation and add to the above, a mock trial which includes: prepared statement of the "story" of the case; illustrate how each witness fits into the story and what evidence is to be used with each witness; develop direct examination of one witness, cross examination of one witness and at least one exhibit for each witness; prepare and give an opening; conduct voir dire of volunteers; examine a witness; handle objections; and argue sample motions in limine. The clerk is expected to attend court proceedings regularly, and participate to the extent permitted by APR 9, if licensed.

Q. Elder and Disability Law. An examination and study of the complex legal needs of people who are elderly and people who have a disability. This course examines major issues and substantive laws affecting people who are elderly or who have a disability including income protection, asset preservation and protection, options for financing long-term care and healthcare, planning for incapacity and the use of traditional and nontraditional estate and life care planning devices such as wills, trusts, special needs trusts, powers of attorney, guardianships, adult protection actions and other devices but in the context of the needs of people who are elderly or who have a disability. This course will also address the special ethical challenges and concerns of lawyers who are practicing elder and disability law.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the state supreme court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 23-04-001

AGENDA

PARKS AND RECREATION
COMMISSION

[Filed January 18, 2023, 12:23 p.m.]

In accordance with RCW 34.05.314, the state parks and recreation commission (parks) submits its semi-annual agenda for rules under development for publishing in the Washington State Register.

Parks is conducting a thorough review and may have additional rules as conditions arise. Rule changes filed from January to June 2023 are located on the agency's website at <https://parks.state.wa.us/179/rules-regulations> [<https://parks.state.wa.us/179/rules-regulations>].

Any questions related to the specific rules identified in the agenda can be directed to the manager or Valeria Veasley, Rules Coordinator, 1111 Israel Road, Olympia, WA 98504-2560, 360-902-8597, or valeria.veasley@parks.wa.gov.

**Semi-Annual Rule-Making Agenda
January 1 - July 30, 2023**

WAC Citation	Reason and/or Expected Outcome	Contact	Status of Rule Making	Anticipated Date of Adoption	Comments
352-40-030 When and where can I access state parks' public records?	Update phone number for the communications office; minor change.	Brian Thrasher Records Manager Brian.Thrasher@parks.wa.gov 360-902-8514	Will file an expedited rule making CR-105		
352-40-060 Who do I contact to request state parks' public records?	The address for parks' external-facing website in this chapter is [no] longer valid.	Brian Thrasher Records Manager Brian.Thrasher@parks.wa.gov 360-902-8514	Will file an expedited rule making CR-105		
352-60, Mechanically propelled personal hydrofoils and mechanically propelled surfboards and engine cut-off switch	Establishing new rules under this chapter.	Matthew Stowers Boating Program Specialist Matt.Stowers@parks.wa.gov 360-791-4668	Filed CR-101 1/5/2023	Going to the state parks commission in July 2023	
352-60, Definitions and fire extinguisher	Clarifying definitions and ensuring state statute is consistent with current federal regulations under C.F.R.	Matthew Stowers Boating Program Specialist Matt.Stowers@parks.wa.gov 360-791-4668	Filed CR-101 1/5/2023	Going to the state parks commission in July 2023	
352-78		Matthew Stowers Boating Program Specialist Matt.Stowers@parks.wa.gov 360-791-4668	Filed CR-101 1/6/2023	Going to the state parks commission in July 2023	

Valeria Veasley
Management Analyst

WSR 23-04-002

HEALTH CARE AUTHORITY

[Filed January 18, 2023, 4:30 p.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 23-0010 Behavioral Health Services Update.

Effective Date: July 1, 2023.

Description: The health care authority (HCA) previously filed notice WSR 21-18-054 advising of the intent to submit SPA 21-0003 to update information in the medicaid state plan, Attachment 3, Section 13.d Rehabilitation Services to reformat the section to be more representative of the current behavioral health system (as opposed to the current structure which separates substance use disorder services and mental health services), reduce redundancies in the language, and update agency and licensing names.

SPA 21-0003 was not submitted to the Centers for Medicare and Medicaid Services (CMS) as planned due to ongoing updates and improvements to this section. Therefore, HCA intends to submit SPA 23-0010 to:

- Reformat the section to be more representative of the current behavioral health system (as opposed to the current structure which separates substance use disorder services and mental health services);
- Align with new formatting requirements from CMS;
- Expand the provider types who can provide certain services, including being part of a crisis team, and those who can provide substance use disorder treatment services;
- Remove outdated mental health peer support language;
- Increase transition of care services available to people with a substance use disorder; and
- If approved by the legislature, allow medicaid funds to be used on problem gambling treatment services, which are currently paid for with state funds.

This SPA update will create the foundation for future system/service improvements, including removing barriers to deliver more integrated care.

SPA 23-0010 is expected to have no material effect on the annual aggregate expenditures/payments for rehabilitation services not already accounted for through agency budget requests to the legislature.

To request a copy of the draft SPA or return any comments, please contact the person named below. Please note that all comments are subject to public review and disclosure, as are the names of those who comment.

CONTACT: Jessica Diaz, Managed Care Programs, 626 8th Avenue S.E., Olympia, WA 98501, TRS (TDD/TTY) 711, email jessica.diaz@hca.wa.gov.

WSR 23-04-009
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
AFRICAN AMERICAN AFFAIRS
[Filed January 19, 2023, 2:34 p.m.]

2023 Commission Meeting Schedule

January 6, 2023	Olympia, Washington
March 24, 2023	Bremerton, Washington
May 19, 2023	Vancouver, Washington
September 22, 2023	Everett, Washington
November 17, 2023	Tacoma, Washington

WSR 23-04-016

NOTICE OF PUBLIC MEETINGS

HORSE RACING COMMISSION

[Filed January 20, 2023, 12:32 p.m.]

The Washington horse racing commission (WHRC) is revising its published notice of 2023 meeting dates and locations.

The meeting scheduled for March 10, 2023, at 9:30 a.m., will now be held on March 14, 2023. The location will remain at Emerald Downs Fifth Floor and will be available via Zoom.

2023 MEETING DATES

(Location and Format Subject to Change)

DATE:	TOPIC:	LOCATION:
Friday, January 13, 2023	Approval of split sample labs	Emerald Downs Fifth Floor Available via Zoom
Friday, February 10, 2023	Emerald Downs officials Class C race dates Class C officials	Emerald Downs Fifth Floor Available via Zoom
Tuesday, March 14, 2023	Twin Spires renewal; Ebet renewal	Emerald Downs Fifth Floor Available via Zoom
Friday, April 14, 2023	NYRABets renewal	Emerald Downs Fifth Floor Available via Zoom
May No meeting		
Friday, June 9, 2023	TVG renewal	Emerald Downs Fifth Floor Available via Zoom
Friday, July 28, 2023	Watch and wager renewal Xpress Bet renewal	Emerald Downs Fifth Floor Available via Zoom
August No meeting		
Friday, September 8, 2023	Approval of agency budget Request legislation Annual review of license fees	Emerald Downs Fifth Floor Available via Zoom
Friday, October 13, 2023	Annual review of source market fee distribution WHRC meeting dates for 2024	Emerald Downs Fifth Floor Available via Zoom
Thursday, November 9, 2023	End of meet reports - veterinarian and stewards Emerald Downs date request	Emerald Downs Fifth Floor Available via Zoom
December No meeting		

WSR 23-04-017

RULES COORDINATOR

HORSE RACING COMMISSION

[Filed January 20, 2023, 1:50 p.m.]

Pursuant to RCW 34.05.312, the rules coordinator for the Washington Horse Racing Commission is Amanda Benton, 6326 Martin Way, Suite 209, Olympia, WA 98516, phone 360-459-6462, fax 360-459-6461, email amanda.benton@whrc.wa.gov.

Douglas L. Moore
Executive Secretary

WSR 23-04-018

PUBLIC RECORDS OFFICER

HORSE RACING COMMISSION

[Filed January 20, 2023, 1:50 p.m.]

Pursuant to RCW 42.56.580, the public records officer for the Washington Horse Racing Commission is Amanda Benton, 6326 Martin Way, Suite 209, Olympia, WA 98516, phone 360-459-6462, fax 360-459-6461, email amanda.benton@whrc.wa.gov.

Douglas L. Moore
Executive Secretary

WSR 23-04-020
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Board of Massage)
 [Filed January 20, 2023, 3:44 p.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is **revised schedule** of the regular meetings for the department of health (DOH), board of massage (board), for the year 2023. The board meetings are open to the public and access for persons with disabilities may be arranged with advance notice. Please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via listserv and the DOH website (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the board reserves the right to change or amend agendas at the meeting.

Date	Time	Location
January 6, 2023	9:00 a.m.	Hybrid format Physical location: Olympia
March 10, 2023	9:00 a.m.	Hybrid format Physical location: Olympia
May 5, 2023	9:00 a.m.	Hybrid format Physical location: Olympia
July 14, 2023	9:00 a.m.	Hybrid format Physical location: Olympia
September 22, 2023	9:00 a.m.	Hybrid format Physical location: Olympia
November 9, 2023	9:00 a.m.	Hybrid format Physical location: Olympia

If you need further information, please contact Megan Maxey, Program Manager, Board of Massage, DOH, P.O. Box 47852, Olympia, WA 98504-7852, 360-236-4945, 360-236-2901, megan.maxey@doh.wa.gov, www.doh.wa.gov.

Please be advised the board is required to comply with the Public Records Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

WSR 23-04-028
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed January 25, 2023, 10:48 a.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

Economic Services Administration
Division of Child Support (DCS)

Document Title: Policy Clarification Memo (PCM) 23-001: Acceptance of Service of Process.

Subject: DCS PCM 23-001.

Effective Date: January 6, 2023.

Document Description: This PCM explains how DCS created a new acceptance of service form, the DSHS 09-300B, allowing staff to prove service in exceptional circumstances.

To receive a copy of the interpretive or policy statements, contact Kirsten Turner, DCS, P.O. Box 11520, Tacoma, WA 98411-5520, phone 360-664-5178, TDD/TTY 360-753-9122, fax 360-664-5342, email Kirsten.Turner@dshs.wa.gov, website <http://www.dshs.wa.gov/dcs/>.

WSR 23-04-030
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed January 25, 2023, 10:57 a.m.]

Notice of Interpretive or Policy Statement

IN accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

Economic Services Administration
Division of Child Support (DCS)

Document Title: DCS AP 1.26: Teleworking from home.

Subject: DCS AP 1.26.

Effective Date: January 13, 2023.

Document Description: This revised DCS administrative policy explains procedures for DCS employees to telework from home.

To receive a copy of the interpretive or policy statements, contact Rachel Shaddox, DCS, P.O. Box 11520, Tacoma, WA 98411-5520, phone 360-664-5073, TDD/TTY 360-753-9122, fax 360-664-5342, email Rachel.Shaddox@dshs.wa.gov, website <http://www.dshs.wa.gov/dcs/>.

WSR 23-04-037
NOTICE OF PUBLIC MEETINGS
PUGET SOUND
CLEAN AIR AGENCY

[Filed January 25, 2023, 3:36 p.m.]

Following is Puget Sound Clean Air Agency's list of board of directors meeting dates for the year 2023. All of the meetings are currently expected to be hybrid meetings held via Zoom and at the agency's office at 1904 3rd Avenue, Suite 105, Seattle, WA.

If you have any questions, please call Charlotte Allen at 206-689-4024 or email charlottea@psccleanair.gov.

January 26

February 23

March 9

Full-day board retreat

March 23

April 27

May 25

June 22

July 27

September 28

October 26

November 16

December 14

WSR 23-04-039

AGENDA

**DEPARTMENT OF
NATURAL RESOURCES**

[Filed January 25, 2023, 4:58 p.m.]

Rules Development Agenda
January to June 2023

WAC CHAPTER OR SECTION	PURPOSE OF RULE BEING DEVELOPED OR AMENDED
New rule	Regarding trespass violations
Amendment to 332-30	Regarding finfish net pen aquaculture

WSR 23-04-042

AGENDA

GAMBLING COMMISSION

[Filed January 26, 2023, 9:04 a.m.]

Following is the gambling commission's semi-annual rule-making agenda for rules under development for January 1 through June 30, 2023, pursuant to RCW 34.05.314.

WAC Chapter and/or Section(s)	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposal (CR-102) or Expedited (CR-105)	Permanent (CR-103P)
230-16 230-06	Gambling equipment in warehouses	WSR 19-03-095	ON HOLD	
Title 230	Use of an iDROP kiosk/TITO devices for table games play	WSR 22-03-070		
Title 230	Centralized surveillance for card rooms	WSR 22-03-069		
Title 230	Use of debit cards to purchase chips	WSR 22-12-005		
230-14	Pull-tab inventory control	WSR 22-17-078	WSR 22-23-161	WSR 23-03-061
230-15	Wagering limits for house-banked card games	WSR 22-03-069	WSR 23-03-060	
230-05	License fees	WSR 23-03-076	Expected March-April	Expected May
230-05	Sports wagering vendor fees	WSR 23-03-078	Expected March-April	Expected May

Lisa C. McLean
Legislative and Policy Manager

WSR 23-04-047

AGENDA

DEPARTMENT OF
ENTERPRISE SERVICES

[Filed January 26, 2023, 12:04 p.m.]

Listed below is the department of enterprise services' (DES) semi-annual rules development agenda for publication in the Washington State Register. This list identifies rules that we have under active development and rules that the agency anticipates starting some rule-making action on during the next six months.

This agenda also is available on our rule-making website. We update rule-making information on our website as rule making progresses. If we start rule-making activities not listed on this agenda or stop listed rule-making activities, we immediately post that information to our rule-making website and inform interested and known affected parties

If you have questions about this agenda, contact Jack Zeigler at jack.zeigler@des.wa.gov.

**Semi-Annual Rule-Making Agenda
January 1 to June 30, 2023**

WAC Citation	Purpose of Rule Making	Current Activity/Approximate Filing Date
Chapter 200-220 WAC, Use of the public areas of the capitol buildings and grounds	Amend rule to: <ul style="list-style-type: none"> • Align rules with current law and practices. • Clarify DES has delegated enforcement authority to the Washington state patrol. • Establish an exclusion process and associated appeal process. 	Proposed rules (CR-102) were filed in April 2022. The public comment period has completed. We anticipate adopting the proposed rules without changes and filing the CR-103 in January 2023.
Chapter 200-220 WAC, Use of the public areas of the capitol buildings and grounds	The campus use rules were first put in place over a decade ago and have not received a comprehensive review and update since first adopted. This rule making is intended to make the rules clear, current, and understandable, as well as close operational gaps.	We anticipate filing the CR-101 preproposal statement of inquiry in late spring 2023.
Chapter 200-230 WAC, Requirements for commemorative and art works on state capitol grounds	The campus commemorative and art works rules were put in place 24 years ago and have not received a comprehensive review and update since first adopted. This rule making is intended to make the rules clear, current, and understandable, as well as close operational gaps.	We anticipate filing an interpretive policy statement to clarify definitions and establish the process for submitting a commemorative work or work of art proposal to the department. We anticipate filing the CR-101 in late spring 2023.

Jack Zeigler
Rules and Policy Manager

WSR 23-04-054

AGENDA

NOXIOUS WEED CONTROL BOARD

[Filed January 27, 2023, 9:48 a.m.]

Semi-Annual Rules Development Agenda

January 1 to June 30, 2023

Following is the state noxious weed control board's semi-annual rules development agenda for the period of January 1 through June 30, 2023.

The board may undertake additional rule-making activity as conditions warrant. If you have any questions, please contact Mary Fee at 360-561-4428 or MFee@agr.wa.gov.

Semi-Annual Rules Agenda
January 1 - June 30, 2023
P.O. Box 42560
Olympia, WA 98504-2560

Table with 7 columns: WAC Number, Rule Title, Agency Contact, CR-101, Tentative Timeline CR-102, CR-103, Subject of Rule Making. Row 1: 16-750, State noxious weed list and schedule of monetary penalties, Mary Fee Executive Secretary Phone 360-561-4428, June, September, November, Possible changes to the noxious weed lists and state weed board bylaws.

Mary Fee
Executive Secretary

**WSR 23-04-066
NOTICE OF PUBLIC MEETINGS
PUBLIC EMPLOYMENT
RELATIONS COMMISSION**

[Filed January 30, 2023, 9:24 a.m.]

The date(s) in **bold** have changed in the following schedule of regular meetings of the public employment relations commission in 2023, **all to be tentatively held in Olympia with location and format subject to change:**

Date	Time	Location
January 10, 2023	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
February 2023	No meeting	
March 14, 2023	10:00 a.m.	Same as above
April 11, 2023	10:00 a.m.	Same as above
May 9, 2023	10:00 a.m.	Same as above
June 13, 2023	10:00 a.m.	Same as above
July 11, 2023	10:00 a.m.	Same as above
August 8, 2023	10:00 a.m.	Same as above
September 12, 2023	10:00 a.m.	Same as above
October 10, 2023	10:00 a.m.	Same as above
November 14, 2023	10:00 a.m.	Same as above
December 2023	No meeting	

If you need further information, contact Vanessa Smith at vanessa.smith@perc.wa.gov or 360-570-7332.

WSR 23-04-067

AGENDA

EMPLOYMENT SECURITY DEPARTMENT

[Filed January 30, 2023, 10:57 a.m.]

Semi-Annual Rule-Making Agenda
January - July 2023

The employment security department (ESD) prepares a semi-annual rule-making agenda in January and July each year to inform the public of expected upcoming rule changes. Pursuant to RCW 34.05.314, the agenda is published in the Washington State Register.

ESD encourages the public to be involved in the rule-making processes by attending public hearings and submitting comments on rules. To stay informed of our progress and be notified of any changes, please sign up for email notifications <https://public.govdelivery.com/accounts/WAESD/subscriber/new>. Additional rule-making information is available on the agency website at <https://esd.wa.gov/newsroom/rulemaking>.

Subject Matter or Division	WAC Chapter or Sections	Purpose and Scope of Rule Making	Preproposal Notice Filings (CR-101)	Proposed Rule and Public Hearing Filings (CR-102 or CR-105 Expedited)	Permanent Rule Filing (CR-103)
Unemployment insurance benefits	WAC 192-310-010, 192-310-030, and 192-310-050	Requiring employers to include the standard occupational classification (SOC) code or job title of each worker in their quarterly tax reports (SHB 2308 - 2020).	Filed May 12, 2021, in WSR 21-11-031	Filed August 19, 2022, in WSR 22-17-110	Filed October 17, 2022, in WSR 22-21-094
Unemployment insurance benefits	WAC 192-240-025	Updates unemployment insurance qualifications for health care workers (ESSB 5190 - 2021).	Filed May 13, 2021, in WSR 21-11-052	Filed June 28, 2022, in WSR 22-14-049	Filed October 17, 2022, in WSR 22-21-093
Unemployment insurance benefits	WAC 192-110-095, 192-320-078, 192-320-082, 192-140-098, 192-150-055, 192-180-005, 192-180-025, 192-180-040, 192-270-065, 192-250-020, 192-250-045, 192-110-015, 192-310-030, 192-140-090, 192-04-210, 192-110-050, 192-320-072, 192-240-070, and 192-110-006	Expanding access to shared work by removing the requirement that an employer be legally registered in the state for at least six months. This is a supplemental filing to WSR 20-13-041.	Filed June 10, 2020, in WSR 20-13-041; March 10, 2021, in WSR 21-07-035; December in WSR 22-01-192	Filed June 22, 2022, in WSR 22-13-172	Filed August 19, 2022, in WSR 22-17-109
Unemployment insurance benefits	WAC 192-04-145	Adopting brief adjudicative proceedings.	Filed June 21, 2022, in WSR 22-16-008	Filed September 16, 2022, in WSR 22-19-059	Filed November 9, 2022, in WSR 22-23-064
Unemployment insurance benefits	WAC 192-150-180	Updating a cross-reference in RCW 50.20.050, regarding part-time quits.		Filed June 2, 2022	Filed September 7, 2022, in WSR 22-18-091
Unemployment insurance benefits	WAC 192-170-080	Updating eligibility for unemployment insurance benefit eligibility for claimants on a leave of absence.	Filed July 6, 2022, in WSR 22-15-002	Filed November 9, 2022, in WSR 22-23-065	Expected February 2023
Unemployment insurance benefits	To be determined	Updates work search requirements with new flexibility provided to ESD in SHB 1493 (2021).	Filed May 28, 2021, in WSR 21-12-067	To be determined	To be determined
Unemployment insurance benefits	WAC 192-100-070	Concerning conditional payments.	Filed October 24, 2022, in WSR 22-22-028	To be determined	To be determined
Unemployment insurance benefits	To be determined	Concerning the length of time a claimant is indefinitely denied benefits due to a failure to respond to a request for information.	To be determined	To be determined	To be determined
Unemployment insurance benefits	To be determined	Concerning overpayment waivers.	To be determined	To be determined	To be determined

Subject Matter or Division	WAC Chapter or Sections	Purpose and Scope of Rule Making	Preproposal Notice Filings (CR-101)	Proposed Rule and Public Hearing Filings (CR-102 or CR-105 Expedited)	Permanent Rule Filing (CR-103)
Paid family and medical leave	WAC 192-520-010 and 192-610-025	Implementation of 2SSB 5649 (2022 legislation) regarding parties to collective bargaining agreements, new provisions for leave taken for the postnatal period or death of a child, and documentation requirements.	Filed March 31, 2022, in WSR 22-08-049	Filed June 22, 2022, in WSR 22-13-176	Filed August 8, 2022, in WSR 22-17-029
Paid family and medical leave	To be determined	Clarifying the definition of placement, correcting an out-of-date pointer to an RCW, elective coverage eligibility, designated representative, and employer reporting requirements. Topics may include other rules as necessary.	Filed October 17, 2022, in WSR 22-21-096	To be determined	To be determined
Long-term services and supports (WA Cares)	WAC 192-935-005 and 192-935-010	The third phase of rule making for initial implementation of Title 50B RCW regarding employer audits.	Filed November 2, 2021, in WSR 21-22-107	Filed August 3, 2022, in WSR 22-16-111	Filed September 28, 2022, in WSR 22-20-044
Long-term services and supports (WA Cares)	WAC 192-905-005, 192-905-006, 192-905-007, 192-905-010, 192-910-015, 192-915-005, and 192-915-015	Implementation of SHB 1732 and ESHB 1733 delaying the WA Cares fund program by 18 months and adding four new voluntary exemptions.	Filed March 30, 2022, in WSR 22-08-039	Filed August 3, 2022, in WSR 22-16-111	Filed September 28, 2022, in WSR 22-20-044

ESD is responsible for initiating rule making to implement new state laws, meet federal requirements, and to meet unforeseen circumstances. Because of this variability, this agenda is prepared for informational purposes only and any dates noted herein are planning estimates that are subject to change. Additional rule making can occur in addition to what is listed on the agenda.

This agenda does not constitute a rule or rule-making action. Any errors or omissions in this agenda do not affect the actual rules or rule-making notices filed with the office of the code reviser and published in the Washington State Register.

The rule-making process can appear complex. ESD has outlined the process on its website to help constituents understand and become involved <https://www.esd.wa.gov/newsroom/rulemaking-process>. If you have additional questions, please contact the agency rules coordinator, Scott E. Michael at 360-890-3448, or email at rules@esd.wa.gov.

WSR 23-04-070

NOTICE OF PUBLIC MEETINGS

WASHINGTON STATE UNIVERSITY

(Pullman Service and Activities Fees Committee)

[Filed January 30, 2023, 3:13 p.m.]

The following is the schedule of regular meetings for the Washington State University, Pullman Service and Activities Fees Committee for academic year 2023-24.

Date	Time	Location
March 21, 2023	4:30 - 8:00 p.m.	Lighty Rm 405, WSU, Pullman, WA https://wsu.zoom.us/j/95619782762?pwd=MVdGRWdBK2wyR3Vqai9lVFgzOUtNZz09
March 22, 2023	4:00 - 5:30 p.m.	Lighty Rm 405, WSU, Pullman, WA https://wsu.zoom.us/j/97262970381?pwd=aWpGemF0MVgzQy9oVFRNS0FjZjVXQT09
March 23, 2023	4:30 - 8:00 p.m.	Lighty Rm 405, WSU, Pullman, WA https://wsu.zoom.us/j/95948564913?pwd=a3EzUDcraUJYNklaVWx6NFVDQIR6UT09
March 28, 2023	4:30 - 8:00 p.m.	Lighty Rm 405, WSU, Pullman, WA https://wsu.zoom.us/j/91314729025?pwd=MHNSSmJkbVQ1OUJEd0EzT0QvNG01UT09
March 29, 2023	4:00 - 5:30 p.m.	Lighty Rm 405, WSU, Pullman, WA https://wsu.zoom.us/j/91540787040?pwd=RGRtSFZVV2wwbXI0d2pYWGxKS1N5dz09
March 30, 2023	4:30 - 8:00 p.m.	Lighty Rm 405, WSU, Pullman, WA https://wsu.zoom.us/j/96839356362?pwd=YktyRVU1UjZwRC9vdkh4UW5HbEMzZz09

If you need further information, contact Axis Zarccone, Office of Student Affairs, Washington State University, P.O. Box 641066, Pullman, WA 99164-1066, 509-335-4531, 509-335-7070, axis.zarccone@wsu.edu, <https://studentaffairs.wsu.edu>.

WSR 23-04-072

NOTICE OF PUBLIC MEETINGS

BELLEVUE COLLEGE

[Filed January 30, 2023, 4:55 p.m.]

The Bellevue College board of trustees has changed the following regular meeting:

From: June 14, 2023, at 2 p.m.

To: June 21, 2023, at 2 p.m.

If you need any further information, please contact Alicia Keating Polson, 3000 Landerholm Circle S.E., Bellevue, WA 98007, 425-564-2302, Alicia.keatingpolson@bellevuecollege.edu.

WSR 23-04-080

AGENDA

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 31, 2023, 8:46 a.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [23-05](#) issue of the Register.

WSR 23-04-081

AGENDA

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed January 31, 2023, 8:50 a.m.]

Following is the department of social and health services (DSHS) semi-annual rule-making agenda for January 1 - June 30, 2023. This agenda will be published in the Washington State Register as required in RCW 34.05.314 and distributed to interested parties. It is also available online at <https://www.dshs.wa.gov/office-of-the-secretary/dshs-semi-annual-rule-making-agenda>.

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

**Semi-Annual Rule-Making Agenda
January 1 - June 30, 2023**

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
Aging and Long-Term Support Administration					
Home and Community Services (HCS) Division					
	Chapter 388-106 WAC	The department is planning to add a new section in long-term services and supports presumptive eligibility and may amend other related rules as may be required.	WSR 21-09-071 Filed 4/20/2021		
	388-106-0010	The department is considering amending WAC 388-106-0010 What definitions apply to this chapter?, 388-106-0130 How does the department determine the number of hours I may receive for in-home care?, and other related rules as required.	WSR 22-12-084 Filed 5/31/2022		
	388-71-0503 388-106-0010 388-106-0060 388-115-0516	The department is planning to amend WAC to support the passage of the SB 5866, an act relating to medicaid long-term services and supports eligibility determinations being completed by federally recognized Indian tribes. The department is planning to amend the following WAC: What definitions apply to WAC 388-71-0500 through 388-71-05640?, What definitions apply to this chapter?, Who must perform the assessment?, What are the responsibilities of the consumer-directed employer when providing care to a client?, and other related rules as required.	WSR 22-13-116 Filed 6/16/2022		
	New chapter 388-112B WAC	During the 2017 legislative session, HB [ESHB] 1548 was codified as RCW 74.39A.080, resulting in the department considering adding new chapter 388-112B WAC, relating to curricula for persons in long-term care facilities with behavioral health needs. The department may amend other related rules as required.	WSR 22-14-034 Filed 6/27/2022		
	388-71-0992	WAC 388-71-0992 When must continuing education be completed when public health emergency waivers are lifted, and what continuing education credit is granted to long-term care workers employed during the pandemic? Proposing to correct a WAC reference.		WSR 22-16-026 Filed 7/25/2022	
	388-106-0270 388-106-0274	The department is planning to amend "What services are available under community first choice (CFC)?", "Are there limits to the assistive technology I may receive?", and other related rules as may be required.	WSR 22-17-014 Filed 8/04/2022		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-112A-0081 388-71-0876	WAC 388-71-0876 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? and 388-112A-0081 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? The department is requiring that long-term care workers (LTCWs) complete training and certification by certain dates in response to the COVID-19 public health emergency. The department divided the group of LTCWs into cohorts based on the employee's date of hire or rehire. The rule requires each cohort to complete the requirements by deadlines in rule with the "oldest" LTCWs having the first deadline and then working through the groups chronologically. The department is extending the deadline of the first cohort by folding them into the second cohort deadline.			WSR 23-04-055 Filed 1/27/2023 WSR 22-22-043 Filed 10/26/2022
	388-106-1900 388-106-1910 388-106-1915 388-106-1933 Chapter 388-106 WAC	What definitions apply to medicaid alternative care (MAC) and tailored support for older adults (TSOA)?, Am I eligible for TSOA services?, What services may I receive in MAC and TSOA?, How is the GetCare screening scored to determine if I am eligible for MAC and TSOA services, and other related rules as may be required. The department is considering amending chapter 388-106 WAC to update definition language, add additional services that are included in the 1115 waiver renewal, clarify eligibility, and update language.	WSR 22-24-108 Filed 12/07/2022		
Management Services Division					
	Chapter 388-96 WAC	The department intends to amend chapter 388-96 WAC regarding its nursing facility medicaid methodology to implement a low-wage worker wage equity funding, verification, and other related rules as may be required.	WSR 22-13-097 Filed 6/14/2022		
Residential Care Services Division					
	Chapter 388-78A WAC	The department is considering adding new sections and repealing and amending existing sections in "Assisted living facility licensing rules" to consolidate the rules related to background checks, negative actions, and character, competence, and suitability (CC&S) determinations between HCS, RCS, and the developmental disabilities administration (DDA).	WSR 18-17-159 Filed 8/21/2018		
	Chapter 388-97 WAC	The department is considering adding new sections and repealing and amending existing sections in "Nursing homes" including WAC 388-97-1790, 388-97-1800, 388-97-1820, and other related rules as may be required.	WSR 18-17-175 Filed 8/22/2018		
	Chapter 388-76 WAC	The department is considering adding new sections and repealing and amending existing sections in "Adult family home minimum licensing requirements."	WSR 18-17-177 Filed 8/22/2018		
	Chapter 388-97 WAC	The department is proposing to add new sections, repeal existing sections, and amend sections in "Nursing homes" related to tuberculosis (TB) screening.	WSR 19-18-051 Filed 8/30/2019		
	Chapter 388-107 WAC	The department is planning to add new sections, repeal existing sections, and amend sections in "Licensing requirements for enhanced services facilities" related to TB screening.	WSR 19-18-059 Filed 9/3/2019		
	Chapter 388-76 WAC	The department is planning to add new sections, repeal existing sections, and amend sections in "Adult family home minimum licensing requirements" related to TB screening.	WSR 19-18-061 Filed 9/3/2019		
	Chapter 388-78A WAC	The department is planning to add new sections, repeal existing sections, and amend sections in "Assisted living facility licensing rules" related to TB screening.	WSR 19-18-062 Filed 9/3/2019		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapter 388-76 WAC	The department is considering amending to incorporate ESHB 1023, 2020 regular session, into the rules.	WSR 20-08-110 Filed 3/31/2020	WSR 23-04-046 Filed 1/26/2023	
	388-107-0460 388-76-10265 388-76-10285 388-76-10290 388-78A-2480 388-78A-2484 388-78A-2485	The department is temporarily repealing or amending WAC 388-76-10265, 388-76-10285, 388-76-10290(1), 388-78A-2480(1), 388-78A-2484, 388-78A-2485(1), 388-101D-0650(1), 388-101D-0660(3), 388-107-0460(1), and 388-107-0490 to assure [ensure] long-term care programs are not significantly impeded during the hiring process due to inability to access the TB testing required as a part of the hiring process (COVID-19).	WSR 20-16-069 Filed 7/29/2020		WSR 22-07-004 Filed 3/3/2022 WSR 21-23-015 Filed 11/5/2021 WSR 21-15-113 Filed 7/21/2021 WSR 21-07-109 Filed 3/23/2021 WSR 20-24-060 Filed 11/24/2020 WSR 20-16-102 Filed 7/31/2020 WSR 20-09-009 Filed 4/2/2020
	388-97-1260	The department is considering amending WAC 388-97-1260 Physician services, and other related rules as may be required to identify the period of time that portions of the rule were held in suspension during the declared emergency of COVID-19 per the Governor's Proclamation 20-05.	WSR 20-17-133 Filed 8/18/2020		
	388-97-0300	The department is considering amending WAC 388-97-0300 Notice of rights and services, and other related rules as may be required to identify the period of time that portions of the rule were held in suspension during the declared emergency of COVID-19 per the Governor's Proclamation 20-05.	WSR 20-19-009 Filed 10/7/2020		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-97-1915 388-97-1975 388-97-0920	The department is amending WAC 388-97-1915 and 388-97-1975 and repealing WAC 388-97-0920 to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 21-11-062 Filed 5/14/2021		WSR 23-03-048 Filed 1/10/2023 WSR 22-19-023 Filed 9/13/2022 WSR 22-11-078 Filed 5/17/2022 WSR 22-09-014 Filed 4/11/2022 WSR 22-01-166 Filed 12/16/2021 WSR 21-18-065 Filed 8/26/2021 WSR 21-11-018 Filed 5/10/2021 WSR 21-08-055 Filed 4/5/2021 WSR 21-01-035 Filed 12/7/2020 WSR 20-17-048 Filed 8/11/2020 WSR 20-09-074 Filed 4/13/2020
	Chapter 388-107 WAC	The department is considering amending chapter 388-107 WAC and other related rules as may be required to implement SHB 2448 (chapter 278, Laws of 2020).	WSR 20-10-091 Filed 5/05/2020		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapter 388-97 WAC	The department is amending rules in chapter 388-97 WAC to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 20-21-034 Filed 10/12/2020		WSR 22-11-088 Filed 5/18/2022 WSR 22-04-038 Filed 1/26/2022 WSR 21-20-134 Filed 10/6/2021 WSR 21-13-069 Filed 6/14/2021 WSR 21-05-059 Filed 2/16/2021 WSR 20-21-086 Filed 10/21/2020 WSR 20-14-026 Filed 6/23/2020
	388-97-1380 388-97-1580	The department is amending WAC 388-97-1380 and 388-97-1580 to assure [ensure] nursing homes are not obstructed from offering the COVID-19 vaccine to residents and staff because of clinical interference from required TB testing.	WSR 21-11-061 Filed 5/14/2021		WSR 21-18-064 Filed 8/26/2021 WSR 21-11-069 Filed 5/17/2021 WSR 21-04-020 Filed 1/25/2021
	Chapter 388-97 WAC	The department is considering adding a new section in nursing homes and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-14-046 Filed 7/1/2021		
	388-97-1080 388-97-1090	The department is considering amending nursing services, direct care hours, and other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-14-049 Filed 7/1/2021		
	388-97-1660	The department is considering amending staff and equipment and other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-14-051 Filed 7/1/2021		
	Chapter 388-107 WAC	The department is considering adding a new section in licensing requirements for enhanced services facilities (ESF) and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-17-121 Filed 8/17/2021		
	Chapter 388-78A WAC	The department is considering adding a new section in assisted living facility (ALF) licensing rules and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-17-123 Filed 8/17/2021		
	Chapter 388-76 WAC	The department is considering adding a new section in adult family home (AFH) minimum licensing requirements and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-18-001 Filed 8/18/2021		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-97-0120 388-97-0130 388-97-0140	The department is amending WAC 388-97-0140 to waive and suspend the requirement for nursing homes to suspend transfers and discharges pending the outcome of a resident appeal of the nursing home transfer or discharge decision. The COVID-19 pandemic continues to require more rapid transfers and discharges than the rule permits. This emergency rule waives the requirement for nursing homes to suspend transfers and discharges pending the outcome of a resident appeal hearing and improves resident safety by allowing faster grouping of COVID-19-positive residents in one facility or grouping asymptomatic residents together. This helps expedite infection control processes and maximizes the availability of nursing home beds. Also, WAC 388-97-0120 and 388-97-0130.	WSR 22-08-060 Filed 4/4/2022		WSR 22-23-155 Filed 11/22/2022 WSR 22-16-063 Filed 7/29/2022 WSR 22-08-062 Filed 4/4/2022 WSR 22-01-072 Filed 12/10/2021 WSR 21-24-069 Filed 11/30/2021
	Chapters 388-76, 388-78A, 388-97, 388-107 WAC	The department is considering amending to implement specific sections to SHB 1218. The department may amend other related rules as necessary. The department is considering amending the rules to adopt requirements for providers to publicly post stop placement orders, adopt requirements for providers to create and maintain resident rosters, as well as responding to requests from ombuds for roster information, incorporate new definition of resident representative, replace the phrase "his or her" with appropriate gender-neutral terms.	WSR 22-04-046 Filed 1/26/2022		
	Chapters 388-76, 388-78A, 388-97, 388-107 WAC	The department is considering amending to implement specific sections in SHB 1218. The department may amend other related rules as necessary to meet the legislative intent of SHB 1218. The department is considering amending the rules to add requirements related to facility communication systems, resident access to communications, and facility responsiveness to outside communications, comprehensive disaster preparedness plans, related policies and procedures, equipment for a range of potential hazards, emergencies, and disasters, visitation of essential support persons, and residents' rights to a safe and healthy environment.	WSR 22-04-047 Filed 1/26/2022		
	388-107-0080 388-76-10350 388-78A-2100	Because of the ongoing COVID-19 public health emergency, on January 18, 2022, HCS temporarily suspended conducting ongoing assessments for HCS clients living in AFHs, ALFs, and ESFs. The intent of this suspension is to allow HCS staff to focus on conducting assessments in hospitals, which will facilitate their discharge to long-term care facilities and improve the current surge capacity in hospitals. This emergency rule suspends the regulatory requirement for these facilities to complete assessments for HCS clients while the HCS assessors are not available. The Centers for Medicare and Medicaid Services (CMS) approved this flexibility for medicaid beneficiaries needing specific long-term care services and supports whose assessments meet the requirements under 42 C.F.R. 441.720. The emergency rule will be effective retroactively to match the suspension effective date by HCS.	WSR 22-13-121 Filed 6/17/2022		WSR 22-21-088 Filed 10/14/2022 WSR 22-13-185 Filed 6/22/2022 WSR 22-06-042 Filed 2/24/2022
	Chapter 388-76 WAC	The department is considering amending AFH minimum licensing requirements to address a process gap that occurs when residents transfer or discharge from AFHs and prescription medications for those residents continue to be filled by pharmacies. These filled prescriptions may not be returned to the pharmacy and are subject to diversion and misuse by others. The department may amend other related rules as appropriate.	WSR 22-23-041 Filed 11/8/2022		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapter 388-76 WAC	The department is considering amending the following section in AFH minimum licensing requirements: WAC 388-76-10750 Safely [Safety] and maintenance. The intent is to provide clarity about access to hand sanitizer in compliance with infection control, safety, and maintenance regulations in AFHs. Homes must meet infection control requirements while also ensuring resident safety. The department may amend other related rules as appropriate.	WSR 22-24-012 Filed 11/29/2022		
Behavioral Health Administration					
	Chapter 388-878 WAC	The department is planning to amend to develop rules for a leave of absence and the procedures for program removal and program end and update definitions. The department may add new rules or amend other related rules as may be required.	WSR 22-21-057 Filed 10/12/2022		
Special Commitment Center (SCC)					
	388-880-010 388-880-055 388-880-056 388-880-059	The department is amending How SCC considers a resident for release to an LRA, How SCC considers a resident's revocation of LRA status, How SCC considers a recommendation for a resident's unconditional discharge, Communicating and coordinating resident discharge and conditional release related matters, and possible other sections as required. WAC 388-880-010 Definitions and 388-880-055 added before CR-102.	WSR 22-19-078 Filed 9/20/2022	WSR 23-01-074 Filed 12/15/2022	
DDA					
	388-101D-0065 388-845-2205 388-845-1615 Chapter 388-825 WAC	The department is planning to amend WAC 388-101D-0065, 388-845-2205, 388-845-1615, chapter 388-825 WAC, and other related rules as may be required.	WSR 21-21-113 Filed 10/20/2021 WSR 20-14-029 Filed 6/23/2020	WSR 23-03-013 Filed 1/6/2023	
	388-101D-0200	WAC 388-101D-0200 and other related rules as may be required regarding suspending and terminating a client's residential services.	WSR 21-03-042 Filed 1/14/2021		
	388-829B-200 388-829B-300 388-829B-400	WAC 388-829B-200, 388-829B-300, and 388-829B-400 and other rules as may be required. Planning to amend sections in chapter 388-829B WAC to expand enhanced case management capacity as directed by the legislature. During the course of the review, the department may make additional changes that are necessary to improve clarity or update policy.	WSR 22-16-066 Filed 7/29/2022	WSR 23-01-058 Filed 12/14/2022	
	388-101D-0190 388-101D-0195 388-101D-0200	WAC 388-101D-0190, 388-101D-0195, and 388-101D-0200 dealing with suspending and terminating a client's residential services and to clarify and update policy and other related rules as may be required.	WSR 22-17-115 Filed 8/22/2022		
	Chapter 388-845 WAC	These changes are necessary to implement amendments to DDA's home and community-based services (HCBS) waivers as approved by CMS. Major changes to the chapter: Adjust the yearly limits applicable to certain waivers, add assistive technology to multiple waivers, remove the positive behavior support and consultation services from all waivers except the community protection waiver, amend the definition of the specialized evaluation and consultation services, and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.	WSR 22-18-073 Filed 9/2/2022	WSR 23-02-022 Filed 12/27/2022 WSR 22-18-046 Filed 8/30/2022	
	388-828-1520	WAC 388-828-1520 and other related rules as may be required.	WSR 22-22-013 Filed 10/20/2022		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapters 388-829C and 388-829R WAC	DDA is planning to amend to allow companion home providers to access respite through overnight planned respite service providers and to access planned respite from residential habilitation centers. During the course of this review, the department may make additional changes that are necessary to improve clarity or update policy.	WSR 22-22-078 Filed 10/31/2022		
	Chapter 388-829Z WAC	Create new chapter 388-829Z WAC to create regulations for the transitional support services provided at the Rainier School.	WSR 22-23-032 Filed 11/7/2022		WSR 22-24-076 Filed 12/5/2022 WSR 22-22-089 Filed 11/1/2022
Economic Services Administration					
Community Services Division					
	388-412-0025	The department is planning to amend How do I receive my benefits? and other related rules as may be required.	WSR 21-07-128 Filed 3/23/2021 WSR 20-22-077 Filed 11/3/2020		
	388-439-0005 388-439-0015 388-439-0020 388-439-0025	The department is adopting What is the pandemic EBT program?, Eligibility of pandemic EBT benefits for the 2020-2021 school year, and General information about pandemic EBT benefits. Also added WAC 388-439-0020 and 388-439-0025.	WSR 21-23-108 Filed 11/17/2021	WSR 23-03-096 Filed 1/17/2023	WSR 22-24-057 Filed 12/1/2022 WSR 22-16-097 Filed 8/2/2022 WSR 22-07-068 Filed 3/18/2022 WSR 21-23-112 Filed 11/17/2021 WSR 21-16-017 Filed 7/23/2021 WSR 21-08-010 Filed 3/26/2021
	388-464-0001	The department is planning to amend WAC 388-464-0001 Am I required to cooperate with quality assurance? and other related rules as may be required.	WSR 21-19-117 Filed 9/20/2021	WSR 22-22-100 Filed 11/2/2022 WSR 22-19-093 Filed 9/21/2022	
	388-434-0015	The department is adopting WAC 388-434-0015 Waiver of mid-certification reviews during the COVID-19 pandemic, to implement administrative flexibilities regarding mid-certification reviews as allowed under the Families First Coronavirus Response Act (H.R. 6201), extended via the Continuing Appropriations Act (H.R. 8337).	WSR 22-10-008 Filed 4/22/2022		WSR 22-10-038 Filed 4/27/2022 WSR 22-03-045 Filed 1/12/2022

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-410-0020 388-410-0030 388-446-0015	The department is planning to amend What happens if I receive more basic food, FAP, or WASHCAP benefits than I am supposed to receive?, How does the department calculate and set up my basic food, FAP, or WASHCAP overpayment?, What is an intentional program violation and administrative disqualification hearing for basic food?, and other related rules as required.	WSR 22-13-019 Filed 6/3/2022		
	388-454-0006	The department is planning to amend "The department makes background checks on adults who are acting in place of a parent without court-ordered custody" and other related rules as may be required (in loco parentis).	WSR 22-14-027 Filed 6/24/2022		
	388-412-0015 388-450-0185 388-450-0190 388-450-0195 388-470-0005 388-478-0060	The department is adopting emergency amendments to General information about your food assistance allotments, What income deductions does the department allow when determining if I am eligible for food benefits?, How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, 388-470-0005 How do resources affect my eligibility for cash assistance and basic food?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food? The United States Department of Agriculture, Food and Nutrition Services has issued annual updates to standards for the federal fiscal year 2023, effective October 1, 2022. These updates affect the standard deduction, shelter deduction, homeless shelter deduction, utility deduction, minimum and maximum allotments, and resource limits for the basic food program.	WSR 22-20-084 Filed 10/3/2022	WSR 23-04-045 Filed 1/26/2023	WSR 23-04-051 Filed 1/27/2023 WSR 22-20-070 Filed 9/30/2022
	388-444-0055	The department is planning to amend WAC 388-444-0055 What are the penalties if I refuse or fail to meet basic food work requirements? and other related rules as appropriate.	WSR 22-20-075 Filed 09/30/2022	WSR 23-03-049 Filed 1/10/2023	
	388-450-0015 388-470-0045 388-470-0055	The department is planning to amend What types of income are not used by the department to figure out my benefits?, How do my resources count towards the resource limits for cash assistance?, How do my resources count towards the resource limit for basic food?, and other related rules as may be required	WSR 22-21-071 Filed 10/13/2022	WSR 23-02-028 Filed 12/28/2022	
	388-460-0005	The department is planning to amend WAC 388-460-0005 Can I choose someone to apply for basic food for my assistance unit?, and other related rules as appropriate.	WSR 22-22-020 Filed 10/21/2022	WSR 23-03-046 Filed 1/10/2023	
	388-437-0015	The department is proposing to repeal good cause extension of Social Security number (SSN) requirement for basic food applicants during COVID-19. Federal flexibility waiver expired September 30, 2022; SSN good cause rules are found in WAC 388-476-0005 and based on federal rules.		WSR 22-23-033 Filed 11/7/2022	
	388-310-0100 388-450-0165	WorkFirst—Purpose and Gross earned income limit for TANF/SFA. These amendments revise obsolete policy language that was not updated when related TANF laws changed in 1999. With the passage of P.L. 104-193, there is no longer a requirement under federal law for a pregnant person with no other eligible child to be in their third trimester to qualify for TANF. In addition, these amendments remove references to the "general assistance for pregnant women," which is not a current public assistance program that provides WorkFirst services.		WSR 22-24-099 Filed 12/6/2022	

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-412-0040	Can I get my benefits replaced? to issue replacement benefits to households whose cash benefits were either cloned or skimmed between March 1 and December 31, 2022. Loss in benefits must be reported to and verified by the department no later than March 31, 2022, and the department will provide a one-time replacement of no more than \$300.			WSR 23-02-011 Filed 12/22/2022
	388-61-001	How does the family violence amendment affect me if I am getting TANF/SFA?		WSR 23-04-073 Filed 1/30/2023	
Division of Child Support (DCS)					
	[388-14A-3375]	DCS is proposing to amend WAC 388-14A-3375 What kinds of credits does the division of child support give when establishing or enforcing an administrative support order?	WSR 21-20-048 Filed 9/28/2021		
	[Chapter 388-14A WAC]	DCS proposes to amend, adopt, or repeal, as needed, various sections in chapter 388-14A WAC to make the administrative support establishment process more efficient and user-friendly as we: (1) Implement ESSB 6037 (chapter 6, Laws of 2018, which adopted the 2017 version of the Uniform Parentage Act) and the technical corrections made to that bill by SSB 5333 (chapter 46, Laws of 2019); and (2) update terminology and clarify and streamline the rules and procedures regarding parentage to conform with current state and federal laws.	WSR 22-15-050 Filed 7/15/2022		
Office of the Secretary, Chief of Staff, and Headquarters Units					
	Chapter 388-01 WAC	OIG - organization, disclosure of public records, and other related rules as appropriate.	WSR 22-14-033 Filed 6/27/2022		
Division of Vocational Rehabilitation (DVR)					
	388-891A-0610 388-891A-0890	The department is amending to remove references in WAC to post-employment services provided by DVR as being available to the customer post exit.	WSR 22-12-030 Filed 5/24/2022		WSR 23-02-044 Filed 12/30/2022 WSR 22-18-090 Filed 9/7/2022 WSR 22-11-034 Filed 5/11/2022

Katherine Vasquez
Rules Coordinator

WSR 23-04-084
NOTICE OF PUBLIC MEETINGS
RECREATION AND CONSERVATION
OFFICE

[Filed January 31, 2023, 9:29 a.m.]

The salmon recovery funding board is changing the **time, date,** and **location** of the regular quarterly meeting scheduled for March 8-9, 2023:

FROM: March 8-9, 2023, from 9:00 a.m. to 5:00 p.m., in Room 172, Natural Resource[s] Building, 1111 Washington Street S.E., Olympia, WA 98501.

TO: March 8, 2023, from 9:00 a.m. to **4:45 p.m.**, in Room 172, Natural Resource Building, 1111 Washington Street S.E., Olympia, WA 98501; or **online via Zoom**. Additional information can be found on the recreation and conservation office's (RCO) webpage Meetings - RCO (wa.gov).

For further information, please contact Julia McNamara, julia.mcnamara@rco.wa.gov or check RCO's web page at Meetings - RCO (wa.gov).

RCO schedules all public meetings at barrier-free sites. Persons who need special assistance may contact Leslie Frank at 360-902-0220 or email leslie.frank@rco.wa.gov.

WSR 23-04-089

AGENDA

PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed January 31, 2023, 10:30 a.m.]

Semi-Annual Rule-Making Agenda
January to July 2023

Following is the professional educator standards board, Title 181 WAC, semi-annual rules development agenda for publication in the Washington State Register. This list identifies rules that are under active development and rules that the agency anticipates beginning action on during the next six months.

Current information on the rule-making activity is available on the agency's website. As circumstances warrant, there may be additional rule-making activity not on this agenda. That information will be posted to the website.

If you have questions about this agenda, contact Jisu Ryu, email jisu.ryu@k12.wa.us, or phone 360-867-8510.

WAC Citation	Subject Matter of Rule	Activity
181-82-110	Update WAC language to more closely align out-of-endorsement policy with federal guidance regarding special education qualifications.	CR-101 anticipated January 2023 CR-102 anticipated in March 2023 CR-103P anticipated May 2023
181-82A	Update WAC with new language regarding which organizations can offer specialty endorsements.	CR-101 anticipated March 2023 CR-102 anticipated in May 2023 CR-103P anticipated July 2023
181-78A	Amend WAC to incorporate recommendations from the standards, approval, and review committee.	CR-101 anticipated January 2023 CR-102 anticipated in March 2023 CR-103P anticipated May 2023

Jisu Ryu
Rules Coordinator

WSR 23-04-090

AGENDA

LIQUOR AND CANNABIS BOARD

[Filed January 31, 2023, 11:00 a.m.]

Pursuant to RCW 34.05.314, this report describes current and anticipated rule development activities for the liquor and cannabis board (LCB). If you have any questions regarding this report or LCB rule development activities, please contact Katherine Hoffman, LCB policy and rules manager, at 360-664-1622 or katherine.hoffman@lcb.wa.gov.

This agenda is for informational purposes, and the noted dates of anticipated rule-making actions are estimates. Any errors in the agenda do not affect the rules and rule-making notices filed with the office of the code reviser and published in the Washington State Register. There may be additional LCB rule development activities that cannot be forecasted as the agency initiates rule making to implement new state laws, meet federal requirements, or meet unforeseen circumstances. The "Key" below explains terms and acronyms.

KEY:

CR: "Code reviser" on the notice forms created by the office of the code reviser for use by all state agencies.

CR-101: Preproposal statement of inquiry filed under RCW 34.05.310.

CR-102: Proposed rule-making notice filed under RCW 34.05.320 or 34.05.340.

CR-103: Rule-making order permanently adopting a rule, and filed under RCW 34.05.360 and 34.05.380.

RCW: Revised Code of Washington.

WAC: Washington Administrative Code.

WSR: Washington State Register official filing reference number given by the office of the code reviser when a notice is filed.

**Liquor-Related Rule Development Agenda
January 1 - June 30, 2023**

RCW/ SESSION LAW	RULE TITLE/ DESCRIPTION	CR-101	CR-101 WSR #	CR-102	CR-102 WSR #	CR-103	CONTACT	PHONE
66.08.030 66.20.310 66.44.350	Class 13 Alcohol Server Permit Privilege Review. LCB is considering amending, repealing, and creating rule sections in Title 314 WAC as necessary, including, but not limited to WAC 314-55-015 to allow Class 13 alcohol server permit holders to open bottles and pour wine and beer away from a customer's table in the same way they can perform their duties at a customer's table based on a rule petition accepted by the board on January 4, 2023.	3/15/23	TBD	6/21/23	TBD	8/9/23	Daniel Jacobs	360-480-1238

**Cannabis-Related Rule Development Agenda
January 1 - June 30, 2023**

RCW/ SESSION LAW	RULE TITLE/ DESCRIPTION	CR-101	CR-101 WSR #	CR-102	CR-102 WSR #	CR-103	CONTACT	PHONE
66.50.342 69.50.345	Cannabis Canopy. LCB is considering amending WAC 314-55-075 to clarify the standards and protocols for measuring and calculating the square footage area of cannabis plant canopy as defined in WAC 314-55-010.	8/31/22	22-18-058	5/12/23	TBD	8/2/23	Jeff Kildahl	360-480-7960
69.50.342	Cannabis Product Sampling. LCB is considering amending WAC 314-55-096 concerning vendor, educational, and internal quality control samples based on a rule petition accepted by the board on August 31, 2022.	3/1/23	TBD	5/12/23	TBD	8/2/23	Jeff Kildahl	360-480-7960
66.50.342 69.50.345	Cannabis Advertising Requirements and promotional items. LCB is considering creating new, amending, or repealing existing rule sections as necessary to update advertising requirements for licensed cannabis businesses. Revisions may also include clarifying and technical updates to existing rules.	8/31/22	TBD	7/19/23	TBD	10/25/23	Cassidy West	360-878-4235
69.50.342 69.50.345	Minors Under 16 on Production Premises/Minors Over 16 Assisting Contractors. LCB is considering creating new, amending, or repealing existing rule sections in Title 314 WAC as necessary to allow for conditional exemptions to the prohibition of persons under 21 years of age on the premises of licensed cannabis producers and processors based on two rule petitions accepted by the board on August 31, 2022.	3/28/23	TBD	8/13/23	TBD	11/8/23	Cassidy West	360-878-4235

**General Rule Development Agenda
January 1 - June 30, 2023**

RCW/ SESSION LAW	RULE TITLE/ DESCRIPTION	CR-101	CR-101 WSR #	CR-102	CR-102 WSR #	CR-103	CONTACT	PHONE
69.50.342 70.345.020 82.24.550 82.26.220 66.08.030	Cloud Storage Options. LCB is considering amending, repealing, and creating rule sections in Title 314 WAC as necessary to allow cannabis, vapor, tobacco, and liquor licenses to use cloud storage options instead of physical, on-premises storage for recordkeeping based on a rule petition accepted by the board on August 31, 2022.	1/25/23	23-04-027	5/10/23	TBD	7/19/23	Daniel Jacobs	360-480-1238

WSR 23-04-091

NOTICE OF PUBLIC MEETINGS

DEPARTMENT OF LICENSING

(Home Inspector Licensing Advisory Board)

[Filed January 31, 2023, 11:12 a.m.]

2023 Advisory Board Meetings

Date	Location	Start Time
March 16, 2023	Virtual	10:00 a.m.
June 15, 2023	Virtual	10:00 a.m.
September 21, 2023	Virtual	10:00 a.m.
December 14, 2023	Virtual	10:00 a.m.

[Contact:] Saundra Schaefer, business and professions division, Washington state department of licensing, email DOLBPDOutreach@dol.wa.gov.

WSR 23-04-092

AGENDA

PARAEDUCATOR BOARD

[Filed January 31, 2023, 11:14 a.m.]

Semi-Annual Rule-Making Agenda
February to July 2023

Following is the paraeducator board, Title 179 WAC, semi-annual rules development agenda for publication in the Washington State Register. This list identifies rules that are under active development and rules that the agency anticipates beginning action on during the next six months.

Current information on the rule-making activity is available on the agency's website. As circumstances warrant, there may be additional rule-making activity not on this agenda. That information will be posted to the website.

If you have questions about this agenda, contact Alicia Erezim, email alicia.erezim@k12.wa.us, or phone 564-999-3465.

WAC Citation	Subject Matter of Rule	Activity
179-03-020	Outlining the assessment options for paraeducators to meet state minimum employment requirements.	CR-102 anticipated in May 2023 CR-103 anticipated in July 2023
179-01-020	Clarifying the definition of "paraeducator" to include transitional kindergarten program.	CR-102 anticipated in May 2023 CR-103 anticipated in July 2023

Alicia Erezim
Rules Coordinator

WSR 23-04-093

NOTICE OF APPEAL

OFFICE OF THE GOVERNOR

[Filed January 31, 2023, 12:52 p.m.]

NOTICE OF APPEAL

RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On December 29, 2022, the Governor's Office received an appeal from Lisa Brodoff, relating to the Department of Social and Health Services denial of a petition to amend WAC Chapters 388-76, 388-78A, and 388-107 (*all relating to discharge rights for residents in Adult Family Homes, Assisted Living Facilities, and Enhanced Services Facilities*). The Governor's Office denied the appeal on January 31, 2023.

DATE: January 31, 2023.

Taylor K. Wonhoff
Deputy General Counsel
to the Governor

WSR 23-04-095

AGENDA

DEPARTMENT OF ECOLOGY

[Filed January 31, 2023, 3:07 p.m.]

Pursuant to RCW 34.05.314, following is the department of ecology's rule agenda for January 1 through June 30, 2023.

If you have any questions, please contact Effie Bolinger, phone 360-628-3900, or email rulemaking@ecy.wa.gov.

**Rule Agenda
January - June 2023**

Admin. Order Number	WAC Chapter	Date of filing CR-101	Date of filing CR-102	Date of filing CR-103	Rule-Making Lead
Open Rule Making					
22-15	Chapter 173-408 WAC, Landfill methane emissions	December 8, 2022	Est. April 2024	Est. October 2024	Bill Flagg
21-02	Chapter 173-443 WAC, Hydrofluorocarbons (HFCs); and chapter 173-445 WAC, Air quality fee rule	August 16, 2021	Est. July 2023	Est. December 2023	Linda Kildahl
21-08	Chapter 173-455 WAC, Air quality fee rule	September 23, 2021	September 7, 2022	Est. February 2023	Caitlin Cannon
22-07	Chapter 173-50 WAC, Accreditation of environmental laboratories	October 10, 2022	Est. March 2023	Fall 2023	Ryan Zboralski
22-02	Chapter 173-305 WAC, Hazardous waste planning fees	September 14, 2022	Fall 2023	Winter 2024	Megan Hillyard
21-01	Chapter 173-337 WAC, Safer products Washington rule	November 17, 2021	December 7, 2022	Est. May 2023	Stacey Callaway
20-02	Chapter 173-445 WAC, Greenhouse gas assessment for projects	April 30, 2020	TBD	TBD	Diane Butorac and Fran Sant
21-03	Chapter 173-180 WAC, Facility oil handling standards; and chapter 173-184 WAC, Vessel oil transfer advance notice and containment requirements	August 3, 2021	January 3, 2023	Est. June 2023	Kim Morley
21-09	Chapter 173-925 WAC, Post consumer plastic recycled content	November 3, 2021	Est. July 2023	Est. December 2023	Shannon Jones
18-09	Chapter 173-340 WAC, Model Toxics Control Act	December 20, 2018	Est. February 2023	Est. Spring 2023	Clint Stanovsky
22-01	Chapter 173-135 WAC, Pasco basin groundwater subarea	July 12, 2022	Est. 2025	TBD	Kasey Cykler and Annie Sawabini, Office of Columbia River
22-03	Chapter 173-224 WAC, Water quality permit fees	June 7, 2022	Est. March 2023	Est. Summer 2023	Ligeia Heagy and Leslie Connelly
22-04	Chapter 173-201A WAC, Aquatic life toxics criteria	June 22, 2022	October 2023	April 2024	Marla Koberstein
22-05	Chapter 173-201A WAC, Natural conditions	September 27, 2022	Winter 2024	Summer 2024	Marla Koberstein
22-06	Chapter 173-201A WAC, Outstanding resource waters	August 30, 2022	Spring 2023	Fall 2023	Marla Koberstein
Admin. Order Number	WAC Chapter	Date of filing CR-101	Date of filing CR-102	Date of filing CR-103	Rule-Making Lead
Exploratory Rule Makings					
17-03	Chapter 173-340 WAC, Model Toxics Control Act—Cleanup	N/A	N/A	N/A	Clint Stanovsky
xx-xx	Chapter 173-460 WAC, Controls for new sources of toxic air pollutants	On hold	N/A	N/A	Caitlin Cannon

Admin. Order Number	WAC Chapter	Date of filing CR-101	Date of filing CR-102	Date of filing CR-103	Rule-Making Lead
On Hold Rule Making					
19-01	Chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington (variances)	June 12, 2019	TBD	TBD	Marla Koberstein
15-12	Chapter 173-333 WAC, Chemical action plans (formerly PBT)	October 12, 2015	On hold	On hold	Cheryl Niemi
15-11	Chapter 173-331 WAC, Vehicle battery recycling program	December 2, 2015	On hold	On hold	Albert Salvi
05-03	Chapter 173-525 WAC, Grays Elochoman instream resources protection and water management program (WRIA 25)	March 2, 2005	4/19/10 Continuance filed 6/16/10 Expired 11/1/10 On hold	On hold	Dave Christensen
05-04	Chapter 173-526 WAC, Cowlitz instream resources protection and water management program (WRIA 26)	March 2, 2005	4/19/10 Continuance filed 6/16/10 Expired 11/1/10 On hold	On hold	Dave Christensen
05-02	Chapter 173-503A WAC, Samish River subbasin instream resources protection program, Lower and Upper Skagit water resources inventory area (WRIAs 3 and 4)	February 15, 2005	On hold indefinitely	On hold indefinitely	Dave Christensen

Effie Bolinger

WSR 23-04-103
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed January 31, 2023, 5:18 p.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services (DSHS).

Developmental Disabilities Administration (DDA)

Document Title: Public Comment Notice for Proposed DDA Home and Community-Based Services (HCBS) Waiver Amendments to be effective July 1, 2023.

Subject: Basic plus, core, community protection (CP), children's intensive in-home behavioral support (CIIBS), and individual and family services (IFS) HCBS waiver amendments are available for 30 days of public comment from February 15 through March 16, 2023.

Effective Date: February 15, 2023.

Document Description: DDA within DSHS, is posting for 30 days of public comment amendments for basic plus, core, CP, CIIBS, and IFS waivers to be effective July 1, 2023. Agency providers added to residential habilitation/alternative living on core waiver. Contracted and licensed providers for children added to stabilization services - crisis diversion bed on basic plus, core, IFS, and CIIBS waivers. Children leaving department of children, youth, and families dependency are an added priority group for waiver enrollment on all waivers.

Amendments are available at <https://www.dshs.wa.gov/dda>.

To receive a copy of the interpretive or policy statements, contact Bob Beckman, DDA, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1555, TDD/TTY 711 or 1-800-833-6388, fax 360-407-0955, email DDAWaiveramendments@dshs.wa.gov, website <https://www.dshs.wa.gov/dda>.

WSR 23-04-104

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed February 1, 2023, 8:34 a.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy Statement: Enforcement of USP Chapters <800> and <825>. Policy Statement 65.4.

Issuing Entity: Pharmacy quality assurance commission.

Subject Matter: This policy clarifies the pharmacy quality assurance commission's (commission) approach to United States Pharmacopeia chapters <800> and <825> as it relates to WAC 246-945-100 and RCW 18.64.270(2). This policy is extended until it is withdrawn by the commission.

Effective Date: October 1, 2022.

Contact Person: Marlee B. O'Neill, executive director, pharmacy quality assurance commission, Washington state department of health, 360-236-4946, wspqac@doh.wa.gov.

WSR 23-04-106

AGENDA

DEPARTMENT OF COMMERCE

[Filed February 1, 2023, 10:08 a.m.]

Following is the department of commerce semi-annual rules development agenda for publication in the Washington State Register, pursuant to RCW 34.05.314. There may be additional rule-making activity not on the agenda as conditions warrant.

Please contact Amanda Hathaway if you have questions, amanda.hathaway@commerce.wa.gov or 360-789-0843.

Semi-Annual Rule-Making Agenda
January through June 2023

Division	WAC Citation	Subject Matter/Purpose of Rule	Current Activity/Approximate Filing Date
Energy—Energy Policy	194-24	Implement appliance standards and design requirements as enacted in HB 1619 (2022).	Currently, the policy team is reviewing public comment and preparing final rules for filing. Proposed timeline: CR-103: File in early February. Expedited adoption: March.
Energy—Buildings Unit	194-50	Implement clean buildings program expansion as enacted in SB 5722 (2022).	Proposed timeline: CR-101: Filed in November 2022. Workshops to be hosted early/mid 2023. CR-102: Filed in August 2023. CR-103: Filed in October 2023.
LGD—PWB	New chapter 399-080	To bring existing rules into conformance with recent legislative changes for the PWB broadband program.	After July 2022, if HB [ESHB] 1673/SB [SSB] 5580 are enacted. CR-102 filed 12/22 and effective 1/4 with an expected adoption date of 2/7/23 and CR-103 after 2/15/23.
LGD—GMS	365-190, 365-195, 365-196	Comprehensive update to GMA administrative rules.	Continued CR-102 with WSR 23-01-078. Earliest date of adoption is March 15, 2023.
LGD—GMS—Housing	365-196; add new chapter(s) to Title 365	To create new and bring existing rules related to housing into conformance with recent legislative changes.	Likely CR-101 in May-June 2023 with expectation to complete by end of 2023. Meeting scheduled after session to review housing-related legislation and the rule-making schedule.
LGD—GMS—MFTE	New chapter to Title 365	Develop WAC related to audits for MFTE programs.	Expected to start the process in 2022, to complete in 2023.
LGD—GMS—UGAs—Rural Element	365-196-300 through 365-196-345 and 365-198-425	Urban growth area updates from recently enacted legislation (SB [ESSB] 5593 and SB [2ESSB] 5275), including rural element rules.	Expected to begin in July 2023.

Amanda Hathaway
Rules Coordinator

WSR 23-04-107

AGENDA

DEPARTMENT OF REVENUE

[Filed February 1, 2023, 11:39 a.m.]

**Semi-Annual Rule-Making Agenda
January 1 - June 30, 2023**

Following is the department of revenue's (department) semi-annual rule-making agenda for publication in the Washington State Register. This list identifies rules the department is currently working on and rules the department anticipates working on during the next six months.

The department's rule-making agenda is also available on its website. The information on the site is continually updated as the department files rule-making notices, or otherwise adds or deletes rules that it anticipates some action over the next six months, including rules added or deleted as a result of resource allocation, legislation, court decisions, or changes in rule-making priorities.

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-65A-10001 Brief adjudicative proceedings for matters related to penalties and interest imposed under the Uniform Unclaimed Property Act, chapter 63.29 RCW	Dan LaMarche	N/A	CR-105 filed 12/16/2022 WSR 23-01-092	Anticipate adoption in 1st quarter of 2023	Recognize 2022 legislation
WAC 458-20-13501 Timber harvest operations	Tiffany Do	Anticipate CR-101 and public meeting in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-20-101 Tax registration and tax reporting	Justin Morehouse	N/A	CR-105 filed 1/30/2023 WSR 23-04-069	Anticipate adoption in 2nd quarter of 2023	Recognize 2022 legislation
WAC 458-20-104 Small business tax relief based on income of business	Justin Morehouse	N/A	CR-105 filed 1/30/2023 WSR 23-04-069	Anticipate adoption in 2nd quarter of 2023	Recognize 2022 legislation
WAC 458-20-10005 Written determinations as precedents—Criteria for publication	Adam Becker	CR-101 filed 9/6/2022 WSR 22-18-088	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	New rule with general information
WAC 458-29A-200 Leasehold excise tax—Taxable rent and contract rent	Ryan Becklean	CR-101 filed 5/13/2022 WSR 22-11-048	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-20-19402 Single factor receipts apportionment—Generally	Adam Becker	CR-101 filed 7/31/2017 WSR 17-16-113 2nd CR-101 filed 10/26/2021 WSR 21-22-032	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	General updates
WAC 458-20-136 Manufacturing, processing for hire, fabricating	Matthew Largent	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 4th quarter of 2023	General updates
WAC 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemptions for machinery and equipment	Matthew Largent	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 4th quarter of 2023	General updates
WAC 458-20-27901 New exemptions on sales/leases of alternative fuel passenger vehicles	Leslie Mullin	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	Recognize 2019 legislation

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-20-27902 New exemptions on clean alternative fuel commercial vehicles	Leslie Mullin	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	Recognize 2019 legislation
WAC 458-12-030 County appraisers' salary and classification plan	Leslie Mullin	CR-101 filed 7/28/2022 WSR 22-16-058	CR-102 filed 10/20/2022 WSR 22-22-009	Anticipate repeal in 1st quarter of 2023	General updates
WAC 458-12-035 Standard forms	Leslie Mullin	CR-101 filed 7/28/2022 WSR 22-16-058	CR-102 filed 10/20/2022 WSR 22-22-009	Anticipate adoption in 1st quarter of 2023	General updates
WAC 458-20-15503	Tim Danforth	Anticipate CR-101 and public meeting in the 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 4th quarter of 2023	General updates
WAC 458-20-252 Hazardous substance tax	Darius Massoudi	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	General updates
WAC 458-20-171 Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic	Darius Massoudi	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	General updates
WAC 458-20-263 Exemptions from retail sales and use taxes for qualifying electric generating systems using renewable energy sources	Perry Stern	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 1st quarter of 2024	General updates
WAC 458-20-221 Collection of use tax by retailers and selling agents	Patrick Watkins	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	General updates
WAC 458-20-193 Interstate sales of tangible personal property	Patrick Watkins	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	General updates
WAC 458-20-17802 Collection of use tax by county auditors and department of licensing—Measure of tax	Ryan Becklean	Anticipate CR-101 in 2nd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 3rd quarter of 2023	General updates
WAC 458-20-182 Warehouse businesses	Perry Stern	Anticipate CR-101 in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-20-XXX Warehouse and grain elevators tax remittance	Perry Stern	Anticipate CR-101 in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-20-100 Informal administrative reviews	Chelsea Brenegan	Anticipate CR-101 in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-20-230 Statutory limitations on assessments	Chelsea Brenegan	Anticipate CR-101 in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-40-610 Timber excise tax—Definitions	Tiffany Do	Anticipate CR-101 in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	General updates
WAC 458-14-127 Reconvened boards—Authority	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	General updates and to recognize legislation

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-16-080 Improvements to single family dwellings—Definitions—Exemption—Limitation—Appeal rights	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	Recognize 2021 legislation
WAC 458-16-266 Homeownership development	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	Recognize 2020 legislation
WAC 458-18-210 Sales of tangible personal property for farming—Sales of agricultural products by farmers	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	General updates
WAC 458-20-141 Duplicating activities and mailing bureaus	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	General updates
WAC 458-20-233 Tax liability of medical and hospital service bureaus and associations and similar health care organizations	Darius Massoudi	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 1st quarter of 2024	General updates
WAC 458-20-262 Retail sales and use tax exemptions for agricultural employee housing	TBD	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 1st quarter of 2024	Recognize 2021 legislation
WAC 458-19-085 Refunds—Procedures—Applicable limits.	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 1st quarter of 2024	General updates and to recognize legislation
WAC 458-19-550 State levy—Apportionment between cities	Leslie Mullin	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 4th quarter of 2023	Anticipate adoption in 1st quarter of 2024	General updates

Rules Requiring Periodic Updates

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-18-220 Rates of interest	Leslie Mullin	N/A	Anticipate CR-105 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	Annual updates
WAC 458-20-23801 Watercraft excise tax—Watercraft depreciation schedule	Ryan Becklean	TBD	TBD	TBD	Annual updates
WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component	Leslie Mullin	N/A	Anticipate CR-105 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	Annual updates
WAC 458-30-590 Rates of inflation—Publication—Interest rate—Calculation	Leslie Mullin	N/A	Anticipate CR-105 in 4th quarter of 2023	Anticipate adoption in 4th quarter of 2023	Annual updates
WAC 458-40-540 Timber excise tax—Forest land values	Tiffany Do	Anticipate CR-101 in 3rd quarter of 2023	Anticipate CR-102 in 3rd quarter of 2023	Anticipate adoption in 4th quarter of 2023	Annual updates
WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments	Tiffany Do	Anticipate CR-101 in 1st quarter of 2023	Anticipate CR-102 in 2nd quarter of 2023	Anticipate adoption in 2nd quarter of 2023	Semi-annual updates that are effective January 1st and July 1st of each year