

**WSR 05-21-032**  
**RULES OF COURT**  
**STATE SUPREME COURT**

[October 6, 2005]

IN THE MATTER OF THE ADOPTION ) ORDER  
 OF THE AMENDMENTS TO APR 1, 2, 3, ) NO. 25700-A-832  
 7, 20, 21, 22, 23, 24 AND 25 )

The Washington State Bar Association having recommended the adoption of the proposed amendments to APR 1, 2, 3, 7, 20, 21, 22, 23, 24 and 25, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Office of the Administrator for the Court's web sites in January 2006.

(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 28, 2006. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Lisa.Bausch@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of October 2005.

For the Court  
 Gerry L. Alexander  
 \_\_\_\_\_  
 CHIEF JUSTICE

**GR9 COVER SHEET**  
**SUGGESTED AMENDMENTS TO**  
**THE ADMISSION TO PRACTICE RULES (APR)**  
**APR 20 CHARACTER AND FITNESS COMMITTEE**  
**APR 21 CHARACTER DEFINED**  
**APR 22 FITNESS DEFINED; INDEPENDENT FITNESS EXAMINATION**  
**APR 23 CHARACTER AND FITNESS BOARD - PREHEARING PROCEDURE - APPLICATIONS FOR ADMISSION**  
**APR 24 APPLICATIONS FOR ADMISSION**  
**APR 25 PETITIONS FOR REINSTATEMENT AFTER DISBARMENT**

**and**

**APR 1 IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; IMMUNITY**  
**APR 2 BOARD OF GOVERNORS**  
**APR 3 APPLICANTS TO TAKE THE BAR EXAM**  
**APR 7 INVESTIGATIONS; DUTY OF APPLICANT**

**Submitted by the Board of Governors of the Washington State Bar Association**

**Purpose:** The Board of Governors of the Washington State Bar Association appointed a Character and Fitness Committee Rules Task Force comprised of lawyers and non-

lawyers knowledgeable on issues relating to the admission of bar applicants and reinstatement of disbarred lawyers, to consider revisions to the Admission to Practice Rules to address all aspects of the process for determining character and fitness. This includes the initial determination of which applicants shall be required to appear before the renamed Character and Fitness Board, standards for determining good moral character, procedural and evidentiary rules for the conduct of Character and Fitness Board hearings, and the admission and effect of evidence relating to alcohol and drug use and mental impairment. The Task Force reviewed current APR 20 (Character and Fitness Committee) and APR 21 (Reinstatement After Disbarment), as well as Washington case law on admission and reinstatement, and rules and procedures from other jurisdictions. The significant elements of these suggested rules are the following:

**APR 20 CHARACTER AND FITNESS COMMITTEE:** This rule amends current APR 20, and throughout these rules the name is changed from Character and Fitness Committee to Character and Fitness Board to be consistent with other quasi-judicial and regulatory boards, such as the Disciplinary Board and the Board of Continuing Legal Education. It also includes a new section on service of papers and documents.

**APR 21 CHARACTER DEFINED:** "Character" is defined, subject to proof by applicants and petitioners.

**APR 22 FITNESS DEFINED; INDEPENDENT FITNESS EXAMINATION:** "Fitness" is defined, subject to proof by applicants and petitioners. The rule provides that if an applicant's or petitioner's conduct raises an issue as to requisite fitness to practice law, reports and testimony of a licensed or certified mental health professional may be presented as evidence of fitness. After reviewing such evidence, the Board may require an independent examination by a mental health professional approved by the WSBA Lawyers Assistance Program. The rule provides that the reports and testimony shall be otherwise confidential and not subject to discovery or admissible in any other proceeding or action.

**APR 23 CHARACTER AND FITNESS BOARD - PREHEARING PROCEDURE - APPLICATIONS FOR ADMISSION:** This new rule addresses the procedure for reviewing and investigating bar applications, and referrals to the Character and Fitness Board.

**APR 24 APPLICATIONS FOR ADMISSION:** APR 24 is a new rule that includes the following:

**APR 24.1 DUTY OF APPLICANT:** Incorporates current provisions of APR 7(b).

**APR 24.2 FACTORS CONSIDERED WHEN DETERMINING CHARACTER AND FITNESS:** These factors incorporate and elaborate upon the factors for admission set forth by the Supreme Court in *In re Belsher*, 102 Wn.2d 844, 854, 689 P.2d 1078 (1984) and *In re Wright*, 102 Wn.2d 855, 690 P.2d 1134 (1984). They specifically address consideration of cases involving drug or alcohol dependence or abuse, and mental impairment. They also specifically note factors that may not be considered as evidence of an applicant's character or fitness.

**APR 24.3 HEARINGS:** Sets forth the procedure for admissions hearings including the right to counsel, burden of proof and rules of evidence.

APR 24.4 DECISION AND RECOMMENDATION: Provides for the procedure to be followed after issuance of a written opinion from the Board.

APR 24.5 ACTION ON SUPREME COURT'S DETERMINATION: Provides for procedure to be followed upon approval or disapproval of an application for admission by the Supreme Court. A substantive change from the current procedure is that bar applicants, like petitioners for reinstatement, would not be permitted to sit for the bar examination until approved by the Supreme Court.

**APR 25 PETITIONS FOR REINSTATEMENT AFTER DISBARMENT:** This rule restates current APR 21 and elaborates on it to parallel the provisions of APR 24.

APR 25.1 RESTRICTIONS ON REINSTATEMENT: Substantially the same as current APR 21.1.

APR 25.2 REVERSAL OF CONVICTION: Substantially the same as current APR 21.2.

APR 25.3 PETITIONS AND INVESTIGATIONS: Substantially the same as current APR 21.3 except adds provision on duty to cooperate. It also provides for motions for protective orders in public reinstatement proceedings.

APR 25.4 HEARINGS BEFORE CHARACTER AND FITNESS COMMITTEE: Substantially the same as current APR 21.4 except adds new section (c) providing that hearings are conducted pursuant to APR 24.3.

APR 25.5 ACTION BY CHARACTER AND FITNESS COMMITTEE: Substantially the same as current APR 21.5 except adds new section (b) incorporating and elaborating upon the factors for reinstatement after disbarment set forth by the Supreme Court in *In re Eddleman*, 77 Wn.2d 725, 459 P.2d 387, 461 P.2d 9 (1969). It also specifically notes factors that may not be considered as evidence of a petitioner's character or fitness in APR 25.5(c), which is identical to APR 24.4(e) except it does not include age. In *In re Bruener*, 178 Wn. 165 (1934) and *In re Lillions*, 196 Wash. 272 (1938) the Court said that in considering whether a lawyer should be reinstated, fairness to the lawyer included consideration of whether the lawyer was reaching an age where there might not be another opportunity to be reinstated, and to once again practice his or her chosen profession.

APR 25.6 ACTION ON SUPREME COURT'S DETERMINATION: Same as current APR 21.6.

There are also several minor changes to other Admission to Practice Rules to make them conform to these changes:

**APR 1 IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; IMMUNITY:** Change of name to Character and Fitness Board.

**APR 2 BOARD OF GOVERNORS:** Specifies authority of Board of Governors to appoint the Character and Fitness Board.

**APR 3 APPLICANTS TO TAKE THE BAR EXAM:** Change of name to Character and Fitness Board.

**APR 7 INVESTIGATIONS; DUTY OF APPLICANT:** Amends APR 7 to conform to these rule amendments, and adds a new section regarding issuance of subpoenas.

**SUGGESTED AMENDMENT  
ADMISSION TO PRACTICE RULES (APR)  
RULE 1. IN GENERAL; SUPREME COURT; PREREQUISITES TO  
THE PRACTICE OF LAW; IMMUNITY**

---

**(a) Supreme Court.** [No change].

**(b) Prerequisites to the Practice of Law.** [No change].

**(c) Immunity.** The Washington State Bar Association, its officers and agents (including but not limited to its staff, members of the Board of Governors, the Committee of Bar Examiners, the Character and Fitness ~~Committee~~ Board, the Law Clerk Committee, or any other individual acting under authority of these rules) are immune from all liability for conduct and communications occurring in the performance of their official duties relating to the examination, character and fitness qualifications, admission, and licensing of persons seeking to be admitted to the practice of law or for a limited license to practice law, provided only that the Bar Association, officer, or agent shall have acted in good faith. The burden of proving bad faith in this context shall be upon the person asserting it. The Bar Association shall provide defense to any action brought against an officer or agent of the Bar Association for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgment taken therein. Communications to the Association, the Board of Governors, the Committee of Bar Examiners, the Character and Fitness ~~Committee~~ Board, the Law Clerk Committee, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit may be predicated thereon.

**SUGGESTED AMENDMENT  
ADMISSION TO PRACTICE RULES (APR)  
RULE 2. BOARD OF GOVERNORS**

---

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

(1) Appoint a Committee of Bar Examiners (referred to in these rules as the Committee) from among the active members of the Bar Association for the purposes of assisting the Board of Governors in conducting the bar examination;

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

(3) Appoint a Character and Fitness Board pursuant to rule 20

~~(3)~~ Approve or deny applications for permission to take the bar examination, to enroll in the law clerk program, or to engage in the limited practice of law under pertinent provisions of rules 8 and 9;

~~(4)~~ Investigate all aspects of an applicants qualifications to take the bar examination, to be admitted to the practice of law, to engage in the limited practice of law under pertinent provisions of rules 8 and 9, or to enroll in the law clerk program;

~~(5)~~ Recommend to the Supreme Court the admission or rejection of each applicant who has passed the bar examina-

tion or who is applying to engage in the limited practice of law under pertinent provisions of rules 8 and 9;

(67) Approve law schools for the purposes of these rules and maintain a list of such approved law schools on file with the Clerk of the Supreme Court;

(78) Prescribe, with the approval of the Supreme Court, the amount of any fees required by these rules;

(89) Prescribe the form and content of any application, certificate, or other document referred to in these rules; and

(910) Perform any other functions and take any other actions provided for in these rules, or as may be delegated by the Supreme Court, or as may be necessary and proper to carry out its duties.

**(b) Written Request.** [No change].

SUGGESTED AMENDMENT

ADMISSION TO PRACTICE RULES (APR)

RULE 3. APPLICANTS TO TAKE THE BAR EXAMINATION

**(a) Prerequisite for Admission.** [No change].

**(b) Qualification for Bar Examination.** [No change].

**(c) Exceptions.** The Board of Governors may, in its discretion, withhold permission for an otherwise qualified person to sit for the bar examination, until completion of an inquiry into the applicants character and fitness, if the applicant (i) has ever been convicted of a "serious crime" as defined in ELC 7.1 (a)(2), or (ii) has ever been disbarred or is presently suspended from the practice of law for disciplinary reasons in any jurisdiction, or (iii) has previously been denied admission to the Bar in this or any other jurisdiction for reasons other than failure to pass a bar examination. The Board of Governors may also withhold permission to sit for the bar examination where for any other reason there are serious and substantial questions regarding the present moral character or fitness of the applicant. The Board of Governors may refer such matters to the Character and Fitness ~~Committee Board~~ for investigation and hearing pursuant to ~~rule 7~~ these rules.

**(d) Forms; Fees; Filing.** [No change].

**(e) Disclosure of Records.** [No change].

SUGGESTED AMENDMENT

ADMISSION TO PRACTICE RULES (APR)

RULE 7. INVESTIGATIONS; DUTY OF APPLICANT

**(a) Investigations.** The Board of Governors may refer any application for permission to take the bar examination, to be admitted to the practice of law or to be admitted to the limited practice of law under pertinent provisions of rules 8 and 9, or to enroll in the law clerk program to state bar counsel or to ~~any existing or special committee of the Bar Association~~ the Character and Fitness Board for investigation pursuant to these rules. ~~In connection with any investigation, the Board of Governors shall have the power to:~~

(1) ~~Direct the issuance of subpoenas by the Executive Director of the Bar Association in the name of the Board of Governors to compel the attendance of witnesses at depositions or hearings, or for the production of books, records, or other documents;~~

(2) ~~Require additional proof or answers to interrogatories relating to any fact stated in an application; and~~

~~(3) Require an applicant, upon reasonable notice, to appear before the Board of Governors or any existing or special committee of the Bar Association for an examination regarding any matter deemed by the Board of Governors to be relevant to a proper consideration of the application.~~

**(b) Duty of Applicant.** It shall be the duty of every applicant to cooperate with any investigation required by the Board of Governors, by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the investigator. Failure to appear as directed or to furnish additional proof or answers as required or to cooperate fully shall be sufficient reason for the Board of Governors to reject or to recommend the rejection of an application.

**(c) Subpoenas:** The chairperson of the Character and Fitness Board or Bar Counsel may issue subpoenas to compel attendance of an applicant or witness, or the production of books, documents, or other evidence, at a deposition or hearing. Subpoenas shall be served in the same manner as in civil cases in the superior court.

SUGGESTED AMENDMENT

ADMISSION TO PRACTICE RULES (APR)

APR 20 CHARACTER AND FITNESS ~~COMMITTEE BOARD~~

~~**(a) Membership.**~~

~~(1) **(a) Composition.** The ~~Committee Board~~ shall consist of not less than three nonlawyer members, appointed by the Supreme Court, and not less than one lawyer member from each congressional district, appointed by the Board of Governors.~~

~~(2) **(b) Qualifications.** Lawyer members must have been active members of the Bar Association for at least 7 years.~~

~~(3) **Quorum.** A majority of the Committee members shall constitute a quorum. Given a quorum, the concurrence of a majority of those present shall constitute action of the Committee.~~

~~(4) **Disqualification.** In the event a grievance is made to the Bar Association alleging an act of misconduct by a lawyer member of the committee, such member shall take a leave of absence from the Committee until the matter is resolved, unless otherwise directed by the Board of Governors.~~

~~(5) **Voting.** Each member, whether non-lawyer or lawyer, shall have one vote.~~

~~**(b) Terms of Office.** The term of office for a member of the Committee shall be 3 years. Newly created Committee positions may be filled by appointments of less than 3 years, as designated by the Supreme Court or the Board of Governors, to permit as equal a number of positions as possible to be filled each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later. Members may not serve more than one term except as otherwise provided in these rules. Members heretofore appointed shall continue to serve until replaced.~~

**(c) Committee Board Chair.** The Board of Governors shall annually designate one lawyer member of the ~~Committee Board~~ to act as chair and another as vice-chair. The vice-chair shall serve in the absence of or at the request of the ~~Committee Board~~ chair.

**(d) Vacancies.** Vacancies in lawyer membership on the Committee Board and in the office of the Committee Board chair and the vice-chair shall be filled by the Board of Governors. Vacancies in nonlawyer membership shall be filled by the Supreme Court. A person appointed to fill a vacancy shall complete the unexpired term of the person he or she replaces, and if that unexpired term is less than 24 months he or she may be reappointed to a consecutive term.

**(e) Pro Tempore Members.** ~~When a member of the Committee is disqualified or unable to function on a case for good cause, the chair of the Committee may, by written order, designate a member pro tempore to sit with the Committee to hear and determine the cause. A member pro tempore may be appointed from among those persons who have previously served as members of the Character and Fitness Committee, or from among lawyers appointed as alternate Board members by the Board of Governors and non-lawyers appointed as alternate Committee members by the Supreme Court. A lawyer shall be appointed to substitute for a lawyer member of the Committee, and a non-lawyer to substitute for a non-lawyer member of the Board.~~

**(e) Quorum.** A majority of the Board members shall constitute a quorum. Given a quorum, the concurrence of a majority of those present shall constitute action of the Board. In the event a quorum is not present, the Applicant or Petitioner may waive the requirement of a quorum.

**(f) Disqualification.** In the event a grievance is made to the Bar Association alleging an act of misconduct by a lawyer member of the Board the procedures specified in ELC 2.3 (b)(5) shall apply.

**(g) Pro Tempore Members.** ~~When a member of the Board is disqualified or unable to function on a case for good cause, the chair of the Board may, by written order, designate a member pro tempore to sit with the Board to hear and determine the cause. A member pro tempore may be appointed from among those persons who have previously served as members of the Character and Fitness Board (or its predecessor Character and Fitness Committee), or from among lawyers appointed as alternate Board members by the Board of Governors and nonlawyers appointed as alternate Board members by the Supreme Court. A lawyer shall be appointed to substitute for a lawyer member of the Board, and a nonlawyer to substitute for a nonlawyer member of the Board.~~

**(h) Voting.** Each member, whether nonlawyer or lawyer, shall have one vote.

**(i) Terms of Office.** The term of office for a member of the Board shall be 3 years. Newly created Board positions may be filled by appointments of less than 3 years, as designated by the Supreme Court or the Board of Governors, to permit as equal a number of positions as possible to be filled each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later. Members may not serve more than one term except as otherwise provided in these rules. Members shall continue to serve until replaced.

**(j) Application of Rules.** These rules and any subsequent amendments will apply in their entirety, on the effective date as ordered by the Supreme Court, to any pending matter, except as would not be feasible or would work an

injustice. The Chair may rule on the appropriate procedure with a view to insuring a fair and orderly proceeding.

#### **(f) RULE 20.1 AUTHORITY OF COMMITTEE BOARD**

The Committee Board shall have the power and authority to:

(1) **(a)** Accept referrals from ~~the Executive Director of the Bar Association~~ Bar Counsel by concerning itself with itself with matters of character and fitness bearing upon the qualification of Applicants for Admission or Petitioners for Reinstatement.

(2) **(b)** Review each Application for Admission or Petition for Reinstatement to practice law in the state of Washington.

(3) **(c)** Investigate matters relevant to the admission or reinstatement of any Applicant or Petitioner and conduct hearings concerning such matters.

(4) ~~The committee's recommendation to grant the application shall be forwarded to the Supreme Court. The Committee's recommendation to deny the application may be forwarded to the Disciplinary Board for review upon request of the applicant. All recommendations shall contain findings of fact, conclusions of law, and rationale for the recommendation.~~

(5) **(d)** Perform such other functions and take such other actions as provided in these rules or as may be delegated to it by the Board of Governors or Supreme Court, or as may be necessary and proper to carry out its duties.

#### **(g) RULE 20.2 MEETINGS**

The Committee Board shall hold meetings at such times and places as it may determine. Where the chair of the Committee Board determines that prompt action is necessary for protection of the public, and that circumstances do not permit a full meeting of the Committee Board, the Committee Board may vote on a matter otherwise ready for review without meeting together, through telephone, electronic or written communication.

#### **RULE 20.3 BAR COUNSEL**

The Bar Association shall be represented by a lawyer appointed by the Executive Director of the Bar Association, who shall act as counsel to the Board and who may make a recommendation in support of or in opposition to the admission or reinstatement of an Applicant or Petitioner.

#### **(h) RULE 20.4 CLERK**

The Executive Director of the Bar Association, ~~under the direction of the Board of Governors,~~ may appoint a suitable person or persons to act as Clerk to the Committee Board, and to assist the Committee Board in carrying out its functions under these rules.

#### **RULE 20.5 SERVICE**

Service of papers and documents shall be made by first class postage prepaid mail to the Applicant's or Petitioner's, or his or her counsel's, last known address on record with the Bar Association. If properly made, service by mail is deemed accomplished on the date of mailing. Any notice of change

of address shall be submitted in writing to the Bar Association.

**SUGGESTED AMENDMENT  
ADMISSION TO PRACTICE RULES (APR)  
APR 21 CHARACTER DEFINED  
(NEW RULE)**

---

Good moral character is a record of conduct manifesting the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibilities, adherence to the law, and a respect for the rights of other persons and the judicial process.

**SUGGESTED AMENDMENT  
ADMISSION TO PRACTICE RULES (APR)  
APR 22 FITNESS DEFINED; INDEPENDENT FITNESS EXAMINATION  
(NEW RULE)**

---

**(a) Fitness - defined.** Fitness is the absence of any current mental impairment or current drug or alcohol dependency or abuse which, if extant, would substantially impair the ability of the Applicant or Petitioner to practice law.

**(b) Testimony and Evidence:** If it appears that the Applicant or Petitioner has engaged in conduct that was or may have been caused in whole or in part by a mental impairment or drug or alcohol dependency or abuse, the Applicant or Petitioner may present testimony or evidence from a licensed or certified mental health professional (hereafter "examining professional").

**(c) Independent Fitness Examination:** If after reviewing such testimony or evidence the Board finds that further examination is necessary, the Board by majority vote may require an examination of the Applicant or Petitioner by an examining professional approved by the Lawyers' Assistance Program of the Washington State Bar Association.

**(d) Failure to Comply:** The failure of an Applicant or a Petitioner to agree or submit to a required independent fitness examination shall result in the Applicant's or Petitioner's application or petition being denied.

**(e) Costs:** The cost of any examination required by the Board shall be borne by the Bar Association.

**(f) Report:** The examining professional shall issue a written report of his or her findings which report shall be provided to the Applicant or Petitioner and his or her counsel, Bar Counsel and the Character and Fitness Board.

**(g) Confidentiality:** Any report and testimony of an examining professional may be admitted into evidence at a hearing on, or review of, the Applicant's or Petitioner's fitness and transmitted with the record on review by the Disciplinary Board or the Supreme Court. Reports and testimony regarding the Applicant's or Petitioner's fitness shall otherwise be kept confidential in all respects and neither the report nor the testimony of the examining professional shall be discoverable or admissible in any other proceeding or action.

**SUGGESTED AMENDMENT  
ADMISSION TO PRACTICE RULES (APR)  
APR 23 - CHARACTER AND FITNESS BOARD - PREHEARING  
PROCEDURE -  
APPLICATIONS FOR ADMISSION  
(NEW RULE)**

---

**(a) Admissions Staff Review.** All applications for admission to practice law in Washington State shall be reviewed by the Bar Association Admissions staff for purposes of determining whether any of the factors set forth in rule 24.2(a) are present.

**(b) Admissions Staff Review - Standard.** All applications which reflect one or more of the factors set forth in rule 24.2(a) shall be referred to Bar Counsel for review.

**(c) Review By Bar Counsel - Standard.** Upon receiving a referral from the admissions staff, Bar Counsel may conduct such further investigation as he or she deems necessary and thereafter, applying the factors and considerations set forth in rule 24.2, and upon reviewing the material evidence in the light most favorable to the Bar Association's obligation to recommend the admission to the practice of law only those persons who possess good moral character and fitness, Bar Counsel shall refer to the Character and Fitness Board for hearing any Applicant about whom there is a substantial question whether the Applicant possesses the requisite good moral character and fitness to practice law.

**SUGGESTED AMENDMENT  
ADMISSION TO PRACTICE RULES (APR)  
APR 24 APPLICATIONS FOR ADMISSION  
(NEW RULE)**

---

**RULE 24.1 DUTY OF APPLICANT**

It shall be the duty of every Applicant to cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the Board or Bar Counsel. Failure to appear as directed or to furnish additional proof or answers as required or to cooperate fully shall be sufficient reason for the Board to recommend the rejection of an application.

**RULE 24.2 FACTORS CONSIDERED WHEN DETERMINING  
CHARACTER AND FITNESS**

**(a) Factors.** The following factors shall be considered by the Admissions staff and Bar Counsel when determining whether an applicant shall be referred to the Character and Fitness Board for a determination of the applicant's character and/or fitness to practice law:

- (1) unlawful conduct.
- (2) academic misconduct.
- (3) making of false statements or omitting material information in connection with an application to sit for a bar examination.
- (4) misconduct in employment.
- (5) acts involving dishonesty, making false statements, fraud, deceit or misrepresentation.
- (6) abuse of legal process.
- (7) neglect of financial responsibilities.
- (8) disregard of professional obligations.

(9) violation of a court order.

(10) evidence of a current substantial mental impairment, including without limitation, drug or alcohol dependency or abuse.

(11) denial of admission to the bar in another jurisdiction on character and fitness grounds.

(12) disciplinary action by any professional disciplinary agency of any jurisdiction.

(13) any other conduct or condition which reflects adversely on moral character or fitness of the Applicant to practice law.

**(b) Factors Considered by the Character and Fitness Board When Determining Good Moral Character.** When determining whether past conduct disqualifies the Applicant from taking the Washington Bar Examination, or for admission to the Bar, the Character and Fitness Board shall consider those factors specified in rule 24.2(a) and the following factors in mitigation or aggravation:

(1) Applicant's age at the time of the conduct.

(2) Recency of the conduct.

(3) Reliability of the information concerning the conduct.

(4) Seriousness of the conduct.

(5) Factors or circumstances underlying the conduct.

(6) Cumulative nature of the conduct.

(7) Candor in the admissions process and before the Board.

(8) Materiality of any omissions or misrepresentations.

(9) Evidence of rehabilitation, which may include but is not limited to the following:

(i) absence of recent misconduct.

(ii) compliance with any disciplinary, judicial or administrative order arising out of the misconduct.

(iii) sufficiency of punishment.

(iv) restitution of funds or property, where applicable.

(v) Applicant's attitude toward the misconduct, including without limitation acceptance of responsibility and remorse.

(vi) personal assurances, supported by corroborating evidence, of a desire and intent to engage in exemplary conduct in the future;

(vii) constructive activities and accomplishments since the conduct in question.

(viii) the Applicant's understanding and acceptance of the factors leading to the misconduct and how similar misconduct may be avoided in the future.

**(c) Factors Considered by the Character and Fitness Board in Fitness Cases Involving Drug or Alcohol Dependence or Abuse.** When determining whether an Applicant is unfit to practice law due to drug or alcohol dependence or abuse, the Character and Fitness Board shall consider the following factors, no single one of which is determinative:

(1) Whether the Applicant is currently using drugs or alcohol.

(2) Whether the Applicant's drug or alcohol dependence or abuse is likely to cause or contribute to any of the conduct specified in rule 24.2(a).

(3) The nature, extent and duration of the Applicant's drug or alcohol dependence or abuse, and the Applicant's candor in the admissions process and before the Board when describing the problem.

(4) Whether the Applicant has been or is now in treatment and, if so:

(i) The nature and duration of the treatment.

(ii) Whether treatment was or is voluntary or involuntary.

(iii) Consistency of participation in or compliance with treatment.

(iv) Whether the treatment was effective.

(5) Whether the Applicant has undergone a drug or alcohol evaluation by a certified chemical dependency counselor or other professional with credentials acceptable to the Board and, if so, whether the substance of such person's opinion the findings have been made available to the Committee.

(6) The length of time the Applicant has been in recovery. In cases where the period of recovery is less than two years, the Applicant must demonstrate through appropriate expert opinion that there has been an adequate period of recovery.

**(d) Factors Considered by the Character and Fitness Board in Fitness Cases Involving a Mental Impairment.** When determining whether an Applicant is unfit to practice law due to a mental impairment, the Character and Fitness Board shall consider the following factors, no single one of which is determinative:

(1) Whether there is a current mental impairment.

(2) Whether the Applicant's mental impairment is likely to cause or contribute to any of the conduct specified in rule 24.2(a).

(3) The nature, extent and duration of the Applicant's mental impairment, and the Applicant's candor in the admissions process and before the Board when describing the impairment.

(4) Whether the Applicant's mental impairment is chronic or situational in nature.

(5) Whether the applicant has received or is receiving professional mental health treatment appropriate for the impairment, and if so:

(i) Whether the Applicant's impairment has been in remission for at least two years as verified by an appropriate mental health professional and, if not, whether the Applicant has demonstrated through appropriate expert opinion that the period of remission has been adequate.

(ii) Whether a mental health professional has identified any conditions, including without limitation further treatment, that must be complied with to continue the Applicant's state of remission and, if so, whether the Applicant is in compliance with those conditions.

**(e) Factors Not Considered by the Character and Fitness Board.** The following factors shall not be considered as evidence of an Applicant's character or fitness:

(1) Racial or ethnic identity.

(2) Sex.

(3) Sexual orientation.

(4) Marital status.

(5) Religious or spiritual beliefs or affiliation.

(6) Political beliefs or affiliation.

(7) Physical disability.

(8) National origin.

(9) Age.

(10) Learning disabilities.

## RULE 24.3 HEARINGS

**(a) Notice.** The Character and Fitness Board may fix a time and place for a hearing on the application, and shall serve notice thereof not less than 30 days prior to the hearing upon the Applicant and upon such other persons as may be ordered by the Character and Fitness Board. This notice requirement may be waived by the Applicant.

**(b) Right to Counsel.** An Applicant may be represented by counsel.

**(c) Burden of Proof.** An Applicant must establish by clear and convincing evidence that he or she is of good moral character and possesses the requisite fitness to practice law.

**(d) Proceedings Not Civil or Criminal.** Hearings before the Character and Fitness Board are not civil nor criminal but are sui generis hearings to determine whether an Applicant possesses good moral character and fitness to be admitted to practice law.

**(e) Rules of Evidence.**

(1) Evidentiary rulings shall be made by the Board chairperson. A majority of Board members present may by vote overrule a ruling by the chairperson.

(2) Consistent with section (d) of this rule, evidence, including hearsay evidence, is admissible if in the chairperson's judgment it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The chairperson may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(3) Witnesses shall testify under oath; all testimony shall be transcribed by a certified court reporter.

(4) Expert witnesses shall appear and testify in person before the Board, unless in the discretion of the Board their appearance before the Board is waived.

(5) Generally, all documentary evidence submitted to the Board for consideration must be delivered to Bar Counsel not less than 14 days prior to the hearing. Bar Counsel will provide copies of all documentary evidence, and any hearing briefs, memoranda, or other documentary material, to the Board members and to the Applicant prior to the hearing date.

(6) The Board may take notice of any judicially cognizable facts, or technical or scientific facts within a Board member's specialized knowledge.

(7) Questioning of the Applicant and the Applicant's witnesses shall be conducted by Bar Counsel or his or her designee and by two members of the Board designated by the chair.

**(f) Confidentiality:** All hearings and documents before the Character and Fitness Board on applications for admission to the bar are confidential.

## RULE 24.4 DECISION AND RECOMMENDATION.

**(a) Decision.** Within 20 days after the proceedings are concluded, unless a greater or shorter period is directed by the Board chair, the Board will file with the Bar Association written findings of fact, conclusions of law, and a recommendation. Any Board member or members may file a written dissent within the same time period.

**(b) Action on Board Recommendation.** The recommendation of the Character and Fitness Board shall be served upon the Applicant pursuant to rule 20.5. If the Board recom-

mends admission, the record, recommendation and all exhibits shall be transmitted to the Supreme Court for disposition. If the Board recommends against admission, the record and recommendation shall be retained in the office of the Bar Association unless the Applicant requests that it be submitted to the Supreme Court by filing a Notice of Appeal with the Board within 15 days of service of the recommendation of the Character and Fitness Board. If the Applicant so requests, the Board will transmit the record, including the transcript, exhibits, and recommendation to the Supreme Court for review and disposition. If the Applicant does not so request, the bar examination fee shall be refunded to the Applicant.

## RULE 24.5 ACTION ON SUPREME COURT'S DETERMINATION

**(a) Application Approved.** If the application is approved by the Supreme Court, admission shall be subject to the Applicant's taking and passing the bar examination and complying with rule 5.

**(b) Application Denied.** If the application is denied, the bar examination fee shall be refunded to the Applicant.

## SUGGESTED AMENDMENT

## ADMISSION TO PRACTICE RULES (APR)

APR 24 25 PETITIONS FOR REINSTATEMENT AFTER DISBARMENTRULE 24.4 25.1 RESTRICTIONS ON REINSTATEMENT

**(a) Petitions For Reinstatement.** All Petitions for Reinstatement after Disbarment shall be referred for hearing before the Character and Fitness Board.

~~(a)~~ **(b) When Petition May Be Filed.** No petition for reinstatement shall be filed within a period of 5 years after disbarment or within a period of 2 years after an adverse decision of the Supreme Court upon a former petition, or within a period of 1 year after an adverse recommendation of the Character and Fitness Committee of the Washington State Bar Association Board on a former petition when that recommendation is not submitted to the Supreme Court. If prior to disbarment the lawyer was suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for Enforcement of Lawyer Conduct, or any comparable rule, the period of such suspension shall be credited toward the 5 years referred to above.

~~(b)~~ **(c) When Reinstatement May Occur.** No disbarred lawyer may be reinstated sooner than 6 years following disbarment. If prior to disbarment the lawyer was suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for Enforcement of Lawyer Conduct, or any comparable rule, the period of such suspension shall be credited toward the 6 years referred to above.

~~(c)~~ **(d) Payment of Obligations.** No disbarred lawyer may file a petition for reinstatement until costs and expenses assessed pursuant to these rules, and restitution ordered as provided herein, by the Disciplinary Board or the Supreme Court have been paid and until amounts paid out of any program maintained by the Bar Association to indemnify clients against the Lawyers' Fund for Client Protection for losses caused by the conduct of the Petitioner have been repaid to the Bar Association client protection fund, or until periodic payment plans for costs and expenses, restitution and repayment to the indemnity program client protection fund have

been entered into by agreement between the ~~respondent lawyer~~ Petitioner and disciplinary counsel. A ~~respondent lawyer~~ Petitioner may seek review by the Chair of the Disciplinary Board of an adverse determination by disciplinary counsel regarding the reasonableness of any such proposed periodic payment plan. Such review will proceed as directed by the Chair of the Disciplinary Board and the decision of the Chair of the Disciplinary Board is final unless the Chair of the Disciplinary Board determines that the matter should be reviewed by the Disciplinary Board, in which case the Disciplinary Board review will proceed as directed by the Chair and the decision of the Board will be final.

#### ~~RULE 21.2~~ 25.2 REVERSAL OF CONVICTION

If a lawyer has been disbarred solely because of his or her conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the lawyer, enter an order reinstating the lawyer ~~to active status upon such conditions as determined by the Supreme Court~~. At the time such direct application is filed with the court a copy shall be filed with the Bar Association. The Supreme Court may request a response to the application from the Bar Association.

#### ~~RULE 21.3~~ 25.3 PETITIONS AND INVESTIGATIONS

**(a) Form of Petition.** A petition for reinstatement ~~as a member of the Bar Association~~ after disbarment shall be in writing in such form as the Character and Fitness ~~Committee Board~~ may prescribe. The petition shall be filed with the Character and Fitness ~~Committee Board~~. The petition shall set forth the age, residence and address of the Petitioner, the date of disbarment, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required of a lawyer Applicant under these rules.

**(b) Investigations.** ~~The Character and Fitness Committee may in its discretion refer the petition for reinstatement for investigation and report to the Character and Fitness Committee by disciplinary counsel, adjunct investigative counsel, or by such other person or persons as may be determined by the Character and Fitness Committee. The petition for reinstatement shall be referred to the Character and Fitness Board.~~

**(c) Duty to Cooperate.** It shall be the duty of every Petitioner to cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the Board or Bar Counsel. Failure to appear as directed or to furnish additional proof or answers as required or to cooperate fully shall be sufficient reason for the Committee to recommend the rejection of a petition.

~~(e)~~ **(d) Proceedings Public.** A petition for reinstatement after disbarment shall be a public proceeding from the time the petition is filed.

**(e) Protective Orders.** To protect a compelling interest, a Petitioner may, on a showing of good cause, move for a protective order prohibiting the disclosure or release of specific information, documents, or pleadings, and directing that the proceedings be conducted so as to implement the order.

#### ~~RULE 21.4~~ 25.4 HEARING BEFORE CHARACTER AND FITNESS COMMITTEE BOARD

**(a) Notice.** The Character and Fitness ~~Committee Board~~ may fix a time and place for a hearing on the petition, and shall serve notice thereof ~~to~~ not less than 30 days prior to the hearing upon the Petitioner and upon such other persons as may be ~~determined by Bar Council or as ordered by the Character and Fitness Committee Board~~. Notice of the hearing shall also be published at least once in the Washington State Bar News ~~or and~~ such other newspaper or periodical as the Character and Fitness ~~Committee Board~~ may direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.

**(b) Statement in Support or Opposition.** On or prior to the date of hearing, anyone wishing to do so may file with the Character and Fitness ~~Committee Board~~ a written statement for or against the petition, such statements to set forth factual matters showing that the Petitioner does or does not meet the requirements ~~of rule 21.5(a) for reinstatement as set forth in these rules~~.

**(c) Hearings.** Hearings shall be conducted pursuant to rule 24.3.

#### ~~RULE 21.5~~ 25.5 ACTION BY CHARACTER AND FITNESS COMMITTEE BOARD

**(a) Requirements for Favorable Recommendation.** Reinstatement may be recommended by the Character and Fitness ~~Committee Board~~ only upon a showing ~~that the Petitioner, supported by clear and convincing proof, that the Petitioner possesses the qualifications and meets the requirements for reinstatement as set forth in these rules for lawyer applicants, and that his or her reinstatement will not be detrimental to the integrity and standing of the judicial system or to the administration of justice, or be contrary to the public interest, and that the Petitioner has been rehabilitated.~~

**(b) Factors Considered by the Character and Fitness Board.** In reaching the decision of whether the Petitioner has been rehabilitated, the Board shall consider the factors set forth in Rule 24.2 (b), (c) and (d), where applicable, and the following factors:

(i) The Petitioner's character, standing, and professional reputation in the community in which the Petitioner resided and practiced prior to disbarment.

(ii) The ethical standards which the Petitioner observed in the practice of law.

(iii) The nature and character of the conduct for which the Petitioner was disbarred.

(iv) The sufficiency of the punishment undergone in connection therewith, and the making or failure to make restitution where required.

(v) The Petitioner's attitude, conduct, and reformation subsequent to disbarment.

(vi) The time that has elapsed since disbarment.

(vii) The Petitioner's current proficiency in the law; and

(viii) The sincerity, frankness, and truthfulness of the Petitioner in presenting and discussing the factors relating to the Petitioner's disbarment and reinstatement.



**(c) Factors Not Considered by the Character and Fitness Board.** The following factors shall not be considered as evidence of a Petitioner's character or fitness:

- (1) Racial or ethnic identity.
- (2) Sex.
- (3) Sexual orientation.
- (4) Marital status.
- (5) Religious or spiritual beliefs or affiliation.
- (6) Political beliefs or affiliation.
- (7) Physical disability.
- (8) National origin.
- (9) Learning disabilities.

**(b) (d) Action on Committee Board Recommendation.** The recommendation of the Character and Fitness Committee Board shall be served upon the Petitioner pursuant to rule 20.5. If the Committee Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Committee Board recommends against reinstatement, the record and recommendation shall be retained in the office of the Bar Association unless the Petitioner requests that it be submitted to the Disciplinary Board by filing with the Clerk of the Disciplinary Board a request for Disciplinary Board review within 15 days of service of the recommendation of the Character and Fitness Committee Board. If the Petitioner so requests, the record and recommendation shall be transmitted to the Disciplinary Board for disposition and the review will be conducted under the procedure of rules 11.9 and 11.12 of the Rules for Enforcement of Lawyer Conduct. If the Petitioner does not so request, the bar examination fee shall be refunded to the Petitioner, but the Petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding as directed by the Character and Fitness Committee Board.

**(e) (e) Action on Disciplinary Board Recommendation.** The recommendation of the Disciplinary Board shall be served upon the Petitioner. If the Disciplinary Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Disciplinary Board recommends against reinstatement, the record and recommendation shall be retained in the office of the Bar Association unless the Petitioner requests that it be submitted to the Supreme Court by filing with the Clerk of the Disciplinary Board a request for Supreme Court review within 30 days of service of the recommendation. If the Petitioner so requests, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Petitioner does not so request, the bar examination fee shall be refunded to the Petitioner, but the Petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding as directed by the Disciplinary Board under the procedure of rule 13.9 of the Rules for Enforcement of Lawyer Conduct.

**RULE ~~21.6~~ 25.6 ACTION ON SUPREME COURT'S DETERMINATION**

**(a) Petition Approved.** If the petition for reinstatement is granted approved by the Supreme Court, the reinstatement shall be subject to the Petitioner's taking and passing the bar examination, paying to the Bar Association its membership

fee for the current year and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.

**(b) Petition Denied.** If the petition for reinstatement is denied, the bar examination fee shall be refunded to the Petitioner, but the Petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**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 05-23-001**

**PUBLIC RECORDS OFFICER  
PUBLIC EMPLOYMENT  
RELATIONS COMMISSION**

[Filed November 2, 2005, 4:22 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Public Employment Relations Commission, is Kenneth J. Latsch, Operations Manager, 112 Henry Street N.E., Olympia, WA 98504-0919, e-mail klatsch@perc.wa.gov, phone (360) 570-7320, fax (360) 570-7334.

**WSR 05-23-004**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE**

(Barley Commission)

[Memorandum—October 31, 2005]

The Washington Barley Commission's December 1, 2005, regular meeting has been rescheduled. The meeting will now be held on November 29, 2005. The meeting will begin at 9 a.m. and will be held on November 29, 2005. The meeting will begin at 9 a.m. and will be held at the Coeur d'Alene Resort located at 2nd and Front, Coeur d'Alene, Idaho.

If you have any questions, please give Mary Palmer Sullivan a call at (509) 456-4400.

**WSR 05-23-005**

**NOTICE OF PUBLIC MEETINGS  
OFFICE OF THE  
INTERAGENCY COMMITTEE**

(Interagency Committee for Outdoor Recreation)

[Memorandum—November 2, 2005]

**IAC BUSINESS MEETING  
November 15, 2005  
Dumas Bay Centre**

3200 S.W. Dash Point Road  
Federal Way, WA

If you need special accommodations to participate in this meeting, please notify us by November 7, 2005, at (360) 902-2637 or TDD (360) 902-1996.

**WSR 05-23-009**

**NOTICE OF PUBLIC MEETINGS  
SEATTLE COMMUNITY COLLEGES**

[Memorandum—November 1, 2005]

In compliance with RCW 42.30.075, following is the Seattle Community Colleges, District 6, board of trustees regular meeting schedule for 2006, which was adopted by the board on October 13, 2005.

If you have any questions, please contact Carolyn S. Yeager at (206) 587-3850.

**2006 MEETING SCHEDULE**

The board of trustees meetings begin with a study session or reception at **1:00 p.m.** Regular meeting agenda sessions will begin at **2:00 p.m.** Dates and locations of the meetings are noted below. **All meetings are on the second Thursday of the month.**

DATE	LOCATION
January 12	South Seattle Community College (SSCC) 6000 16th Avenue S.W. Seattle, WA 98106
February 9	North Seattle Community College (NSCC) 9600 College Way North Seattle, WA 98103
March 9	Seattle Central Community College (SCCC) 1701 Broadway Seattle, WA 98122
April 13	SCCD (Siegal Center) 1500 Harvard Avenue Seattle, WA 98122
May 11	Seattle Vocational Institute (SVI) 2120 South Jackson Street Seattle, WA 98144
June 8	North Seattle Community College (NSCC) 9600 College Way North Seattle, WA 98103
July 13	South Seattle Community College (SSCC) 6000 16th Avenue S.W. Seattle, WA 98106
August	NO MEETING
September 14	Seattle Central Community College (SCCC) 1701 Broadway Seattle, WA 98122
October 12	SCCD (Siegal Center) 1500 Harvard Avenue Seattle, WA 98122

DATE	LOCATION
November 9	Seattle Vocational Institute (SVI) 2120 South Jackson Street Seattle, WA 98144
December 14	South Seattle Community College (SSCC) 6000 16th Avenue S.W. Seattle, WA 98106

**WSR 05-23-010**

**NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—November 4, 2005]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, November 17, 2005, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for Thursday, December 15, 2005, has been canceled and rescheduled for Wednesday, December 7, 2005, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

**WSR 05-23-015**

**ATTORNEY GENERAL'S OFFICE**

[Filed November 4, 2005, 2:54 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by December 14, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-11-01 Request by Mark Clark  
Executive Director, Washington Conservation Commission**

**1. Does a county legislative body have the authority to modify a conservation district's proposed budget or intended allocation of the special assessment funds? If so, is that body's authority to "modify and accept" a proposed system of assessments limited to changes to: (a) the methodology used to classify lands that will receive a special benefit from activities of the conservation district, (b) the amount of the assessments to be levied against the parcels of real property, and (c) the duration of the assessments?**

**2. If a county legislative body is entitled to make changes, what obligation, if any, does a conservation district have to accept changes made by a county legislative authority to a proposed system of assessments?**

**3. What options and obligations does a conservation district have if it does not agree with the final system of assessments imposed by a county legislative authority?**

**4. May a conservation district elect to withdraw its proposed system of assessments at any time before a county legislative authority takes final action on the proposed system of assessments and, if so, is that accomplished by modifying and accepting the proposed system of assessments?**

**WSR 05-23-016**

**ATTORNEY GENERAL'S OFFICE**

[Filed November 4, 2005, 2:55 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by December 14, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a

due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-10-06 Request by Jan Shabro  
State Representative, 31st District**

**1. Are marine shorelines in Washington State to be regulated primarily under the Shorelines Management Act rather than the Growth Management Act?**

**2. May a growth management hearings board hold that all marine shorelines are critical areas in spite of the considered determination by a local jurisdiction that specific areas less than all marine shorelines within the shorelines of the state qualified for designation as critical areas and were therefore designated as such by the local jurisdiction?**

**WSR 05-23-017**

**ATTORNEY GENERAL'S OFFICE**

[Filed November 4, 2005, 2:56 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by December 14, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-10-05 Request by Karen Fraser  
State Senator, 22nd District**

**1. Must a municipality have an ownership interest in a tourism-related facility in order to allocate lodging tax revenues received under RCW 67.28.180 and .181 for the operation of that tourism-related facility?**

**2. May a municipality spend lodging tax revenues on operating expenses of special events and festivals designed to attract tourists which are operated by non-municipal entities?**

**3. May a municipality enter into contracts with tourism promotion agencies that provide advance payment of hotel-motel tax revenues for tourist promotion?**

**WSR 05-23-019**

**NOTICE OF PUBLIC MEETINGS**

**SHORELINE COMMUNITY COLLEGE**

[Memorandum—November 3, 2005]

The board of trustees of Shoreline Community College will hold a special meeting on Thursday, November 17, 2005, beginning at 12:30 p.m. in the President's Office, Room 1018, of the 1000 Administration Building.

Please call (206) 546-4552 or e-mail Michele Foley at [mfoley@shoreline.edu](mailto:mfoley@shoreline.edu) if you have further information.

**WSR 05-23-020**

**NOTICE OF PUBLIC MEETINGS**

**DEPARTMENT OF AGRICULTURE**

(Asparagus Commission)

[Memorandum—November 7, 2005]

The Washington Asparagus Commission has selected these dates for the upcoming year 2006.

February 3, 2006	Annual Meeting Pasco, Washington
March 30, 2006	Pasco, Washington
July 6, 2006	Toppenish, Washington
October 26, 2006	Walla Walla, Washington

**WSR 05-23-035**

**NOTICE OF PUBLIC MEETINGS**

**BOARD OF TAX APPEALS**

[Memorandum—November 7, 2005]

The schedule for monthly public meetings of the Board of Tax Appeals through the remainder of the fiscal year is as follows. All meetings will be held at the Board of Tax Appeals located at 910 5th Avenue S.E., Olympia. Meetings are scheduled for the second Friday of each month from 9:30 to 11:00 a.m.

January 13, 2006	9:30 - 11:00 a.m.
February 10, 2006	9:30 - 11:00 a.m.
March 10, 2006	9:30 - 11:00 a.m.
April 14, 2006	9:30 - 11:00 a.m.
May 12, 2006	9:30 - 11:00 a.m.
June 9, 2006	9:30 - 11:00 a.m.

**WSR 05-23-038**

**OFFICE OF  
INSURANCE COMMISSIONER**

[Filed November 9, 2005, 12:46 p.m.]

TECHNICAL ASSISTANCE ADVISORY  
T 05-08

TO: Property and Casualty Insurers Authorized in Washington

SUBJECT: Rate Filing Simplification

DATE: November 9, 2005

On October 31, 2005, the Washington Office of Insurance Commissioner (OIC) adopted a revised rule that describes how property and casualty insurers must show in their rate filings that their proposed rates comply with the requirements of RCW 48.19.020: Rates must not be excessive, inadequate, or unfairly discriminatory. The revised rule will be effective January 1, 2006.

We believe this revised version of WAC 284-24-065 is written clearly. However, because the newly adopted rule eliminates many of the details that were prescribed in the previous rule, there may be some uncertainty in the insurance industry about how the new rule will be implemented and applied. The purpose of this Technical Assistance Advisory is to reduce this uncertainty and provide some guidance to insurance compliance professionals who prepare and submit property and casualty insurance rate filings in Washington. We will use a question-and-answer format.

**What are the major changes in this revision?**

The revised rule is much shorter. It contains few details about how to calculate an underwriting profit provision that is consistent with your company's cost of capital. It establishes a range of expected operating ratios, from 0% to 5%, for which proposed rates will not be considered excessive or inadequate. However, it also recognizes that, using accepted ratemaking principles, insurers may be able to support rates for which the expected operating ratio is outside that range.

**What stays the same?**

The underlying ratemaking principle, taken from the Casualty Actuarial Society's *Statement of Principles Regarding Property and Casualty Insurance Ratemaking*, remains the foundation of this regulation: Rates should be actuarially sound estimates of the expected costs of risk transfer. The revised regulation also retains the definition of *operating ratio* and the requirement that the effect of risk loads in increased limits factors be taken into account.

**In which kinds of rate filings should I be concerned about complying with this regulation?**

This regulation is relevant only to initial rate filings and rate filings in which you propose revised base rates or a change in your overall rate level for a program. You should not be concerned about complying with the requirements of WAC 284-24-065 if you are filing a rule change or relativity change that has only a minor premium effect. However, you will still need to include supporting information appropriate to that kind of change.

**If my company includes rate filing documentation similar to what we provided to OIC under the old rule, will that be acceptable?**

Probably. The revised rule still contains the same underlying principles, so the same kind of documentation you have provided in the past may still be appropriate and acceptable. But because many of the details have been deleted from the rule, you may also be able to present less detail in the supporting information for your rate filings.

**What will OIC focus on in its review of my company's rate filings?**

OIC's rate filing review will focus on your company's proposed rates and whether they are justified by actuarially sound estimates of the expected costs of transferring risk from your policyholders to you. The 0%-to-5% operating ratio window should not lead you to believe that our only interest is in your expected operating ratio. We will continue to review your filing documentation, including actuarial methods, loss development, trend factors, expense estimates, investment income calculations, indicated relativities, etc. We will also continue to emphasize the statutory requirement that your rates not be unfairly discriminatory.

**If I calculate the expected operating ratio corresponding to my company's proposed rates to be between 0% and 5%, will my rate filing automatically be approved?**

Not automatically. In each rate filing it may be helpful if you show your calculation of the expected operating ratio corresponding to your proposed rates. However, even if that expected operating ratio is between 0% and 5%, your filing does not get a free pass. We will also be reviewing the data and actuarial methods supporting your proposed rates. For example, if you have overestimated your loss trend factors, the expected operating ratio corresponding to your proposed rates may be higher than you thought it was. And as is mentioned above, we will continue to watch for the possibility of unfairly discriminatory rates.

**If my company proposes a large rate increase but the expected operating ratio is still less than 0%, will the proposed rates be disapproved as inadequate? Or if we propose a large rate decrease but the expected operating ratio is still greater than 5%, will the proposed rates be disapproved as excessive?**

In the rate review process we will continue to be concerned about rate stability. We have no desire to cause market disruptions. As in the past, if you propose to take a sizeable step toward your indicated rate level, we are not likely to consider your proposed rates to be excessive or inadequate.

**My company has an approved return-on-equity reference document on file with OIC. Under the revised rule can we still refer to that document? Will return-on-equity reference documents still be accepted?**

In 1991, when the provisions of WAC 284-24-065 were first implemented, OIC recognized that compliance with new, detailed regulations pertaining to cost-of-capital calculations would be difficult for some insurers. OIC's acceptance of return-on-equity reference documents was a way to make the process easier for some insurance compliance professionals. Now that most of the detailed requirements have been removed from the regulation, return-on-equity reference documents are no longer needed and will not be accepted. Each rate filing should include its own documentation and should not refer to or depend on an approved return-on-

equity reference document. If your rate filings still include cost-of-capital calculations, we recommend that you develop an efficient, concise way to present this information. (We do not want to see your 200-page fair-rate-of-return study in every rate filing!) Of course, if you are filing rates for various programs or lines of business, it is still important to maintain consistency with respect to your company's target after-tax rate of return on equity and its allocation of surplus.

**Do I still need to include OIC's required form, the Return on Equity Worksheet, in every rate filing?**

No. The Return on Equity Worksheet is being discontinued, and it will not be replaced by any other required form.

If you have questions regarding this Technical Assistance Advisory, you may contact OIC's Senior Actuary, Lee Barclay, at (360) 725-7115 or [LeeB@oic.wa.gov](mailto:LeeB@oic.wa.gov).

**WSR 05-23-051**

**OFFICE OF  
INSURANCE COMMISSIONER**

[Filed November 9, 2005, 4:50 p.m.]

**Notice of Public Hearing  
Insurance Commissioner Mike Kreidler**

Subject: Information gather hearing relating to insurer surplus.

Date: Thursday, December 8, 2005.

Time: 1:00 p.m. - 4:00 p.m.

Location: State Capitol Legislative (Domed) Building, Columbia Room (bottom floor), Olympia, Washington 98504.

For information contact Kacy Scott, (360) 725-7041, or [kacys@oic.wa.gov](mailto:kacys@oic.wa.gov).

**WSR 05-23-052**

**NOTICE OF PUBLIC MEETINGS  
CONSERVATION COMMISSION**

[Memorandum—November 8, 2005]

WAC 135-04-020 provides that the Washington State Conservation Commission shall hold regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington. The schedule for 2006 was adopted by the Conservation Commission at its September 15, 2005, meeting held in Port Angeles, Washington.

This schedule will also be posted on line at [www.scc.wa.gov](http://www.scc.wa.gov).

January 18, 2006 Special Meeting	1-5 p.m. Field Tour 6-8 p.m. Interaction Dinner	Coordinated by Thurston Conservation District
January 19, 2006 Regular Meeting	8:30 a.m.-4:30 p.m. WSCC Business Meeting	Washington State Conservation Commission Washington State Department of Ecology Building Room ROA-34/36 300 Desmond Drive S.E. Lacey, WA
March 15, 2006 Special Meeting	1-5 p.m. Field Tour 6-8 p.m. Interaction Dinner	Coordinated by King Conservation District
March 16, 2006 Regular Meeting	8:30 a.m.-4:30 p.m. WSCC Business Meeting	Seattle Courtyard Marriott 925 Westlake Avenue North Seattle, WA 98109
May 16, 2006 Special Meeting	1-5 p.m. Field Tour 6-8 p.m. Interaction Dinner	Coordinated by Kittitas County Conservation District
May 17, 2006 Planning Meeting	9:00 a.m.-4:30 p.m. WSCC Planning Meeting	Ellensburg Location to be determined
May 18, 2006 Regular Meeting	8:30 a.m.-4:30 p.m. WSCC Business Meeting	Ellensburg Location to be determined

**WSR 05-23-053**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF  
RETIREMENT SYSTEMS**

(Employee Retirement Benefits Board)

[Memorandum—November 8, 2005]

The following information is provided in compliance with the requirement for the Employee Retirement Benefits Board (ERBB) to submit a schedule of regular meeting dates and locations for 2006.

The ERBB will conduct quarterly meetings in 2006. Meetings will be held at 9:30 a.m. in the boardroom at the Washington State Investment Board, 2100 Evergreen Park Drive S.W., in Olympia.

The meeting dates are January 24, 2006; April 25, 2006; July 25, 2006; and October 24, 2006.

If you have any questions or need additional information, please contact Wilma Eby at 664-7311.

**WSR 05-23-054**

**NOTICE OF PUBLIC MEETINGS  
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—November 10, 2005]

The board of trustees of Eastern Washington University will hold a special meeting via teleconference call on Tuesday, November 8, 2005, at 6:00 p.m. in Room 206 of the EWU Spokane Center building. The board will convene an executive session according to RCW 42.30.140.

**WSR 05-23-055**

**NOTICE OF PUBLIC MEETINGS  
CONVENTION AND TRADE  
CENTER**

[Memorandum—November 8, 2005]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on **Tuesday, November 15, 2005, at 2:00 p.m.** in Room 208 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 05-23-057**

**NOTICE OF PUBLIC MEETINGS  
OFFICE OF THE  
INTERAGENCY COMMITTEE  
(Biodiversity Council)**

[Memorandum—November 8, 2005]

The next public meeting of the Biodiversity Council will be **Wednesday, December 7, 2005, from 9:00 a.m. to 4:00 p.m.** in 1st Floor Conference Room of the Natural Resource Building, Room 175 A, 1111 Washington Street S.E., Olympia.

For further information, please contact Amie Fowler, Interagency Committee for Outdoor Recreation (IAC), (360) 902-3012 or check the web page at <http://www.iac.wa.gov>.

The IAC schedules all public meetings at barrier free sites. Persons who need special assistance, such as large type materials, may contact Amie Fowler at the number listed above or by e-mail at [AmieF@iac.wa.gov](mailto:AmieF@iac.wa.gov).

**WSR 05-23-059**

**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE**  
**INTERAGENCY COMMITTEE**  
(Salmon Recovery Funding Board)

[Memorandum—November 9, 2005]

At a regular meeting on October 28, 2005, the Salmon Recovery Funding Board adopted the following meeting schedule:

Date	Days	Location
January 5 and 6, 2006	Thursday-Friday	Red Lion Hotel Olympia, Washington
April 6 and 7, 2006	Thursday-Friday	NRB Room 172 Olympia, Washington
June 8 and 9, 2006	Thursday-Friday	To be determined
September 14 and 15, 2006	Thursday-Friday	To be determined
December 6 and 7, 2006	Wednesday-Thursday	To be determined

**WSR 05-23-063**

**NOTICE OF PUBLIC MEETINGS**  
**EVERETT COMMUNITY COLLEGE**

[Memorandum—November 1, 2005]

**NOTIFICATION OF MEETING CANCELLATION**

The board of trustees of Everett Community College has cancelled their regularly scheduled meeting of November 9, 2005. Please call (425) 388-9572 for information.

**WSR 05-23-064**

**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Escrow Commission)

[Memorandum—November 14, 2005]

**Escrow Commission Meetings**

Alternating 2nd and 4th Wednesdays of the 1st month of each quarter:

Tuesday, January 11, 2006	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, April 19, 2006	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, July 12, 2006	9 a.m. - 12 noon	Highline Community College, Des Moines
Tuesday, October 18, 2006	9 a.m. - 12 noon	Highline Community College, Des Moines

**WSR 05-23-065**

**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF**  
**CIVIL LEGAL AID**

[Memorandum—November 9, 2005]

The Civil Legal Aid Oversight Committee established by section 4, chapter 105, Laws of 2005, will meet and conduct business on Friday, December 2, 2005, at the offices of the Northwest Justice Project in Seattle, Washington.

What:	Quarterly Meeting of the Civil Legal Aid Oversight Committee
When:	Friday, December 2, 2005
Time:	9:30 a.m. to 3:30 p.m.
Where:	Northwest Justice Project 401 Second Avenue South Seattle, WA 998501 [98104]

The agenda will include action on committee business matters, receipt of the quarterly report from the director of the Office of Civil Legal Aid and presentations related to the provision of civil legal aid services to eligible low income people by organizations that receive state-appropriated civil legal aid funding under authority of chapter 2.53 RCW. A detailed agenda will be available at the meeting.

Accommodations: The Civil Legal Aid Oversight Committee fully complies with applicable laws ensuring access for persons with disabilities. Upon request, the Civil Legal Aid Oversight Committee will make reasonable accommodation to ensure full accessibility and meaningful opportunity for interested individuals to participate in the meeting, regardless of physical, mental, cognitive or other disabilities. Upon prior request received at least forty-eight hours in advance of the meeting, translation services will be made available for individuals with limited English proficiency.

For further information about this meeting and/or to request reasonable accommodation, please contact James A. Bamberger, Director, Office of Civil Legal Aid, 1112 Quince Street S.E., Mailstop 41183, Olympia, WA 98504, (360) 704-4135, jim.bamberger@ocla.wa.gov.

**WSR 05-23-068****DEPARTMENT OF ECOLOGY**

[Filed November 15, 2005, 10:52 a.m.]

**Department of Ecology to Develop a General Permit for**  
**Aquatic Weed Control in Irrigation Systems**

The Washington State Department of Ecology has made a preliminary determination to reissue a state waste discharge general permit for irrigation systems. The permit would cover entities that use pesticides to control aquatic weeds in irrigation systems. A final permit is expected in January 2007. The Department of Ecology originally issued a general permit in 2002 that will expire in May 2007.

Due to a recent court decision (*Fairhurst v. Hager*), as well as a proposed Environmental Protection Agency rule, the Department of Ecology is planning to issue this permit

under state permitting authority. The 2002 permit was issued under both state and federal NPDES authority.

The permit provides coverage for irrigation districts and irrigation water suppliers who apply aquatic herbicides in irrigation canals or ditches. Currently, sixteen irrigation districts and irrigation water suppliers are covered by the permit.

We expect to complete the draft version of the permit and release it for public comment by October 2006. The proposed timeline for drafting the permit is:

October 2006	Public notice of draft permit
November 2006	Public hearings and end of the public comment period
January 2007	Issue final permit

We intend to form an advisory group to assist in the development of the permit and ask those interested in participating to contact Andrew Kolosseus at (360) 407-7543.

The Department of Ecology will keep a mailing list to inform the public of significant stages in the development of the permit, including notices of the draft permit, public hearings, and issuance of the permit. Information will also be posted on the Department of Ecology's web page at <http://www.ecy.wa.gov/programs/wq/pesticides/index.html>.

To join the mailing list, to comment on the appropriateness of general permits instead of individual permits, or to provide information on potential dischargers, please contact Andrew Kolosseus, Washington State Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7543.

### WSR 05-23-070

#### NOTICE OF PUBLIC MEETINGS EVERETT COMMUNITY COLLEGE

[Memorandum—November 7, 2005]

#### NOTIFICATION OF SPECIAL MEETING

The board of trustees of Everett Community College will hold a special meeting on November 28, 2005, at 5:00 p.m. in the Olympus Board Room at Everett Community College to discuss local baccalaureate options and other college matters. Please call (425) 388-9572 for information.

### WSR 05-23-071

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed November 15, 2005, 4:17 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title and Subject: HRSA Numbered Memorandums: 05-83 MAA, 05-76 MAA, 05-75 MAA, 05-74 MAA.

Effective Date: 05-83 October 1, 2005; 05-76 September 1, 2005; 05-75 July 1, 2005; and 05-74 September 1, 2005.

Document Description: Numbered Memorandum 05-83 MAA, Prescription Drug Program: Changes to the Washington Preferred Drug List (PDL); Numbered Memorandum 05-76 MAA, Prescription Drug Program: New Drug Initiative; Numbered Memorandum 05-75 MAA, Hearing Aids and Services: Fee Schedule Changes; and Numbered Memorandum 05-74 MAA, Prescription Drug Program: Maximum Allowable Cost Updates.

To receive a copy of the interpretive or policy statement, contact Amelia Holl, Office of Rules and Publications, Department of Social and Health Services, Health and Recovery Services Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to web site <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2005"), TDD (800) 848-5429, fax (360) 586-9727, e-mail [hollag@dshs.wa.gov](mailto:hollag@dshs.wa.gov).

November 10, 2005

Amelia Holl

for Ann Myers, Manager  
Rules and Publications Section

### WSR 05-23-072

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed November 15, 2005, 4:18 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title and Subject: HRSA Numbered Memorandums: 05-73 MAA, 05-72 MAA, 05-70 MAA, 05-67 MAA.

Effective Date: 05-73 September 1, 2005; 05-72 January 1, 2005; 05-70 August 1, 2005; 05-67 July 1, 2005.

Document Description: Numbered Memorandum 05-73 MAA, Nondurable Medical Supplies and Equipment (MSE): Fee Schedule Change; Numbered Memorandum 05-72 MAA, Indian Health Services: Encounter Fee Updates; Numbered Memorandum 05-70 MAA, Prescription Drug Program: Maximum Allowable Cost Updates; and Numbered Memorandum 05-67 MAA, Vision Care Services: Fee Schedule Changes and Policy Changes.

To receive a copy of the interpretive or policy statement, contact Amelia Holl, Office of Rules and Publications, Department of Social and Health Services, Health and Recovery Services Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to web site <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2005"), TDD (800) 848-5429, fax (360) 586-9727, e-mail [hollag@dshs.wa.gov](mailto:hollag@dshs.wa.gov).

November 10, 2005

Amelia Holl

for Ann Myers, Manager  
Rules and Publications Section



**WSR 05-23-073**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed November 15, 2005, 4:19 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title and Subject: HRSA Numbered Memorandums: 05-93 MAA, 05-94 MAA, 05-97 MAA.

Effective Date: 05-93 November 1, 2005; 05-94 January 1, 2006; 05-97 October 31, 2005.

Document Description: Numbered Memorandum 05-93 MAA, Alien Emergency Medical (AEM) Program - Referral and Tracking Form; Numbered Memorandum 05-94 MAA, Reinstatement of Children's Health Program; Changes to Medical Identification (ID) Card; and Clarification of Payment Responsibility for Managed Care Co-payment and Deductibles for Qualified Medicare Beneficiaries; and Numbered Memorandum 05-97 MAA, Prescription Drug Program: Expedited Prior Authorization (EPA) Changes.

To receive a copy of the interpretive or policy statement, contact Amelia Holl, Office of Rules and Publications, Department of Social and Health Services, Health and Recovery Services Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to web site <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2005"), TDD (800) 848-5429, fax (360) 586-9727, e-mail [hollag@dshs.wa.gov](mailto:hollag@dshs.wa.gov).

November 10, 2005

Amelia Holl

for Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-23-074**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed November 15, 2005, 4:19 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Policy Clarification Memo 05-009 - How DCS Works with Individuals Affected by Hurricanes, Including Hurricane Katrina and Hurricane Rita.

Subject: How the Division of Child Support (DCS) works with individuals affected by hurricanes, including Hurricane Katrina and Hurricane Rita.

Effective Date: November 8, 2005.

Document Description: The policy clarification memo tells staff how the Division of Child Support will address issues regarding parents affected by the hurricanes.

To receive a copy of the interpretive or policy statement, contact Fran Ferry, DCS Policy and Handbook Manager, Division of Child Support, P.O. Box 11520, Tacoma, WA

98411-5520, phone (360) 664-5322, TDD (360) 753-9122, fax (360) 586-3274, e-mail [FFerry@dshs.wa.gov](mailto:FFerry@dshs.wa.gov).

November 10, 2005

Fran Ferry

**WSR 05-23-075**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed November 15, 2005, 4:20 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Policy Clarification Memo 05-010 - UIFSA Cooperation Between IV-D Agencies.

Subject: Uniform Interstate Family Support Act (UIFSA) cooperation between IV-D agencies.

Effective Date: November 8, 2005.

Document Description: The policy clarification memo explains to staff that the Division of Child Support will provide a process for individual parties to appear and present evidence in an administrative hearing located in a different state.

To receive a copy of the interpretive or policy statement, contact Fran Ferry, DCS Policy and Handbook Manager, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5322, TDD (360) 753-9122, fax (360) 586-3274, e-mail [FFerry@dshs.wa.gov](mailto:FFerry@dshs.wa.gov).

November 10, 2005

Fran Ferry

**WSR 05-23-083**  
**NOTICE OF PUBLIC MEETINGS**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**

[Memorandum—November 14, 2005]

To ensure a quorum, the South Puget Sound Community College board of trustees has changed the time of their board meeting in December. The date remains unchanged for Thursday, December 15, 2005, in Building 25-Boardroom on the campus of South Puget Sound Community College. The meeting will start at 3:30 p.m. instead of 3:00 p.m.

If you have any questions, please contact Diana Toledo at 596-5206.

**WSR 05-23-084**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—November 14, 2005]

The board of trustees of Eastern Washington University will hold a special meeting via teleconference call on Tuesday, November 15, 2005, at 11:00 a.m. in Showalter 214 on the Cheney Campus. The board will convene an executive

session according to RCW 42.30.110 (1)(g) to evaluate the qualifications of an applicant for public employment and/or to review the performance of a public employee. Immediately following executive session the board will reconvene in open session to discuss and take action on personnel matters.

**WSR 05-23-085**

**NOTICE OF PUBLIC MEETINGS  
WASHINGTON STATE UNIVERSITY**

[Memorandum—November 9, 2005]

The board of regents of Washington State University will hold its next board meeting on Friday, November 18, 2005, commencing at 9:00 a.m. at the Marriott Seattle Waterfront Hotel, Ballroom E-F, 2100 Alaskan Way, Seattle, WA. In addition, the regents will hold committee meetings and activities according to the schedule below:

**Thursday, November 17, 2005**

10:00 a.m.	Executive, Planning, and Budget Committee	Ballroom F
12:00 p.m.	University Development, University Relations and Athletics Committee	Harbor Room
2:00 p.m.	Academic, Faculty, and Student Affairs Committee	Ballroom E
2:00 p.m.	Business Affairs and Information Technology Committee	Ballroom F
4:00 p.m.	Executive, Planning, and Budget Committee	Harbor Room

**Friday, November 18, 2005**

7:30 a.m.	Board of Regents Breakfast	Executive Boardroom
9:00 a.m.	Board of Regents Meeting	Ballroom E-F
12:00 p.m.	Lunch	Ballroom G
4:30 p.m.	Joint Washington State University/ University of Washington Board of Regents Meeting	Walker-Ames Room 300 Kane Hall University of Washington

In addition, the regents have been invited to attend a social and dinner on Thursday evening following committee meetings at the Marriott Seattle Waterfront Hotel, Ballroom B; dinner on Friday, November 18, 2005, at Pompei Hall, University of Washington, and brunch on Saturday, November 19, 2005, at the Conibear Shellhouse followed by the Apple Cup football game at the University of Washington.

This notice is being sent by direction of the president of the board of regents pursuant to the requirements of the Open [Public] Meetings Act of 1971 (chapter 250, Laws of 1971 1st ex. sess.), as amended.

**WSR 05-23-087**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF  
SERVICES FOR THE BLIND**

[Memorandum—November 16, 2005]

**Community Meeting**

**Friday, December 16, 2005**

**4:30 - 6:30 p.m.**

**Location:**

**Department of Services for the Blind  
949 Market Street  
Conference Room #548  
Tacoma, WA 98402-3109  
(253) 593-2341**

**We Want To Hear From You!**

Community meetings give us a chance to inform you about the latest changes at the Department of Services for the Blind, and to discuss issues and challenges. We want to know about your experience with our services. What is working well in your community? What could we do better? What needs are not being met? We will use your comments to develop our state and strategic plans for the coming year.

Whether you are a past, present, or potential consumer of the Department of Services for the Blind, a family member, a community service provider, a friend to someone who is blind, a member of a blind consumer organization, or an interested citizen, we want to hear from you. Please join us to talk to us in person at our upcoming Tacoma community meeting.

**Rehabilitation Council Meeting  
Saturday, December 17, 2005  
9 a.m. - 4 p.m.**

**Location:**

**LaQuinta Inn and Conference Center  
Conference Room  
1425 East 27th Street  
Tacoma, WA 98421-2200  
(253) 383-0146**

The State Rehabilitation Council meets on a quarterly basis. The purpose of the council is to develop, analyze, make recommendations, and agree to state goals, the state plan, state policies, and state activities to insure that persons who are blind in Washington state receive the most effective and efficient services possible. **Public comment is scheduled from 10-10:30 a.m.** An agenda is available upon request. Requests for alternative format need to be made by December 9, 2005.

For more information, contact Marla Oughton directly at (206) 721-6430 or toll-free at 1-800-552-7103 or by e-mail at maroughton@dsb.wa.gov. Both meeting sites are barrier free, including the restrooms.

**WSR 05-23-090**

**NOTICE OF PUBLIC MEETINGS  
MARINE EMPLOYEES' COMMISSION**

[Memorandum—November 16, 2005]

**Notice of 2006 Marine Employees' Commission Public Meetings**

The following is the schedule of the year 2006 monthly meetings of the Marine Employees' Commission (MEC)

adopted by the MEC at its public meeting on October 28, 2005:

MONTH/DAY	LOCATION
January 27	Olympia, 711 Capitol Way South, Evergreen Plaza Building, 2nd Floor Conference Room
*February 24	Olympia, 711 Capitol Way South, Evergreen Plaza Building, 2nd Floor Conference Room
March 31	Olympia, 711 Capitol Way South, Evergreen Plaza Building, 2nd Floor Conference Room
MONTH/DAY	LOCATION
April 28	Olympia, 711 Capitol Way South, Evergreen Plaza Building, 2nd Floor Conference Room
*May 19	Seattle
June 30	Seattle
July 28	Seattle
August 25	Seattle
*September 29	Seattle
October 27	Seattle
November	No meeting
*December 15	Seattle

All meetings begin at 10:00 a.m. The location of Seattle meetings will be determined later.

\*Quarterly GMAP meetings will be held immediately following the commission meetings.

**WSR 05-23-091**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
 [Filed November 16, 2005, 4:06 p.m.]

Following is a revised copy page 1 of Regulation 106 for Order No. 25700-A-834 which was originally mailed on October 12, 2005.

Camilla Faulk  
 Capital Case Manager

**AMENDMENTS**  
**REGULATIONS OF THE WASHINGTON STATE BOARD OF**  
**CONTINUING LEGAL EDUCATION**

**REGULATION 106. ACCREDITATION OF SPONSORING ORGA-**  
**NIZATIONS**

(a) The CLE Board may extend approval to a sponsoring organization for all of the continuing legal education activities sponsored by such organization which conform to Regulation 104. A sponsoring agency to which such general approval has been extended shall be known as an "accredited sponsor".

(b) A sponsoring organization desiring to apply for status as an accredited sponsor shall submit to the CLE Board all

information called for in the form required by the Board. Accreditation shall be granted or denied in accordance with the provisions of Regulation 108. A primary consideration in the evaluation of such a request for status as an accredited sponsor shall be the previous experience of the organization in sponsoring and presenting continuing legal education activities. A reasonable fee may be assessed by the CLE Board, with approval of the Board of Governors, with regard to the application. A private law firm shall not qualify for accredited sponsor status.

(c) Once a sponsoring organization has been granted the status of an accredited sponsor, it is not required to seek approval for individual educational activities sponsored while an accredited sponsor. Accredited sponsors ~~†~~

(i) ~~s~~shall be responsible for calculating the number of credit hours to be awarded.

(i) ~~and~~ shall be responsible for reporting those determinations to the CLE Board prior to the event in such manner as the CLE Board determines.

**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 05-23-106**  
**OFFICE OF THE GOVERNOR**  
 [Filed November 17, 2005, 3:15 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 November 7, the Governor received an appeal from Vickie J. Williams of Spokane, Washington relating to October 27, 2005 Order Extending Emergency Rule WSR 05-14-081 (Amending WAC 388-865-0201).

**WSR 05-23-107**  
**OFFICE OF THE GOVERNOR**  
 [Filed November 17, 2005, 3:16 p.m.]

November 14, 2005

Ms. Vickie J. Williams  
 4332 S. Greystone Lane  
 Spokane, WA 99223

RE: RCW 34.05.350 Petition Requesting Immediate Repeal of October 27, 2005 Order Extending Emergency Rule WSR 05-14-081 (Amending WAC 388-865-0201)

Dear Ms. Williams:

I am responding to your petition under RCW 34.05.350(3) requesting repeal of an emergency rule adopted by the Department of Social and Health Services (DSHS) on October 27, 2005. The DSHS emergency rule, as contained in

WSR 05-22-041, amends section 388-865-0201 of the Washington Administrative Code (WAC).

WAC 388-865-0201 is the rule that outlines the methodologies that DSHS will use to distribute appropriated funds among the fourteen community mental health Regional Support Networks. The rule outlines two different funding distribution methodologies: one for appropriated community mental health Medicaid funds, and one for appropriated state-only community mental health funds.

In your petition, you request repeal of only that portion of the emergency rule that changes the distribution formula for the state-only community mental health funds. You indicate that you are not requesting a repeal of the portion of the emergency rule that changes the distribution formula for the Medicaid community mental health funds.

You cite two grounds for the partial repeal that you request. First, you argue that DSHS has not met the good cause standard that allows an agency to dispense with the regular permanent rule-making process outlined in the Administrative Procedures Act. RCW 34.05.350(1) allows agencies to dispense with the regular state rule-making process and invoke emergency rule-making if one or both of two allowable good cause standards are met. The two allowable good cause standards for emergency rule-making are as follows:

- a) *That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; or*
- b) *That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.*

On the CR-103 form for these rules, DSHS indicated that it was necessary to adopt a new state-only distribution formula in order to be in compliance with ESSB 6090 Sec. 204 (1)(b), the state operating budget law passed earlier this year. The section of the budget law cited by DSHS reads as follows:

*\$103,400,000 of the general fund—state appropriation for fiscal year 2006 and \$103,400,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for persons and services not covered by the Medicaid program. The department shall distribute these amounts among the regional support networks according to a formula that, consistent with RCW 71.24.035(13), assures continuation of fiscal year 2003 levels of nonmedicaid service in each regional support network area for the following service categories in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance. The remaining amounts shall be distributed based upon a formula that incorporates each regional support network's percentage of the state's population. In consultation with regional support networks and other interested*

*groups, the department shall report to the joint legislative and executive task force by September 2006 on options for modifying the allocation formula to assure equitable statewide access to essential non-medicaid services.*

It seems clear to me that the Legislature's intent was that DSHS should not use the methodology for distributing state-only community mental health funds outlined in the pre-emergency rule WAC 388-865-0201. Further, this proviso did not specify a delayed implementation date that would have allowed DSHS to pursue development of a new funding methodology rule within the regular rule-making timeframes. So it may be assumed that the Legislature intended a new methodology to take effect with the implementation of the new budget. I therefore believe that DSHS' position that adoption of a new rule on an emergency basis was indeed with good cause and necessary for it to be in compliance with the state budget law.

Second, you argue that DSHS has not met the criterion that allows an identical emergency rule to be adopted sequentially without implementation of the regular permanent rule-making process. You point out that DSHS initially adopted this emergency rule as WSR 05-14-081, effective on July 1, 2005, and then subsequently adopted the same rule again as WSR 05-22-041 on October 27, 2005. RCW 34.05.350(2) reads, in part, as follows:

*Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule.*

You indicate that you do not believe that conditions have changed, or that DSHS has filed any notice of intent to adopt the rule as permanent, or that DSHS is actively undertaking the required procedures to adopt the rule as permanent.

On its CR-103 Rule-Making Order form for this emergency rule, DSHS indicated "The department has filed a preproposal statement of inquiry as WSR 05-14-072 and anticipates filing a proposed rule-making notice (CR-102) in December of 2005." Additionally, in telephone conversations with my staff, DSHS Mental Health Division staff have indicated that, in accordance with DSHS internal rule development guidelines, they are developing a cost-benefit analysis for the proposed rule which will be shared with concerned stakeholders informally prior to the filing of a formal CR-102 so that stakeholders will have sufficient information with which to comment on the CR-102. The DSHS Mental Health Division staff indicate that the development of the cost-benefit analysis is still in progress as it is necessary to get information from the Regional Support Networks regarding allocation and contracting decisions and the consequent costs and benefits to the different components of the existing mental health service system. It appears to me that DSHS has met the requirements of 34.05.350(2).

As mentioned previously, you requested repeal of only those portions of the emergency rule that affect the state-only com-

munity mental health funding distribution formula. I do not think partial repeal is an option. RCW 35.05.350 does not in any way make provision for partial repeals.

Upon final analysis, I cannot agree to your request to repeal emergency rule WSR 05-22-041 adopted on October 27, 2005. It is my belief that the good cause standard for adoption of a rule on an emergency basis was met and that DSHS is taking steps toward adopting the rule on a permanent basis.

Thank you for your efforts to ensure that our state's rule-making practices are completed in a manner that does not abuse agency discretion, and is not arbitrary or capricious.

Sincerely,

Christine O. Gregoire  
Governor

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

**WSR 05-23-111**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**CLEAN AIR AGENCY**  
[Memorandum—November 14, 2005]

Our agency has moved the December 2005 board of directors meeting to December 15, 2005. If you have any questions, please call Carol Pogers at (206) 689-4080.

**WSR 05-23-119**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
(Capital Projects Advisory Review Board)  
[Memorandum—November 18, 2005]

Please record the following Capital Projects Advisory Review Board (CPARB) meeting date, time and location in the Washington State Register:

Date: Thursday, December 8, 2005  
Time: 9:00 a.m. - 12:00 p.m.  
Location: John L. O'Brien Building, Hearing Room A

CPARB Agenda: Reports from subcommittees, data collection, reauthorization, expansion; school districts legislation; competitive negotiated contracts briefing; strategic plan.

Check for the latest information at [www.ga.wa.gov/cparb/](http://www.ga.wa.gov/cparb/).

If you would like to request this information in alternative formats (Braille, large type, etc.), please call (360) 902-7941.

If you have any questions, please contact Searatha Kelly at (360) 902-7941.

**WSR 05-23-120**  
**NOTICE OF PUBLIC MEETINGS**  
**OIL SPILL ADVISORY COUNCIL**  
[Memorandum—November 17, 2005]

Following are the meeting dates for the Oil Spill Advisory Council:

January 20, 2006  
March 17, 2006  
May 19, 2006  
July 21, 2006  
September 15, 2006  
November 17, 2006

The locations for all meetings will be decided at a later date.

**WSR 05-23-121**  
**NOTICE OF PUBLIC MEETINGS**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
[Memorandum—November 17, 2005]

Below are the 2006 meeting dates for the Washington State Criminal Justice Training Commission (WSCJTC). All of the meetings will be held at the WSCJTC located at 19010 1st Avenue South, Burien, WA 98148.

Date	Time	Location
Wednesday, March 8, 2006	10:00 a.m.	Room E-154
Wednesday, June 14, 2006	10:00 a.m.	Room E-154
Wednesday, September 13, 2006	10:00 a.m.	Room E-154
Wednesday, December 13, 2006	10:00 a.m.	Room E-154

If you have questions, please call Sonja Hirsch at (206) 835-7372.

**WSR 05-23-122**  
**NOTICE OF PUBLIC MEETINGS**  
**LOWER COLUMBIA COLLEGE**  
[Memorandum—November 17, 2005]

On November 16, 2004 [2005], the Lower Columbia College board of trustees adopted the following meeting schedule for the year 2006. All regularly scheduled meetings are held on the third Wednesday of each month, at 5:00 p.m. on the college campus (unless noted otherwise).

Board of Trustees  
2006 Meeting Schedule

The trustees meet on the 3rd Wednesday of the month at 5:00 unless noted differently below.

January 18, 2006	5:00 p.m.	Regular Meeting	Heritage Room
February 15, 2006	9:00 a.m.	Regular Meeting/ Workshop	Heritage Room

March 8, 2006	5:00 p.m.	Special Executive Session	Administrative Conference Room
March 15, 2006	5:00 p.m.	Regular Meeting	Heritage Room
April 19, 2006	5:00 p.m.	Regular Meeting	Heritage Room
May 17, 2006	5:00 p.m.	Regular Meeting	Heritage Room
June 21, 2006	5:00 p.m.	Regular Meeting	Heritage Room
July 19, 2006	9:00 a.m.	Regular Meeting/ Workshop	TBD
August 17, 2006	<b>NO MEETING</b>		
September 20, 2006	5:00 p.m.	Regular Meeting	Heritage Room
October 18, 2006	5:00 p.m.	Regular Meeting	Heritage Room
November 15, 2006	5:00 p.m.	Regular Meeting	Heritage Room
December 20, 2006	5:00 p.m.	Regular Meeting	Heritage Room

August 15, 2006 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
September 19, 2006 (3rd Tuesday)	SCC	Lair Littlefoot Room 1810 North Greene Street Spokane, WA
October 17, 2006 (3rd Tuesday)	IEL Whitman County Center	View Room 115 N.W. State Street Pullman, WA
November 21, 2006 (3rd Tuesday)	SFCC	The Falls Conference Room Administration Building 3410 West Fort George Wright Drive Spokane, WA
December 19, 2006 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA

**WSR 05-23-123  
NOTICE OF PUBLIC MEETINGS  
COMMUNITY COLLEGES  
OF SPOKANE**

[Memorandum—November 19, 2005]

Pursuant to RCW 42.30.075, following is the schedule of meetings for the board of trustees of Washington State Community College District 17 for calendar year 2006.

Should you have questions regarding this memo, or the schedule, please contact Christine Pearl, Executive Assistant to the Chancellor/CEO and Liaison to the Board of Trustees, at (509) 434-5006.

<b>BOARD OF TRUSTEES WASHINGTON COMMUNITY COLLEGE DISTRICT 17 SCHEDULE OF MEETINGS</b>		
Notice is hereby given, pursuant to RCW 42.30.075, that the regular meetings of the board of trustees of Washington State Community College District 17 (Community Colleges of Spokane) during calendar year 2006 shall be held at 8:30 a.m. on the following dates ( <i>generally held on third Tuesdays</i> ) and in the following locations:		
<b>Date</b>	<b>Location</b>	<b>Address</b>
January 17, 2006 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
February 21, 2006 (3rd Tuesday)	SFCC	The Falls Conference Room Administration Building 3410 West Fort George Wright Drive Spokane, WA
March 21, 2006 (3rd Tuesday)	SCC	Lair Littlefoot Room 1810 North Greene Street Spokane, WA
April 18, 2006 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
May 16, 2006 (3rd Tuesday)	IEL CenterPlace at Mirabeau	Classrooms 205-208 2426 North Discovery Place Spokane, WA
June 20, 2006 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
July 18, 2006 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA

**WSR 05-23-124  
NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE**

(Wheat Commission)

[Memorandum—November 18, 2005]

The Washington Wheat Commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting information of the board of directors for publication in the state register for the period January through December 2006. The meetings will take place in the commission conference room located at 907 West Riverside Avenue, Spokane, WA. The meetings will begin at 10:00 a.m. on the first day and will reconvene at 8:30 a.m. on the second day.

Regular	January 11 and 12
Regular	March 15 and 16
Annual	May 17 and 18
Regular	September 13 and 14
Regular	November 15 and 16

We understand that should any changes to this meeting schedule become necessary, we will provide the information at least twenty days prior to the rescheduled meeting date for publication in the state register.

**WSR 05-23-125  
NOTICE OF PUBLIC MEETINGS  
STATE INVESTMENT BOARD**

[Memorandum—November 17, 2005]

Pursuant to WAC 287-01-030, this is to notify you that the Washington State Investment Board's regular board meetings for 2006 will be held on the third Thursday of each month, beginning at 9:30 a.m. at the board's office, located at 2100 Evergreen Park Drive S.W., Olympia, WA.

If you have any questions, please contact Kristi Walters, at [kwalters@sib.wa.gov](mailto:kwalters@sib.wa.gov) or (360) 956-4612.

**WSR 05-23-126**  
**NOTICE OF PUBLIC MEETINGS**  
**CLOVER PARK**  
**TECHNICAL COLLEGE**  
 [Memorandum—November 14, 2005]

The board of trustees of Clover Park Technical College has made some changes to the 2006 regular meeting schedule. The changes are:

Canceled:

February 8, 2006	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15

Location Change:

April 12, 2006	Study Session	3:00 p.m.	<del>Building #15</del> South Hill Campus
	Regular Meeting	4:00 p.m.	<del>Building #15</del> South Hill Campus

New Location:

Clover Park Technical College, South Hill Campus, 17214 110th Avenue East, Puyallup, WA 98474, Room 102.

**WSR 05-23-136**  
**DEPARTMENT OF ECOLOGY**  
 [Filed November 22, 2005, 8:31 a.m.]

**PUBLIC NOTICE**

**Public Workshops and Hearings to Accept Comments on the Aquatic Plant and Algae Management General Permit**

The Department of Ecology (ecology) is proposing to issue a general permit to cover aquatic plant and algae management activities in surface waters of the state. This permit replaces and revokes the aquatic nuisance plant and algae control NPDES permit that expires on July 5, 2007, and portions of the aquatic noxious weed control NPDES permit that expires on June 14, 2007. Ecology is proposing to issue the final permit soon after the comment period ends. The title of the revised permit is "Aquatic Plant and Algae Management State Waste Discharge General Permit."

The draft permit and fact sheet are available for review and public comment from December 7, 2005, to January 20, 2006. Ecology will host three informational workshops and public hearings on its proposed permit. The public is encouraged to give written comments during the public comment period or oral comments at the public hearings.

**Purpose of the General Permit:** The proposed general permit covers the discharge of products used to control aquatic plants and algae to waters of Washington state. Under the Washington State Water Pollution Control Act, a permit is required for the discharge of pollutants which may alter the biological or chemical characteristics of a water body. The proposed permit addresses these legal requirements and regulates the discharge of pollutants to protect surface water quality in Washington state.

A general permit is issued in place of a series of individual permits when the permitted activities are similar. Individual activities that receive coverage under the general permit

are required to comply with the terms and conditions of the permit.

**Requesting Copies of the Permit:** You can request copies of the proposed permit and fact sheet by contacting Kelly McLain, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6938, fax (360) 407-6426, e-mail [kelm461@ecy.wa.gov](mailto:kelm461@ecy.wa.gov).

The proposed permit and fact sheet are also available online at [www.ecy.wa.gov/programs/wq/permits/pesticides/index.html](http://www.ecy.wa.gov/programs/wq/permits/pesticides/index.html).

**Submitting Written and Oral Comments:** Ecology will accept written and oral comments on the draft aquatic plant and algae management general permit and fact sheet. Comments should reference specific text when possible. Comments may address the following:

- Technical issues,
- Accuracy and completeness of information,
- The scope of activities proposed for coverage,
- Adequacy of environmental protection and permit conditions, or
- Any other concern that would result from issuance of the new permit.

Please submit written comments to Kelly McLain, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6938, fax (360) 407-6426, e-mail [kelm461@ecy.wa.gov](mailto:kelm461@ecy.wa.gov).

Written, e-mailed and faxed comments must be **received** no later than 5 p.m., Friday, January 20, 2006. Oral comments can be made by attending and testifying at the public hearings.

**Public Workshops/Hearings:** The workshops begin at the times listed below. The hearings will begin when the workshop ends. The purpose of the workshops is to explain the general permit, what has changed from the previous permits, and answer questions. The purpose of the hearings is to provide an opportunity for people to give formal comments on the proposed permit.

The public workshops and hearings on the draft general permit are **Centralia:** Monday, January 9, 2006 (6 p.m.), Centralia College, Washington Hall Room 109, 600 West Locust, Centralia, WA 98531; **Spokane:** Tuesday, January 10, 2006 (5 p.m.), Shadle Library, West 2111 Wellesley Avenue, Spokane, WA 99205; and **Lynnwood:** Thursday, January 12, 2006 (6 p.m.), Edmonds Community College, President's Board Room, 20000 68th Avenue West, Lynnwood, WA 98036.

**Issuing the Final Aquatic Plant and Algae Management General Permit:** Ecology will issue the final permit after it considers all public comments. Ecology expects to issue the general permit soon after the end of the public comment period. It will be effective thirty days later. When ecology issues the permit, it will send a response to everyone who commented.

**What would be covered by the permit?** This general permit covers aquatic plant and algae management activities that discharge chemicals and other aquatic plant and algae control products into surface waters of the state of Washington. These products include herbicides, algaecides, adjuvants, marker dyes, barley straw, shading products, biological water clarifiers or nutrient inactivation products. Shore-

line emergent vegetation control or eradication activities are also included where chemicals may enter the water. There are three different types of projects covered under this permit: Eradication, control, or nutrient inactivation.

**Eradication Projects:** This covers the use of chemicals to attempt to eradicate any of the following:

1. Noxious weeds as identified in chapter 16-750 WAC (web site address [http://www.nwcb.wa.gov/weed\\_list/weed\\_listhome.html](http://www.nwcb.wa.gov/weed_list/weed_listhome.html));

2. Plants listed on the quarantine list as identified in chapter 16-752 WAC (web site address [http://www.nwcb.wa.gov/weed\\_list/weed\\_listhome.html](http://www.nwcb.wa.gov/weed_list/weed_listhome.html)); and

3. Newly discovered nonnative and potentially invasive plants not listed on the above lists, as determined by the Washington State Noxious Weed Control Board or ecology.

**Control Projects:** This covers activities in aquatic settings to control:

1. Submersed native plants;

2. Noxious submersed weeds as identified in chapter 16-750 WAC (<http://www.leg.wa.gov/WAC/index.cfm?fuseaction=chapterdigest&chapter=16-750>);

3. Submersed plants listed on the Washington State Department of Agriculture's quarantine list as identified in chapter 16-752 WAC ([http://www.nwcb.wa.gov/weed\\_laws/16-752.pdf](http://www.nwcb.wa.gov/weed_laws/16-752.pdf));

4. Floating-leaved and emergent noxious weed and quarantine-listed weeds;

5. Roadside and ditchbank plants; and

6. Filamentous algae, cyanobacteria, and any other phytoplankton species that have the potential to affect human or environmental health.

**Nutrient Inactivation Projects:** Alum (aluminum sulfate or sodium aluminate) and calcium hydroxide/carbon dioxide are allowed for the inactivation of phosphorus, either as partial water body or whole water body treatment.

*If you have special accommodation needs or require a copy of the permit and fact sheet in an alternative format, please contact Kelly McLain at (360) 407-6938. If you are a person with a speech or hearing impairment, call 711 or 800-833-6388 for TTY.*

### WSR 05-23-137

#### INTERPRETIVE AND POLICY STATEMENT DEPARTMENT OF LABOR AND INDUSTRIES

[Filed November 22, 2005, 9:21 a.m.]

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department for October 2005.

If you have any questions or need additional information, please call Carmen Moore at (360) 902-4206.

#### L&I POLICY AND INTERPRETIVE STATEMENTS

#### WISHA Services Division

#### WISHA Regional Directive (WRD) 30.21, "Fall Protection Work Plan When Standard Guardrails Are Used"

This policy provides guidance to consultation and enforcement staff regarding the requirement to develop a Fall Protection Work Plan when an employer uses guardrails for fall protection. It replaces all previous guidance on the topic, whether formal or informal, and will remain in effect indefinitely. This new policy was issued October 31, 2005.

Contact Marcia Benn, Mailstop 44648, phone 902-5503.

#### WISHA Regional Directive (WRD) 5.05, "Violence in the Workplace"

This policy has been updated to reflect coding changes since the implementation of the WIN reporting system. It replaces and rescinds the March 17, 2005, version. This WRD applies whenever WISHA consultation or enforcement staff encounters hazards related to violence in the workplace. This directive provides guidance to WISHA staff in applying *existing* standards to issues of workplace violence. It does not (and, indeed, cannot) create any obligations for employers not found in existing WAC standards. This policy was amended October 28, 2005.

Contact Marcia Benn, Mailstop 44648, phone 902-5503.

#### WISHA Regional Directive (WRD) 8.40, "Citing Point of Operation in Machine Safety"

This policy which remains in effect indefinitely, applies to all WISHA enforcement and consultation activities involving WAC 296-806-20028, point of operation. This WRD replaces all previous guidance on the issue, whether formal or informal. This new policy was issued October 31, 2005.

Contact Marcia Benn, Mailstop 44648, phone 902-5503.

Carmen Moore  
Rules Coordinator  
Legislative and  
Governmental Affairs Office

### WSR 05-23-153

#### NOTICE OF PUBLIC MEETINGS NOXIOUS WEED CONTROL BOARD

[Memorandum—November 22, 2005]

The meeting schedule of the Washington State Noxious Weed Control Board for the first quarter of 2006 is as follows:

January 18 Wednesday 8:30 a.m.	Regular Meeting	Natural Resources Building Room 172 1111 Washington Street Olympia, WA
March 15 Wednesday 8:30 a.m.	Regular Meeting	Best Western Lake Inn and Conference Center 3000 West Marina Drive Moses Lake, WA



**WSR 05-23-154**

**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 (Advisory Board of Plumbers)  
 [Memorandum—November 22, 2005]

Per chapter 42.30 RCW, the Open Public Meetings Act, the Advisory Board of Plumbers is invited to the boards and commission meeting sponsored by Governor Gregoire:

DATE	TIME	LOCATION
December 15, 2005	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98503

Please call (360) 902-6411, if you have questions.

**WSR 05-23-155**

**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 (Apprenticeship and Training Council)  
 [Memorandum—November 22, 2005]

Per chapter 42.30 RCW, the Open Public Meetings Act, the Washington State Apprenticeship and Training Council is invited to the boards and commission meeting sponsored by Governor Gregoire:

DATE	TIME	LOCATION
December 15, 2005	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98503

Please call (360) 902-6411, if you have questions.

**WSR 05-23-156**

**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 (Electrical Advisory Committee)  
 [Memorandum—November 22, 2005]

Per chapter 42.30 RCW, the Open Public Meetings Act, the Electrical Board is invited to the boards and commission meeting sponsored by Governor Gregoire:

DATE	TIME	LOCATION
December 15, 2005	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98503

Please call (360) 902-6411, if you have questions.

**WSR 05-23-157**

**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 (Prevailing Wage Advisory Committee)  
 [Memorandum—November 22, 2005]

Per chapter 42.30 RCW, the Open Public Meetings Act, the Prevailing Wage Advisory Committee will be holding meetings on:

DATE	TIME	LOCATION
December 15, 2005	9:00 a.m.	Department of Labor and Industries 12806 Gateway Drive Tukwila, WA
March 16, 2005 [2006]	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W., S118 Tumwater, WA
June 15, 2006	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W., S118 Tumwater, WA

Please call (360) 902-6411, if you have questions.

**WSR 05-23-158**

**NOTICE OF PUBLIC MEETINGS**  
**LAW ENFORCEMENT OFFICERS' AND FIRE**  
**FIGHTERS' PLAN 2 RETIREMENT BOARD**  
 [Memorandum—November 21, 2005]

The Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board has scheduled their meetings for 2006. Following is a schedule for the upcoming year.

Please feel free to contact Jessica Burkhart at (360) 586-2322 or by e-mail at [Jessica.burkhart@leoff.wa.gov](mailto:Jessica.burkhart@leoff.wa.gov) should you have any questions.

**2006 Regular Board Meeting Schedule**

All meetings of the Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board will be held in the Boardroom of the Washington State Investment Board located at 2100 Evergreen Park Drive S.W., Olympia, WA, from 9:30 a.m. - 3:00 p.m.

- Wednesday, January 25, 2006
- Wednesday, February 22, 2006
- Wednesday, March 29, 2006
- Wednesday, April 26, 2006
- Wednesday, May 24, 2006
- Wednesday, June 21, 2006
- Wednesday, July 26, 2006
- Wednesday, August 23, 2006
- Wednesday, September 13, 2006
- Wednesday, October 25, 2006
- Wednesday, November 15, 2006
- Wednesday, December 13, 2006

**WSR 05-23-159**  
**NOTICE OF PUBLIC MEETINGS**  
**EXECUTIVE ETHICS BOARD**  
[Memorandum—November 18, 2005]

Renton Technical College  
3000 N.E. 4th Street  
Renton, WA 98056-4195

**Executive Ethics Board 2006 Meeting Schedule**

The following is the Executive Ethics Board meeting schedule for the year 2006. The Executive Ethics Board will hold regular monthly meetings on the second Friday of each month with the exceptions of August and December, when no meetings are scheduled, or indicated otherwise. All meetings will begin at 9:00 a.m. and be held at 2425 Bristol Court S.W., 1st Floor, Conference Room 148, Olympia, WA.

Meeting dates for 2006 are:

- January 13
- February 10
- March 10
- April 14
- May 12
- June 9
- July 14
- August - no meeting
- September 8
- October 13
- November 17\*
- December - no meeting

- January 10, 2006
- ~~February 14, 2006~~ February 21, 2006
- March 14, 2006
- April 11, 2006
- May 9, 2006
- June 13, 2006
- July/August - No regular meetings
- September 12, 2006
- October 10, 2006
- November 14, 2006
- December 12, 2006

Because the Trustees Association for Community Colleges has scheduled its winter conference for February 12-14, 2006, the Renton Technical College board of trustees has elected to hold its February regular board meeting on Tuesday, February 21, 2006.

If you need further information, please contact Karen DeBruyn at (425) 235-2426.

Meeting agendas and other information may be accessed five to seven days prior to the meeting at <http://www.ethics.wa.gov>.

For additional information or reasonable accommodations to attend meetings, please contact board staff at (360) 664-0871. Reasonable accommodation requests should be made at least ten working days prior to the scheduled meeting date.

\*The second Friday falls on November 10, the Veteran's Day holiday, and requires a reschedule of the monthly meeting.

**WSR 05-23-167**  
**NOTICE OF PUBLIC MEETINGS**  
**RENTON TECHNICAL COLLEGE**  
[Memorandum—November 18, 2005]

Pursuant to RCW 42.30.075, the Renton Technical College board of trustees' regular meetings during 2006 will be held as follows:

The second Tuesday of each month except for the months of July and August

Meetings will be held at 8:00 a.m.

Roberts Campus Center Board Room  
Room 202



